

THE DIAB AFFAIR



AN UNFINISHED STORY

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FOREWORD

This document chronicles the Diab saga from its inception to the present. It consists in a compilation of selected texts, portions of press articles, Op-Eds, official statements, and reports from a variety of sources. All these have been stitched together to form a sequential narrative. Woven in and out of the narrative's timeline are occasional critical comments, intended to expose lacunae, errors, or puzzling questions that need to be brought to light for the benefit of greater public awareness.

Most renditions of the Diab saga start with the accusation levelled at Hassan Diab that he was the bomber of the Paris synagogue at 24, rue Copernic in October 3, 1980.¹ In this telling, readers are reminded that the explosion killed four, wounded more than 40, and damaged the surrounding buildings. French authorities have claimed that the bomber was a person who filled out a registration card at the Hotel Celtic in Paris on September 22, 1980. This was the person posing as "Alexander Panadriyu." This is the person alleged by France to be Hassan Diab. The hotel card was, according to the evidence of Mr. Maccario, the desk clerk, "personally" handled and filled out by the bomber Panadriyu. Panadriyu printed the 5 words "Panadriyu, Alexander, Larnaca, Cyprus, technician" and wrote the date "22/09/80"; the only word written by hotel staff on the card was the word "imprévu" (unexpected). Paris police arrested "Alexander Panadriyu" on September 27, 1980 for shoplifting wire cutters. He was taken to the 14th district police station where he was questioned and where he handled and signed a statement (confessing). With these details (and others), France presented its extradition request to Canada in 2008.²

The chronicle below starts off quite differently, emphasizing that Diab's saga begins in 2007, not before. The assumption that the events of October 1980 constitute the prehistory of Diab's narrative is a fallacy. Nonetheless, as the reader tries to make sense of the convoluted trajectory of Diab's evolving nightmare, s/he must understand that two happenings are unfolding in parallel. On one side is a highly convoluted fiction generated by France's police authorities, which (con)fuses Diab with a mysterious bomber (self-identified as Alexander Panadriyu); on the other side is Diab's personal story, situated in a totally different reality. In October 1980, Diab was writing exams in Beirut when the Paris synagogue was bombed.

¹ "The Copernic case had been cold for almost 20 years when it was reopened in 1999 by a French prosecuting judge following what some speculate was the discovery of a reference to the case in the ultra secret files of Stasi, the East German secret police service that collapsed with Soviet bloc communism. The case appears to have remained on the French prosecutor's back burner until 2006 when his successor, anti-terrorist campaigner Marc Trévidic, took the job. It was at his behest that the French government asked Canada to extradite Diab and he provided the necessary documents under Canada's extradition treaty with France." (Chris Cobb, *Vancouver Sun*, September 24, 2011.)

² Culled from documents analyzing the French Court of Appeal decision of January 27, 2021, prepared by Don Bayne, Hassan Diab's Canadian lawyer.

In 2007, the lines of these two distinct narratives begin to intertwine. As Diab is innocently and unsuspectingly pursuing his private life in Ottawa, a French journalist from *Le Figaro* writes an article based on anonymous rumour and unsourced “intelligence,” framing Diab as the bomber. The *Figaro* article puts Canada’s counter-terrorist agents on the alert. Meanwhile, discussions are taking place in Ottawa within the Ministry of Justice, where officials from the International Assistance Group (IAG), responsible for extradition cases, are determining ways to entrap and thus prosecute him for a crime he did not commit.

Sources used: I have drawn heavily from Op-Eds, from documents written by Diab’s lawyer, Don Bayne, and not least from the Hassan Diab Support Committee’s excellent resource, justiceforhassandiab.org. I have also culled from the Murray Segal Report, the Liberal Government’s external review of the Diab case. To be clear, since this government report is not a public inquiry, its biases are obvious. The report is a defense of the IAG prosecutors rather than an objective account of the mismanagement of the Diab file. That said, the government’s commissioned document contains relevant data, judicial decisions, and exchanges between officials from the Canadian and French judiciaries, not found elsewhere, and which may prove useful to the reader when parsing the entirety of the Diab Affair. I draw on the Segal Report most specifically to highlight its omissions, flaws, and cover-up of procedural irregularities.

TRAILER

N.B. At times, the enormity of the material presented here can feel overwhelming to those unfamiliar with the Diab case. Readers who wish to glimpse the first Kafkaesque episode in the Diab Affair should listen to a presentation delivered in 2011 at a Carleton University event by Dr. Diab's wife, Rania Tfaily. Her account is particularly powerful.

Please go to: <https://www.youtube.com/watch?v=NFpVYV6DQVk&t=1005s>

And start at: 16:46 --



2007 – THE GUY WHO LIT THE MATCH—Jean Chichizola

In October of 2007, Dr. Hassan Diab was leading a productive and fulfilling life, teaching sociology in Ottawa, enjoying the City's amenities, hiking in the Gatineau, and proving his excellent skills in the culinary arts. Meanwhile, in Paris, Jean Chichizola, a journalist with the French newspaper *Le Figaro*, was pursuing the mystery of the 1980 bombing of the Paris Synagogue on rue Copernic. Governed by his biased (and anti-Islamic) interests, Chichizola zoomed in on a certain Hassan Diab, professor of sociology at the University of Ottawa and at Carleton University in Canada. The name matched the anonymous and unsourced intelligence he received that Dr. Diab was the key suspect in the Copernic attack, so he flew to Canada in late 2007 to confront Dr. Diab directly. Approaching him after his class, Chichizola asked if he (Dr. Diab) was aware that the French authorities believed he was responsible for the 1980 episode. Dr. Diab was astonished by the reporter's question, but remained calm, and denied any responsibility, stating that any connection to the attack had to be purely coincidental since "Hassan Diab" is a common name.

