

Ms. Chrystia Freeland  
Deputy Prime Minister  
Minister of Finance  
House of Commons  
Ottawa, ON K1A 0A6

July 31, 2023

Dear Minister,

Some years ago, six to be precise, a young child of five penned a letter to you, imploring you to help rescue her father from wrongful imprisonment in a foreign state. Together with her mother, Rania Tfaily, the child turned to you for succour, and rightly so, since you were then Minister of Global Affairs and could legitimately deploy the necessary means to save a Canadian citizen from gratuitous torment abroad. Today you are Deputy Prime Minister, a title that endows you with even greater political powers than you wielded in 2017.

Over the past eight years, since you have held office beside Prime Minister Justin Trudeau, your political prowess has impressed political friends and disarmed threatening elements within Canada and elsewhere. Your oratory exudes considerable authority, unflappable confidence, but also matriarchal strength. Given your history of achievements, the little girl who wrote to you in 2017 placed hope in your ability to act as her father's possible guardian angel.

Now on the cusp of adolescence, this same girl is a youngster of formidable intellect, with an unquenchable thirst for knowledge and a drive to go far in life. She has the makings of a stellar lawyer, and one committed to social justice. Nor is this surprising; her entire life has been swathed in her parents' anxiety – a distress resulting from the unconscionable miscarriage of justice to which her father has been unduly fettered. Jena, the now 10 year-old daughter of Dr. Hassan Diab, lives and breathes the terror that has enveloped him for more than 15 years.

The punishment meted out to Dr. Diab has been a form of collective punishment. It has damaged not only his life, but also the lives of his wife and children. Even if they do not explicitly articulate their deeper sentiments, their fears are discernible. For just as Hassan Diab has been targeted, rendered a scapegoat for the political and moral satisfaction of Western states, so his kith and kin have been scarred by the cruel actions of judiciaries, both here and abroad.

I have studied the case of Hassan Diab over a number of years and have published widely on it (in *The Hill Times*, *The Toronto Star*, *Mondoweiss*, *inter alia*).<sup>1</sup> With hindsight, I note that this case grows more scandalous as the years unfold. The Copernic trial of April 2023 is illustrative of this trend. The accusatory claims made against Dr. Diab on that occasion are preposterous in the extreme, at times farcical; and they speak poorly of France's highest court. A close look at the Copernic trial shows that it was "[pure theatre](#), driven by political pressure to scapegoat an innocent man. There was no burden of proof, no official transcripts, and digital recording of the trial was strictly forbidden. Whether testifying under oath or not, witnesses could lie with impunity since perjury in France is practically never punished. Risible testimonies (e.g., that

Diab swam from Cyprus to Europe!) went unchallenged. The civil parties and the prosecutors were allowed to vilify the accused, filibuster, and steal the defense's speaking time. As Bernie Farber, the chair of the Canadian Anti-Hate Network and former CEO of the Canadian Jewish Congress, tweeted, the resulting verdict by the French Court was '[a Shanda](#),' an outrage."

Ms. Freeland, I have come to the realization that it may take more than Justice Minister Arif Virani to pronounce judgement and determine that an extradition request from France must be categorically refused. Indeed, it may take the Prime Minister's input and yours to ensure that justice is served and that Dr. Diab is completely freed of persecution and extradition. This is not a case that can be consigned to the Department of Justice alone. It is a *political* case and demands political as well as legal solutions. France has scapegoated an innocent Canadian, refused to confront his powerful exculpatory evidence and alibi, and sentenced him to the worst fate ever: life in prison. The obligation of those who occupy the highest office in the federal government is to protect their beleaguered fellow citizen from the claws of a foreign state and to act not only with the legitimate power that is theirs, but with the moral force of truth and justice.

This unfinished business will not be sequestered in obfuscation, neglect, or endless deferral. Canadians are gathering in greater and greater numbers like storm clouds mushrooming across the summer sky. More than 10,000 persons have signed a petition exhorting your government to refuse France's possible extradition request for Dr. Diab. Another 647 have signed an open letter to the Prime Minister reinforcing that same message. The voices of these Canadians are becoming ever more audible and they are reverberating across the nation. They will neither be wished away nor silenced. They are irrepressible. Your government will continue to hear from the people as long as justice is not served and Dr. Diab is left in excruciating limbo. If necessary, a new generation of supporters will rise up and pick up the torch.

Ms. Freeland, I am convinced that if she were given a microphone at the foot of Parliament Hill, Dr. Diab's daughter, Jena, would say, in her own words: "Put an end to my father's agony NOW and let me and my family live with him in peace. Please!"

