

OPINION

Canada must put a stop to injustice in the Hassan Diab case, once and for all

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Hassan Diab leaves a vigil with supporters on April 21 in Ottawa. He was arrested by the RCMP on a French extradition warrant in 2008 and charged with a terrorist attack at the Rue Copernic synagogue. He then asserted his innocence, launching a six-year legal struggle in Canadian courts.

ADRIAN WYLD/THE CANADIAN PRESS

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At every step of a Kafkaesque 15-year journey through the Canadian and French legal systems, Hassan Diab and his family have needed to believe that justice would ultimately prevail. Sadly, that hope has been shattered.

Friday's decision from the French Special Assize Court, which found Mr. Diab guilty in absentia of a horrific synagogue bombing in Paris despite overwhelming evidence that he was not in France at the time, is the latest surreal instalment. It is an indictment of the French justice system that the crime has remained unresolved ever since the devastating terrorist attack at the Rue Copernic synagogue killed four people and injured 46 others on Oct. 3, 1980. But justice is not served by scapegoating.

Hassan Diab, born in Lebanon, with a PhD in sociology from New York's Syracuse University, has been a Canadian citizen for 30 years. In 2008, he was arrested by the RCMP on a French extradition warrant and charged with the bombing. He then asserted his innocence, launching a six-year legal struggle in Canadian courts.

The Ontario judge who ruled in 2011 that the extradition should go ahead concluded that "the case presented by the Republic of France against Mr. Diab is a weak case; the prospects of conviction in the context of a fair trial seem unlikely." But the bar in Canadian extradition law is stunningly low. The judge decided he had no choice but to proceed.

Following his extradition in 2014, Mr. Diab was held in a maximum-security prison for more than three years, almost entirely in solitary confinement. French authorities were not ready to head to trial, despite assurances to the

contrary during the extradition. As French judges investigated further, the already weak case essentially collapsed. Handwriting analysis was further discredited, and judges corroborated alibi evidence that Mr. Diab was writing university exams in Lebanon at the time of the attack. The French judges dismissed the charges against him, and he returned to his family in Ottawa in 2018.

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But French prosecutors appealed, and on grounds that defy understanding, appeal courts ruled a trial should be held. French authorities did not seek his extradition again and Mr. Diab had no interest in returning to France on his own accord. So the three-week trial was held in absentia. Worse, there is no transcript of the proceedings, making it impossible to examine what exactly transpired.

The evidence is as weak today as when the case was withdrawn in 2018. Handwriting experts who were dropped by the French government in the extradition process, because they had relied on comparative samples that were not even Mr. Diab's, are back in court. A handwriting report, which had been discredited earlier by French court-appointed experts as completely unreliable, was reintroduced. Meanwhile, defence handwriting experts were rushed in responding to queries during their testimony.

Several French journalists testified, offering little more than personal opinions. One said he became convinced of Hassan Diab's guilt because he had remained "calm" when he first confronted him. A number of lay witnesses, again with no relevant evidence, also testified and were asked simply for their opinions as to whether or not Mr. Diab carried out the bombing.

Un sourced, unverified, and anonymous intelligence information, abandoned by French authorities during the extradition, was also brought back to court, and cannot be challenged.

And what about the alibi evidence, that Hassan Diab was in Lebanon at the time of the bombing in Paris? It was pushed aside.

Evidence and rules of criminal procedure that would never be allowed in a Canadian courtroom have carried the day. There is little doubt that the resulting conviction is profoundly, scandalously unsound. And now, Canada awaits an anticipated second extradition request from France, which could be sent to court and result in yet another protracted extradition process – a torment that would be unbearable for Mr. Diab and his family.

But federal Justice Minister David Lametti can rescue Mr. Diab from this maze of injustice once and for all. He must make it clear to the French government that Canada will no longer be complicit in this travesty, and that under no circumstances will any further extradition request be granted.

In Canadian law, the decision to proceed with the extradition or not is entirely at the minister's discretion. Discretion should, surely, always serve justice. And so justice means Canada must say no to France.

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