[http:// www.justiceforhassandiab.org/wp-content/uploads/2012/09/Bad_Times_for_the_Good_Doctor-Alternatives_Jun2010.pdf](http://www.justiceforhassandiab.org/wp-content/uploads/2012/09/Bad_Times_for_the_Good_Doctor-Alternatives_Jun2010.pdf)



2007 – SURVEILLANCE AND PURSUIT

Shortly thereafter, Dr. Diab noticed that unidentified agents were following him, and someone attempted to break into his residence. He reported these incidents to the Ottawa police, but the intimidating and intrusive surveillance persisted. In spite of this, Dr. Diab remained in Canada and continued his normal activities, including teaching at the University of Ottawa and Carleton University. Later, he learned that the agents who were following him were from the Royal Canadian Mounted Police (RCMP)

http://www.justiceforhassandiab.org/wp-content/uploads/2012/09/Bad_Times_for_the_Good_Doctor-Alternatives_Jun2010.pdf



Dr. HASSAN DIAB

“I do not recall the exact day I noticed that unknown individuals in cars with tinted windows were following me ... however, such incidents started happening more frequently and I decided to call the Ottawa police to report them, but to no avail. Rania and I would be followed even inside grocery stores or while hiking, and there was an attempt to get into our home.” <https://www.caut.ca/bulletin/2018/05/interview-hassan-diab>

Details from the Segal Report confirm Diab’s suspicions:

On January 28, 2008, the Royal Canadian Mounted Police [officially] began surveillance on Dr. Diab in Canada. The surveillance was conducted at the request of France. The goals were to: obtain information on the telephone numbers used by Dr. Diab in Canada; track his movements in the Ottawa area; and seize any discarded evidence to test for palm and fingerprints. Though the surveillance was intended to be conducted surreptitiously, Dr. Diab on several occasions noted that people were following him and contacted the Ottawa police to make complaints. Surveillance continued and increased in frequency until Dr. Diab’s arrest on November 13, 2008. <https://www.justice.gc.ca/eng/rp-pr/cj-jp/ext/01/p4.html>, p. 35.

RANIA TFAILY’S ACCOUNT:

<https://www.youtube.com/watch?v=NFpVYV6DQVk&t=1005s>

Please **start at 16:46.**

In contrast with Mr. Segal’s phlegmatic and dry account, **Rania Tfaily’s description** of this police pursuit exposes the intrusive and abusive nature of the RCMP’s investigation.



2008 – THE ARREST

Dr. Diab: “On Nov. 13, 2008, I was arrested by an RCMP swat team and thrown into the Ottawa-Carleton Detention Centre.”

<https://www.caut.ca/bulletin/2018/05/interview-hassan-diab>

“Hassan Diab was pottering around his rented Hull apartment checking email and thinking about going for a jog when the black-suited SWAT team pounded on his door.

It was 10 a.m. on Thursday, Nov. 13, 2008.

When he opened the door, a forest of screaming masked men with pistols and submachineguns met him.

Some pulled him from the apartment and handcuffed him while others slid inside on a search mission.

“They were screaming, 'Hands up, hands down,' recalls the diminutive Lebanese-born academic. They were shouting, 'Is he armed, is he armed?' I was confused. It was like a movie.”

Minutes later he was in the back of an RCMP prisoner wagon with heavily armed officers who told him where to put his shackled hands but otherwise said nothing. They sped in a convoy towards A-Division headquarters in Ottawa's east end where Diab was formally detained and locked in a cell.

The charges, he would quickly learn, were as bad as they get: four counts of murder, multiple counts of attempted murder and wilful destruction of property.

Paris police claim Diab was a leading member of a radical terrorism arm of the Popular Front for the Liberation of Palestine (PFLP) who planned and executed a bomb attack at the heart of the French capital's Jewish community on Friday Oct. 3, 1980.

The massive explosion at the Rue Copernic synagogue killed four passersby and injured at least 40 people. It was a brutal attack that to this day has left dozens of victims physically and emotionally damaged. They have been monitoring the Diab case closely.

“Copernic lives in the French memory,” former synagogue president Lucien Finel told Postmedia News. “No one could ever forget Copernic. It lives in infamy.”

From the outset, Diab has insisted that he wasn't in France on that day, was never a member of the PFLP and is an innocent victim of mistaken identity - with a name more common in Lebanon, he says, than John Smith is in the English-speaking world.

The day after his arrest, the RCMP transferred Diab to the [Ottawa-Carleton Detention Centre], an experience he describes as a descent into a nightmare.

In less than 24 hours, his life as a middle-class, middle-aged Canadian university lecturer had come to a screeching halt. In his 55 years, he says he had never before had a brush with the law, but now here he was, wearing a prisoner's orange jumpsuit and sitting in solitary confinement, where he would stay for a month.

After a short stay in the general population, he was moved into protective custody because, he says, other inmates threatened his life. Protective custody proved more violent, he says, and prisoners were no less vulnerable to the handful of inmate bullies who rule by fear and intimidation.

“It was a long hall full of 15 or 16 cells with accommodation for two, but most of the time there were three - two in bunks, one on the floor. I always asked myself, where is the protection? If you say something, they call you a rat and beat you up. If you say nothing, other inmates take your food or whatever it pleases them to take. I'd been in protective custody for five minutes and they were jumping up and down outside my cell saying, 'We want your dessert, don't eat that.' It was a sticky bun, which I didn't really want, but I thought, if I give it to them, I will never eat in this place.”

In another incident, Diab says a bulked-up inmate three times his size tried to goad him into a fight by spitting in his face.

Diab says he spat back.

He says he survived his 140 days by first seeking help from a powerful Lebanese inmate whose circle protected him and then by using his vast education to help other inmates with legal documents they either couldn't read or couldn't understand.

They called him “The Professor.”

Diab says he was shocked at the daily level of violence he witnessed inside the detention centre where, he says, inmates are allowed to brawl with the tacit approval of guards.

‘I couldn't believe that a place like this existed in Canada,’ he says. ‘You always see blood once, twice or more times a day. The way they treat people is torture by proxy.’”

From: Chris Cobb, “I had nothing to do with this,” *The Vancouver Sun*,
<https://www.meforum.org/campus-watch/19446/i-had-nothing-to-do-with-this-on-hassan-diab>, September 24, 2011.



From the Segal Report:

“On November 7, 2008, Canada received the official request for Hassan Diab’s arrest for the purpose of extradition to France” (p. 40).

Comment: the reader will note how the blunt legalese in the Segal Report obscures the gritty details pertaining to Diab’s violent arrest at the hands of the RCMP, as recounted by Chris Cobb’s *Vancouver Sun* article.