As a mother, you must surely feel the urgency of this youngster's sentiments. How much longer, then, will you and your colleagues allow France's interference in the lives of Canadians to persist? How much longer must Hassan Diab and his family suffer this calvary? You, Ms. Freeland, and your colleagues have all the power to bring this unspeakable case to a close and to guarantee Dr. Diab's liberty forthwith.

What then, may I ask, are you waiting for?

Sincerely,

Michelle Weinroth, PhD

Opinion

# Canada's extradition law desperately needs reform



Prime Minister Justin Trudeau's recent remarks regarding the case of Hassan Diab, saying that Canada will always stand up for its citizens, yields hope. *The Hill Times* photograph by Andrew Meade

**The core injustice of the 1999 Extradition Act can be seized in a simple statistic. Canada grants foreign states their extradition requests 90 per cent of the time, deferring to its state partners at the expense of its own nationals.**



**Michelle Weirath**  
*Opinion*  
Canada's extradition law has been described as the backwater of our nation's legal system, scarcely known by most legal professionals and foreign to

the average person. But the notorious Hassan Diab affair has a bleak record of some Canadians to glimpse the law's troubling features and the reasons for which parliamentarians' hearings took place in February 2023 to start a process of extradition reform.

The impetus for change was signalled in 2011, when legal expert Gary Botting wrote: "Canada's *Extradition Act* (S.C. 1999, c. 18) is perhaps the least fair statute ever to be passed in Canada."

Why did Botting denounce the law so unashamedly? A government-cai-based statistic offers the answer: in a nutshell, between 2008-2018, Canada received 798 extradition requests from the United States. Only eight of those requests were refused. The disparity between requests received and those rejected is staggering; it indicates that 99.75 per cent of requests were granted, and roughly one per cent of those who were apprehended (rightly or wrongly) and subjected to an extradition process were discharged. A mere six extradition requests constitute 90 per cent of requests received overall.

This quasi-fact reality can be attributed to changes made

to the extradition law in 1999. In the interests of efficiency, an accelerated extradition process was promulgated to supersede an "antiquated" bureaucracy. But if the 1999 Extradition Act sped up the process, it also made it more authoritarian and unfair, widening its power to run roughshod over the rights of the person sought.

In 2012, then-minister of justice Rob Nicholson stated: "The guilt or innocence of the person sought is not a relevant consideration in the extradition context; in other words, because extradition procedures are not trials, the integrity of the person sought is deemed inconsequential. But, in fact, the extradition process tacitly presumes their guilt from the start."

The requesting state, in contrast, suffers no such prejudgment. A foreign state's allegations against the accused are deemed credible, even if materials are cherry-picked or falsified by omissions of exculpatory evidence. The Hassan Diab case is a textbook example of the factual injustice. With the current extradition law, it would appear that the rights of the requesting state trump those of the person

sought between 90 and 99 per cent of the time.

During a recent exchange between Conservative M.P. Michael Chong and Minister of Global Affairs Marc Garneau, Chong placed the rights of the individual citizen above Canada's relations with foreign states. Would the honourable M.P. apply this same claim to the rights of citizens such as Hassan Diab? A Canadian citizen Diab was wrongfully extradited to France on a few days' handwritten report. On April 21, 2023, he was convicted by a French court *in absentia* that relied on unsworn and unusable foreign intelligence—used in a Canadian court—and incoherent accounts, bereft of a formal proof, save a faded copy of a passport, of which there is no original. Over 13 years, French authorities rejected by Diab the claim to ensure his conviction. Would Chong come to Diab's defence at a time when securing diplomatic relations with France threatens the liberty of a fellow Canadian citizen?

The core injustice of the 1999 Extradition Act can be seized in a simple statistic: Canada grants foreign states their extradition

requests 90 per cent of the time, deferring to its state partners at the expense of its own nationals. Will extradition reform redress this grossly unfair law?

Prime Minister Justin Trudeau's recent remarks regarding Diab's case, saying that Canada will always stand up for its citizens, yields hope. It is words that signal the possibility of a much-needed change to the Extradition Act. Such a change would, among other things, guarantee instant remedy by prohibiting the suppression of exculpatory material by disqualification, from the start, extradition requests that turn out unsworn and unusable intelligence as evidence, in rejecting submissions that are tainted with secrecy and denial, a new extradition act would save innocent lives from the torment of wrongful surrender to a foreign state and wrongful conviction in a foreign court. This would mean that Diab's horrific ordeal should never, as Trudeau put it, happen again.

*Michelle Weirath holds a PhD in Cultural Studies. Since 2016, she has studied the use of Canada's extradition law in relation to the Hassan Diab affair.*  
*The Hill Times*