From the Segal Report:

“The French evidence in support of its request for provisional arrest included the following:

- Ms. Barbe-Prot’s and Ms. Marganne’s **handwriting analyses comparing the handwriting on the hotel registration card completed by “Panadriyu” on October 2, 1980 and “known handwriting samples” of Hassan Diab;**
- **comparison of police sketches** of the suspect made at the time of the bombing and contemporaneous photographs of Hassan Diab;
- evidence from several sources (**some unnamed**) to the effect that Hassan Diab was a member of the PFLP and one of several members who committed the bombing on rue Copernic” (p. 40).

Re: French evidence in support of their extradition request

Comment:

1. Mr. Segal's report does not *emphasize* that some of the samples of handwriting were not Diab's but samples of his wife's handwriting. The handwriting samples were provided by Syracuse University, where Diab had received his PhD. It would seem that the French investigators who requested the materials had not ascertained that the samples actually belonged to Diab. The expert analysts who were assigned to give their opinion were scrutinizing the wrong materials. The expression "known handwriting samples" of Hassan Diab is a misleading formulation that Segal unproblematically includes in this part of his report.

2. Regarding the sketches, Mr. Segal fails to indicate what Don Bayne, Diab's lawyer, pointed out in his AofP Factum (Abuse of Process Factum).

"In preparing the sketch, French police showed the store clerk 53 photographs in which there were 33 photos of 18 different men. Nine of the 33 were of Hassan Diab. The French showed only 10 of these 33 photos to the Canadian authorities, 9 of Hassan Diab and one of a woman. Dr. Diab and Canadian authorities were denied access to all 53 pictures, and are therefore unable to determine the methodology used to produce an identification and therefore whether this was a fair test."

<https://www.justiceforhassandiab.org/wp-content/uploads/2015/09/BT-Summay-of-Diab-AOP-Factum-2015-08-12.pdf>.)

3. Mr. Segal takes at face value the information in the ROC, claiming that there was evidence that Diab belonged to the PLFP. There is no such evidence. Don Bayne ably refuted this claim." See below..

Don Bayne exposed the misleading representation of a PFLP-GC connection.

- France, in the ROC that they have certified, said the PFLP-GC (Popular Front for the Liberation of Palestine – General Command) was involved. They said Souhaila SAYEH, associated with the PFLP-GC, scouted both the Copernic and Antwerp attacks, and that Hassan had accompanied her in Antwerp in October 1981, based on an unknown "intelligence" source.

- However, according to the French intelligence document D4052, Souhaila Sayeh was in a hospital in Prague for four months until the end of 1979 and could not have carried out the reconnaissance in Paris for the Copernic bombing in 1979, as claimed by France.

- The attempt by France to link Hassan to the Copernic bombing through this third party failed, because their own records prove that SAYEH was not in France in October 1979. France omitted this key evidence to persist in claiming a link that was already known to be impossible."

◦ In addition, the ROC "says" she was born on January 1954 in Tehran (p. 52) and also in Lebanon on February 28 1953 (p. 53), an obvious impossibility and sloppy "evidence" from France.

Comment:

Mr. Segal presents the ROC as a coherent, sound, and factually grounded application to the Canadian Court. **In reality, as Don Bayne pointed out,**

"The claims and the alleged 'confirmation' of intelligence material contained in the summary of evidence from France dated 12 December 2008, i.e., the certified record of the case (ROC - Record of the Case), **the French formal evidence against Hassan Diab, as presented to Canadian courts for the purposes of extradition for detention in France, are full of misrepresentations, exaggerations, inaccuracies, omissions and editorial comments which create a misleading, incomplete, unreliable and unfair Record of the Case.**

"This cherry-picking of the evidence, ad hominem statements, multiple serious misrepresentations, use of unacceptable, unsourced "intelligence" at the heart of ROC, substituted for required evidence, **leads one to conclude that France should have been disentitled from pursuing its extradition application before the Canadian Court because of this apparent abusive conduct.**" <https://www.justiceforhassandiab.org/wp-content/uploads/2015/09/BT-Summay-of-Diab-AOP-Factum-2015-08-12.pdf>.)

From the Segal Report:

"Dr. Diab was arrested at France's request pursuant to a provisional arrest warrant issued under the *Extradition Act* on November 13, 2008. His fingerprints and palms prints were taken by the RCMP in Ottawa. On the same day, search warrants were issued and executed at his residence, offices and vehicles" (p. 40).

Comment: The dryness and detached tone of the above formulation contrasts with Rania Tfaily and Dr. Diab's experience. See **Rania's personal account of the RCMP search.** <https://www.youtube.com/watch?v=NFpVYV6DQV&t=1005s> (18:00-19:49). The disparaging treatment of both Dr. Diab and his wife, Rania, by the RCMP can be readily chalked up to anti-Arab bigotry.

"Within a week, the palm prints taken from Dr. Diab in Canada were compared to those provided to the RCMP by French officials, which were found on the inside back window of a car implicated in the bombing preparation. **They were not a match**" (p. 40).

Comment: Mr. Segal does not ask why this information did not serve to stop the case in its tracks. The palm-print evidence is hard science. (Mr. Segal also fails to mention in the cited paragraph above that the finger-prints were not a match either.) Why did this information not free Hassan Diab from the extradition proceedings then and there?

From the Segal Report Bail Proceedings:

“The Court held that Dr. Diab was entitled, pursuant to s. 125(2) of the *Courts of Justice Act* (Ontario), to have the materials relied on by the Crown translated into English and ordered a new bail hearing” (p.40).

“Dr. Diab was held at the Ottawa Carleton Detention Centre. He had a bail hearing on November 20 and 21, 2008...At the bail hearing, counsel for the Attorney General tendered a package of material prepared by France that contained the allegations against Diab. The materials were in French. Dr. Diab requested an English hearing. **The Crown had prepared a summary of the materials in English, but the summary was not made an exhibit at the bail hearing**” (p. 40).

Comment: failure to include a summary of the materials in English appears particularly irregular.

“On December 3, 2008, Dr. Diab was ordered detained. At the time of his initial bail hearing, Dr. Diab was represented by Maître René Duval. Me. Duval spoke to the media and told reporters that Dr. Diab was innocent and had been in Lebanon, studying at university, at the time of the bombing. **To the best of my knowledge, this theme was not pursued subsequently during the Canadian extradition process**” (pp. 40-41).

Comment: Note that Mr. Segal pastes over the prosecution’s reluctance to address Dr. Diab’s alibi. “To the best of my knowledge,” he writes, “this theme was not pursued subsequently during the Canadian extradition process.” Mr. Segal’s formulation quietly admits faulty investigative conduct. The suppression of Dr. Diab’s alibi raises a number of questions that he, Mr. Segal, prefers to eschew.

From the Segal Report:

“In December [2008], Dr. Diab retained new counsel, Donald Bayne of Ottawa. Mr. Bayne contacted counsel at the IAG and requested that, because Dr. Diab was not fully fluent in the French language, all materials to be submitted to the Court in support of the extradition be translated into English” (p.41).

“The terms of the release were extremely restrictive. Among other things, the conditions of the bail required Dr. Diab, at his own considerable expense, to wear an electronic ankle bracelet until he was sent to France years later” (p.41).

“On February 24, 2009, Dr. Diab successfully applied to a single judge of the Court of Appeal for an order setting aside the decision made at the initial bail hearing. The Court held that Dr. Diab was entitled, pursuant to s. 125(2) of the *Courts of Justice Act* (Ontario), to have the materials relied on by the Crown translated into English and ordered a new bail hearing” (p.41).

“A second bail hearing was conducted before Justice Maranger of the Ontario Superior Court who ordered Dr. Diab’s release on March 31, 2009, after almost four months in Canadian custody” (p.41).

“The Attorney General’s application to review the bail at the Court of Appeal was dismissed. Dr. Diab remained on bail until he was surrendered to France in 2014. The terms of the release were extremely restrictive. Among other things, the conditions of the bail required Dr. Diab, at his own considerable expense, to wear an electronic ankle bracelet until he was sent to France years later. There were no issues of non-compliance with the bail terms during the lengthy extradition proceedings” (p.41).

Comment: Note that the Attorney General (Rob Nicholson) was keen to see Dr. Diab permanently jailed with no chance of bail. Fortunately, Justice Maranger granted Dr. Diab bail. However, one of the many onerous bail conditions was that Hassan had to pay for the electronic ankle bracelet that he was required to wear.

From the Segal Report: Formal Request for Extradition

“In accordance with the Canada-France extradition treaty, France had 45 days from Dr. Diab’s arrest on November 13, 2008 to make a formal request for extradition and to provide complete supporting materials.

“Judge Trévidic consulted with both Messrs. Lemire and LeFrançois as he prepared the ROC that supported the formal request for extradition.

“Judge Trévidic drafted the material in the ROC and then Mr. Lemire reviewed it and made suggestions before it was officially provided to Canada. **It was critical for Mr. Lemire that each of the judge’s “beliefs” included in the ROC be sourced to some**

piece of evidence. The mere stating of a belief without explaining the source of that belief – though sufficient in France – would not succeed at Canadian extradition proceedings” (pp. 41-42).

Comment: Note that in preparing the Record of the Case (ROC), the French judge, M. Trévidic, was urged by Mr. Lemire (a Canadian official from the IAG) to provide more evidence, because unsourced allegations would not be admissible in a Canadian court. “Beliefs” are not deemed admissible arguments. Already, at the outset, we see that the French ROC needed to be adjusted to appear credible and legitimate in the eyes of Canadian judges. The French ROC showed signs early on that it was unsound – manifestly unreliable and full of contradictions – and, as Don Bayne argues, should have been rejected from the beginning.

2008-2009 – PRISON TIME IN THE Ottawa-Carleton Detention Centre

Dr. Diab's interview with CAUT:

“I was initially denied bail and spent the first month in isolation, spending 23.5 hours each day in my small cell and only allowed to go to the yard for half an hour.

“Solitary confinement is very harsh, and one can truly start to lose one's mind. After I was allowed to join the general jail population, I often had two cellmates in my small cell because of overcrowding at the detention centre. The space was so tight that one of us would have to sleep next to the toilet. The food was rationed and terrible. The air quality was horrible.”

“Reading materials were non-existent. Violence and bloody confrontations between inmates were frequent and extremely disturbing to witness. Every day was a struggle — to remain sane, to avoid violence, and to find a way to fill the void and emptiness.”

“It was on the basis of these allegations that my life and that of my family and friends were upended for the past 10 years,” Diab noted. “After five months at the Ottawa detention centre, I was granted bail under very strict conditions, which included electronic monitoring at my expense — about \$1,800 per month — and was also required to not leave home unless accompanied by a surety, stay in the Ottawa area, and observe a curfew, among many other conditions.”

Diab's wife Rania gave birth to their first child during this period, at a point when the cost of the ankle monitor became the least of their worries. His academic career ended abruptly when Carleton cancelled his contract. Diab detailed how immense legal expenses began piling up as he struggled to fight France's extradition demand.

“My limited savings were wiped out within the first few months. If it were not for my lawyer, who worked pro bono, and the generous donations of family, friends and supporters, there was absolutely no way for me to fight these allegations. The presumption of innocence rings hollow in the face of harsh bail conditions that are imposed for years at a time.”

<https://www.caut.ca/bulletin/2018/05/interview-hassan-diab>

N.B. Dr. Diab's contract at Carleton was cancelled unceremoniously due to pressure from certain advocacy groups, and, this, in contradiction to the presumption of innocence.

2009 FREED ON BAIL – the Exorbitant Price

“After spending over four and a half months in detention in Ottawa, Dr. Hassan Diab was freed on bail under very strict conditions on April 1, 2009. Monitored with a GPS electronic ankle bracelet, Hassan is under virtual house arrest and cannot leave unless he is accompanied by one of five individuals who posted a combined \$290,000 in bail bonds. The GPS monitoring alone costs over \$30,000 a year.”

https://www.justiceforhassandiab.org/chronology#2009_04_01

Comment by Matthew Behrens:

“Like a number of Muslim men in Canada, Ottawa's Dr. Hassan Diab is forced to wear the ultimate symbol of state control: a GPS monitoring unit. This tracking device, for which the impoverished and currently unemployed university professor was forced to pay \$30,000 for the first year (and now \$1,500 monthly), is permanently affixed to his leg, tracking his every move under strict house arrest.” Excerpt from “Ottawa professor fights extradition for 1980 bomb attack in France,” Matthew Behrens, *Rabble.ca*, November 5, 2010.



2009-2011 – THE EXTRADITION HEARINGS - the Strangulation of Truth

From the Segal Report:

“The Authority to Proceed – the first stage of the extradition proceedings – was issued on behalf of the Minister of Justice on January 15, 2009” (p.42).

The Record of the Case

“On January 16, 2009, Dr. Diab’s counsel, Mr. Bayne, received a copy of the ROC prepared by the investigating judge, Marc Trévidic, the Vice-President of Investigation at the “Tribunal de Grande Instance de Paris” (Ordinary Court of First Instance of Paris) which, not surprisingly, was in French. Dr. Diab’s counsel requested that it be translated into English” (p.42).

“As indicated above, the ROC technique, introduced by the 1999 amendments to the *Extradition Act*, was meant to reduce or summarize the dense amount of original evidence that was necessary under the earlier regime. However, there were countervailing features in Dr. Diab’s case. This was a circumstantial case that had taken almost 30 years, with the investigation travelling over continents and partially through the covert world of intelligence agencies, to reach a request for extradition” (p.42).

Comment: Mr. Segal fails to mention that amendments to the extradition law in 1999 rendered it a virtual rubber stamp. Yet, even with the amended law that was geared to speed up extradition procedures, the glaring flaws in the French ROC concerning the Diab file could not be easily elided or rubber-stamped. So proceedings were extended beyond their usual timeline.

From the Segal Report:

“The original investigation was intense and extensive. **In addition, the methodology of an investigating judge in France, and their duty, is to put everything in the case dossier without filtering.** An investigating judge’s file contains all information collected as well as the theory of the case as it developed over the years. In Dr. Diab’s case, that open-ended approach appears to have resulted in an ROC that was unusual and out of the norm” (p.42).

Comment: Mr. Segal does not question the idiosyncratic nature of the French ROC. He seems to tolerate the investigating judge’s disorganized method: Trévidic incorporated everything in the case without filtering material. Such a method can only create a chaotic file and impose an extra burden on the extradition judge.

Nor does Mr. Segal see the aberrant character of the French ROC as problematic. By contrast, Justice Maranger is fully aware of the weaknesses of the French ROC: it was excessively long, disconnected, speculative, and barely decipherable. See description below.

Justice Maranger described it as follows:

“It was originally 72 pages of text with a 17-page list of exhibits referred to as ‘D. documents’” (p. 42).

- **“These included photographs, a copy of a passport, sketches, expert reports, police reports, maps, photographs and miscellaneous other documents. It was not easy to read as many of the pages were replete with seemingly disconnected information.”**
- **“The ROC, while providing some conventional evidence, also contained a great deal of argument, hypothesis, conjecture, and references to information received, without describing the source of that information or the circumstances upon which it was received.”**
- **“The methodology of an investigating judge in France, and their duty, is to put everything in the case dossier without filtering.”**

“In addition to the features noted by Justice Maranger, the ROC also included intelligence information, some of which was not sourced, and placed significant reliance on two expert opinions in the “soft science” of handwriting comparison analysis” (pp. 42-43).

Comment:

As detailed below, **France had to withdraw from its ROC the two first handwriting reports** that it had submitted in 2008. These reports had been **discredited** by their comparison of the wrong handwriting samples. French prosecutors then issued a third report, known as the “Bisotti report.” **Several international experts deemed the Bisotti report utterly worthless.** (Later, in 2020, French handwriting experts, commissioned by the French authorities, supported this view.) The Bisotti report should have been discarded from the outset. Yet Justice Maranger retained it, despite its egregiously wrong

methodology. That **infamous report became the sole ground upon which Dr. Diab was extradited to France.**

A disclosure made public only in 2018:

In 2008, when it made an extradition request to Canada, France lied: [it stated](#) that no “usable fingerprint traces could be found on the hotel card personally handled by the bomber.” In 2007, prior to submitting their extradition request, the French authorities had, in fact, located usable fingerprints. The lie was only [disclosed in 2018](#) by the two French investigative judges, Jean-Marc Herbaut and Richard Foltzer. But France never corrected its false statement and thus [misled](#) the Canadian Superior Court of Justice, the Court of Appeal for Ontario, and the Supreme Court of Canada.

JUSTICE MARANGER’S Description of the Extradition Proceedings:

“The extradition of Hassan Diab is a testament to the adage that ‘some things are easier said than done.’ This proceeding was anything but expeditious or summary. The two sides in this case were zealously and skillfully represented. Once the person sought was arrested it seems as though battle lines were drawn, and virtually every part of the process was intensely litigated. Matters such as bail, admissibility of defence evidence, *Charter* applications, translation issues, etc. went on for days, sometimes weeks; the result was a protracted, at times acrimonious, extradition case that spanned more than two years.

The rancor and tension between counsel was at times palpable. The amount of hyperbole and rhetoric levied by both sides was in my experience unprecedented. I recognize in no uncertain terms that the stakes were high for both sides. I also recognize that this was not a straightforward or conventional extradition, as I hope will become apparent in the reasons that follow.”

<https://www.canlii.org/en/on/onsc/doc/2011/2011onsc337/2011onsc337.html?resultIndex=2>

Comment: It stands to reason that the stakes would be high for the person sought – likely condemned to life in prison. Why, however, would the stakes be so high for the prosecutors? Extradition hearings are not supposed to be trials. To say that this was “not a straightforward or conventional extradition” suggests that there was more to this case than meets the eye.

JUSTICE MARANGER’S CONCLUSIONS:

<https://www.canlii.org/en/on/onsc/doc/2011/2011onsc337/2011onsc337.html?resultIndex=2>

“The Bisotti [handwriting] report was subjected to very detailed analysis and examination during the course of these proceedings. It is the key evidence linking Mr. Diab to the crime. Although I could not conclude it was manifestly unreliable, **it was nonetheless highly susceptible to criticism and impeachment**” (para. 190).

“The fact that I was allowed to scrutinize the report to the degree that I did, together with the **lack of other cogent evidence in the ROC**, allows me to say 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. However, it matters not that I hold this view. The law is clear that in such circumstances a committal order is mandated: see Anderson, *supra*, at para. 28; Thomlison, *supra*, at para. 47” (para. 191).

“Therefore, the application for committal is granted. Hassan Diab is ordered committed into custody pursuant to s. 29(1)(a) of the *Extradition Act* for the corresponding Canadian offences contained in the authority to proceed to await a decision on surrender” (para. 192).³

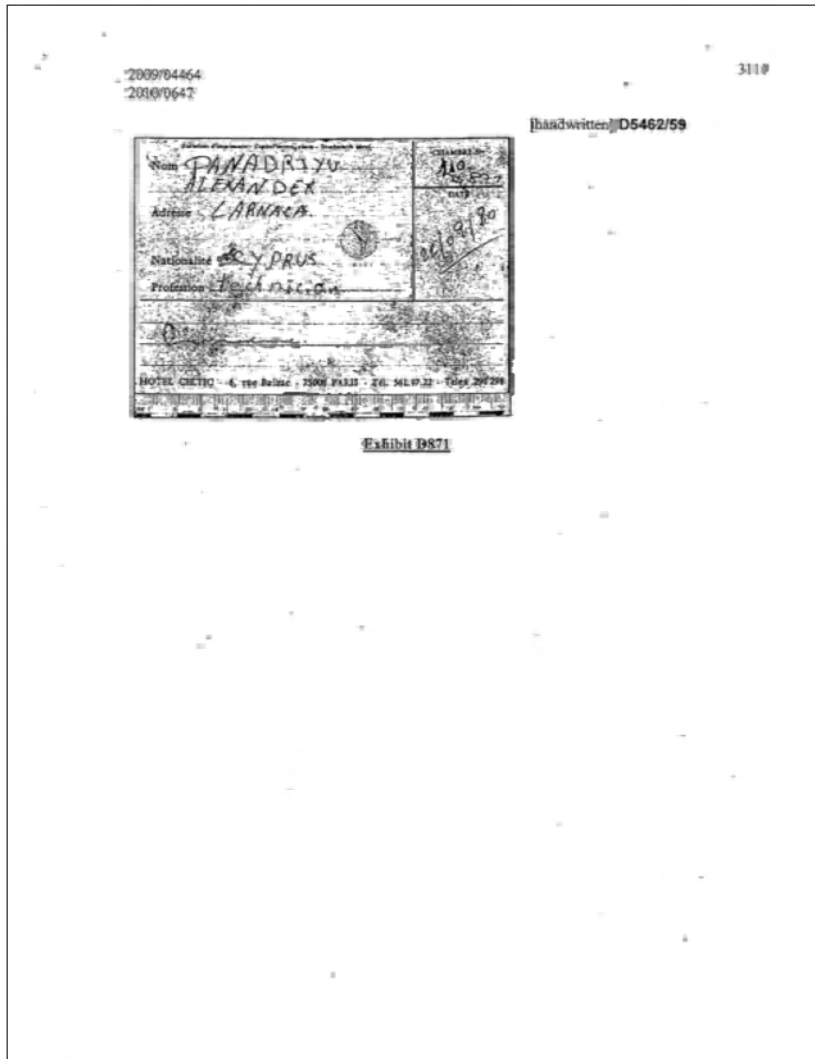
³ Attorney General of Canada (The Republic of France) v. Diab, 2011 ONSC 337 (CanLII). <https://www.canlii.org/en/on/onsc/doc/2011/2011onsc337/2011onsc337.html?resultIndex=2>,



Don Bayne’s assessment of the ROC (Record of the Case) is not only far more critical and cogent than Justice Maranger’s appraisal. It shows that **France’s evidence was in fact manifestly unreliable and should not have committed Dr. Diab to extradition.**

Bob Thomson of the Hassan Diab Support Committee has synthesized “the 94 pages and nine themes of legal arguments in the Abuse of Process Factum of October 2010 from counsel for Hassan Diab (the AofP Factum) into a readable summary of the many complex legal facts that are presented therein.”

See: <https://www.justiceforhassandiab.org/wp-content/uploads/2015/09/BT-Summay-of-Diab-AOP-Factum-2015-08-12.pdf>



A section of Don Bayne’s arguments is cited below. With specific reference to the handwriting evidence on a **hotel card** (see above), the sole evidence on which **Hassan Diab** was extradited, Bayne writes:

- The analysis of the French writing of this card has been described in Canadian courts as **doomed to failure by many international handwriting experts and by the Canadian judge.**
- The **five words on a registration card from the hotel Celtic, which are printed in capital letters, are now the only “scientific” evidence against Hassan Diab.**
- The first two analyses of writing comparing five words printed in capital letters of the suspect on a hotel registration card in September 1980, were carried out by two French experts, one of whom refused to confirm a match, while saying there were similarities.

The second said definitively that the 5 words of the suspect printed in block letters were a match for the submitted writing, even claiming that the writer had attempted to conceal his “writing” (P. 59 of D3720 and D3862 ROC).

- **The problem with these tests is that they were conducted on writing samples provided by the University of Syracuse which included writing that does not belong to Hassan Diab.** (P. 88 of AofP Factum, D3440 to D3595, Maranger, 6 June 2011, p. 26.)

- "Above all, they conclude that the factual basis on which the French reports were based may have been partly or entirely incorrect; the specific error being that a part of the writing samples used to compare to the registration card of the hotel Celtic were actually written by someone else." (Canada (AG) v. Diab, [2010] OJ No. 298, Maranger, 6 June 2011, p. 26.)

- **France was forced to recognize this "error" and removed these analyses** from their extradition evidence.

- However, the **French authorities used these unacceptable analyses against Mr. Diab in his bail hearing on April 3, 2015 in Paris!** (From the extract of minutes of the Secretariat-Registry of the Court of Appeal of Paris, FILE NO 2015/01940 No. Parquet: P810410092 / 1, Judgment of April 3, 2015, C / DIAB Hassan Naim, p. 10)

- It should be noted **that the extract of the minutes of the bail hearing of April 3 2015 cannot be strictly called a "record"**. Of the 14 pages, 8 are a summary of "evidence" drawn from “intelligence” information and interviews. No mention is made of the presentations by counsel for Dr. Diab or presentations made by lawyers representing the victims.

- A third analysis of handwriting (this time) of the writing of Hassan and the five words printed in blocks on the registration card was produced by [the French analyst], Anne Bisotti. Five international handwriting experts, two with French experience, **testified that the methodology used by Ms. Bisotti was flawed, did not follow international (or French) standards and was therefore not reliable.** Judge Maranger of the Superior Court of Ontario noted in February 2011 that he found [Bisotti's analysis] “very problematic,” “very confusing” and with “suspect conclusions” (P. 30). He added that “the prospects of a conviction in a fair trial appears unlikely” (Maranger, 6 June, 2011, p. 48).

It should be noted that this **erroneous handwriting analysis** is **now (in 2022)** essentially **the only evidence against Dr. Diab.**

*

- The case against him relies on secret, unsourced intelligence (that may be the product of torture).
- The intelligence was withdrawn from the extradition hearing in Canada in recognition of its extremely problematic nature.
- However, the intelligence remains in the French dossier.

2014 – THE EXTRADITION TO FRANCE - Treacherous Kidnappers

CBC report by Dave Cochrane and Lisa Aventure

“In November 2014, Hassan Diab and his wife, Rania Tfaily, were in the mood to celebrate, despite the cloud of uncertainty hanging over their lives.

Their daughter, Jena, was turning two, Rania was seven months pregnant with their second child and they were all cautiously optimistic that an imminent legal decision could give them some semblance of normalcy as a young, growing family.

They hoped to recapture the atmosphere of Jena's first birthday party a year earlier, when they served platters of homemade food and cake to family and friends in the common room of their Ottawa apartment building.

But a Supreme Court decision derailed those plans. On Nov. 13, 2014, Canada's highest court announced it would not review the controversial [decision to extradite Diab](#) to face terrorism charges in France for an attack he has always maintained he did not commit.



And so, on the eve of his daughter's birthday, the 60-year-old sociology professor was escorted in handcuffs onto an Air France flight to Paris. After landing in France in the early morning hours of Nov. 15, he was rushed to a fortress-like prison on the outskirts of Paris.

As Rania and Jena slept at home,* French prison guards took Diab's fingerprints and led him to the small cell that would become his world.

‘A new life, a new phase started at that exact moment,’ Diab said in an in-depth interview with CBC News.

He had been promised the opportunity to say goodbye to his family. To tell Rania that he loved her. To wish his daughter a happy birthday. To assure them that he would see them both soon. None of that happened...

...In November 2014, Diab lost his six-year legal battle [against his own government](#). All appeals had been exhausted. The minister of justice signed on the dotted line, arguing the burden of proof to extradite had been met.”

<https://newsinteractives.cbc.ca/longform/hassan-diab-extradition-french-prison>

Diab relates:

‘I stayed at the jail for three years and two months. The hardest part was being thousands of miles away from my family and not knowing how they were managing.’ Rania gave birth to their second child during this time.

‘The most disturbing element of my detention was hearing the constant banging on doors and piercing screams of other inmates. Imprisonment — even of those who are supposedly presumed innocent — is intended to punish people and strip inmates of their humanity and hope.’”

<https://www.caut.ca/bulletin/2018/05/interview-hassan-diab>

*Rania and Jena, in fact, endured a sleepless night.

2016-2018 – RELEASE ORDER OVER-TURNED 8 TIMES

“French court blocks release of Ottawa academic Hassan Diab for eighth time,”

<https://ottawacitizen.com/news/local-news/french-court-blocks-release-of-ottawa-academic-hassan-diab-for-eighth-time>, by Chris Cobb, Nov 14, 2017.

“For the eighth time, a French appeals court has overturned a judicial order to release on bail former Ottawa university professor Hassan Diab.

Since his extradition from Canada three years ago, four judges have ruled that the 63-year-old Canadian citizen should be released from the maximum-security Paris prison where he has been held on pre-trial detention.

Following a now familiar pattern, an appeals court quashed the latest release order Tuesday.



The appeal judges are expected to release the reasons for Tuesday’s decision later this week but they have previously accepted the prosecution’s claim that Diab is a threat to public order and a flight risk.

Diab’s French lawyer William Bourdon says the prosecution appeals are “not judicial but political” and motivated by a reluctance not to appear soft on terrorism.

Investigating Judge Jean-Marc Herbaut, one of the judges who has repeatedly ordered Diab's release, ended his investigation into the case in July after saying previously that there is "consistent evidence" that Diab is telling the truth.

During his almost three-year investigation, Herbaut visited Lebanon to interview – among others – some of Diab's contemporaries.

But in a surprise twist to the saga, Diab's Ottawa lawyer Donald Bayne said a "foreign nation" has intervened with Herbaut and given the judge additional documents.

Diab's legal representatives refused to name the "foreign nation" but said it is neither Canada nor France.

Bayne told this newspaper there is nothing new in those documents which he said contain numerous factual errors."

Excerpt from: Justiceforhassandiab.org

November 15, 2017: Appeal Court Overturns Hassan Diab's Eighth Release Order

"For the eighth time, the French Court of Appeal quashed a release order for Canadian academic Dr. Hassan Diab, as he marked three years in pre-trial detention.

The French investigative judges in charge of the case found that there is "consistent evidence" that Dr. Diab was not in France at the time of the 1980 Paris bombing outside a Paris synagogue that tragically killed four and injured dozens. Official documents as well as several witnesses confirmed that Dr. Diab was studying and taking his university exams in Lebanon at that time. Four French judges have repeatedly ordered his conditional release. However, each time the Paris prosecutor filed an appeal, and the French Court of Appeal overturned the release decision because of the climate in France.

Dr. Diab's lawyers in France, William Bourdon, Apolline Cagnat, and Amélie Lefebvre, remarked that "this is an absolutely exceptional situation: Four judges have decided eight times that Dr. Diab should be released. The Paris prosecutor's obstinacy in this case is not judicial but rather political."



2018 – RELEASE FROM FRANCE

January 12, 2018: French Investigative Judges Dismiss Allegations; Dr. Hassan Diab Released from Prison in France.



Excerpt from Justiceforhassandiab.org

“Today, Judges Jean-Marc Herbaut and Richard Foltzer (“Juges d’instruction anti-terroristes”) dismissed the allegations against Dr. Hassan Diab and ordered his immediate release from detention. An overwhelming body of evidence shows Dr. Diab cannot have been in France in 1980 when the attack was perpetrated, as many elements confirm he was in Beirut during that period of time. The decision also notably underlines the numerous contradictions and misstatements contained in the intelligence which cast serious doubts about their reliability, as well as the fact that Dr. Diab’s handwriting, fingerprints, palm prints, physical description, and age do not match those of the suspect identified in 1980.

After more than three years in solitary confinement in a French prison, Dr. Diab was released from prison today.

Dr. Diab’s lawyers in France, William Bourdon, Apolline Cagnat, and Amélie Lefebvre, stated that ‘This decision in such a serious terrorism case is exceptional. It must remind us that the acknowledgement of a suspect’s innocence in a terrorism case is always a long road but can be obtained with relentless work. The decision is founded on the demonstration of the impossibility to attribute to Hassan Diab any responsibility in the

attack, as we have not ceased to claim. The respect owed to the victims and their legitimate need for justice must not be confused with the prosecutor's obstinacy whose potential appeal would be completely contrary to the law and facts.'

Don Bayne, Dr. Diab's lawyer in Canada, remarked, "We're elated, relieved and thankful. Thankful to the French judges for their wisdom and courage to buck political and social pressure to make a completely just decision, something that we believe the courts in Canada failed to do at every level. Thankful that Dr. Diab's wife, Rania Tfaily, led the fight for justice with such dignity and perseverance. Thankful to Minister Freeland, Sam Moyer, Maria Lamani, and others at Global Affairs Canada for their genuine and impressive support to a Canadian who never should have been extradited. And thankful for the efforts of the wonderful Canadians who make up the Hassan Diab Support Committee."



2018 – DEMANDING A PUBLIC INQUIRY

Excerpt from Justiceforhassandiab.org

“Now is the time for the Justice Minister, indeed the Prime Minister, to order a complete review of the Extradition Act and procedures that led to years of injustice for an innocent Canadian. How could Canada have extradited a Canadian to France when France never, never had a case against Dr. Diab fit to go to trial? How? Because of Canada’s Extradition Act, of the procedures it enables to strip Canadians of liberty unjustly. This Canadian was extradited on overwhelmingly unreliable evidence yet every Canadian court allowed this to happen. So while we are thankful and relieved that justice has been served, we must ensure the system is corrected so that no other Canadian experiences what Dr. Diab has.”

<https://www.justiceforhassandiab.org/french-investigative-judges-dismiss-allegations-dr-hassan-diab-set-released-prison-france>

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Excerpt from: “Hassan Diab: Nothing less than a public inquiry will do,”
<https://canadiandimension.com/articles/view/hassan-diab-nothing-less-than-a-public-inquiry-will-do>, by Michelle Weinroth, July 16, 2018.

“... how and why did our former government facilitate the extradition of one of its citizens by withholding critical information that would otherwise have saved him years of torment? Given this egregious irregularity in judicial and government proceedings, and given that Canada’s extradition law offers few, if any, safeguards to protect the requested individual from extradition, it behooves all Canadians to ponder seriously the extent of their civil liberties.

...

“The case of Hassan Diab recalls the canary in the mine. From the depths of one man’s ordeal, it illuminates a warning sign that we must all heed. Any one of us, however innocent, could fall into the same dark hole of hell that swallowed Dr. Diab for ten years.

“Now fully informed of Dr. Diab’s story, Canadians are petitioning the Government to set up an *independent and public inquiry*: 1) to study the actions of Canadian officials involved in abetting the cause of a foreign state by actively promoting the extradition of Dr. Diab; and 2) to launch a substantive revision of Canada’s extradition law that trumps Canada’s Charter of Rights and Freedoms. The Government must act expeditiously on this matter, on behalf of every one of us, but most importantly, on behalf of Dr. Diab and his family. Only then will justice be served.”

2019 (May 19) – SEGAL’s EXTERNAL REVIEW – A Whitewash

Press Conference on Murray Segal’s External Review of the Diab File

- **Media Advisory:** Hassan Diab press conference on Parliament Hill, 3pm Friday, July 26, to respond to Segal Report.

See: <https://www.justiceforhassandiab.org/segal-report-to-be-released-on-friday-july-26-press-conference-on-parliament-hill>

- **Hassan Diab and lawyer** discuss the external review of his extradition to France

See: <https://www.youtube.com/watch?v=1grSrK2kFrQ>

- **CBC News** “Whitewash: Hassan Diab attacks report concluding government acted properly in his extradition case,” <https://www.cbc.ca/news/politics/hassan-diab-extradition-france-1.5226033> by David Cochrane, July 26, 2019.

“Hassan Diab and his lawyer are accusing the federal government of perpetrating a ‘whitewash’ after an external review, released today, concluded government lawyers acted ethically and followed proper procedures in extraditing him to France for a terrorism case that later fell apart.

‘My suffering and that of my family was prolonged by senior officials at the Department of Justice,’ Diab told a press conference this afternoon. “I trusted the government’s promise that what happened to me would never happen to anyone else.’
Former deputy attorney general of Ontario Murray Segal, tasked by the federal government with the external review, wrote in the conclusion of his report that ‘(counsel) acted in a manner that was ethical and consistent – both with the law and ... practices and policies.’

... Speaking at a press conference this afternoon, Diab and his lawyer Donald Bayne ripped into Segal’s report.

‘It’s a one-sided report. Its purpose is not to provide accountability. Its purpose is to absolve the Department of Justice of any accountability, and to shield senior officials at the department of any accountability,’ Diab said.

‘This is basically a report that says nothing wrong was done by anybody ... Nothing to see here, folks, move on,’ Bayne added.

‘If Canadian prosecutors and the justice system ... all got it so right, why then did (Diab) languish in solitary confinement over three years ... an innocent Canadian in a French jail? The standards we are using are clearly wrong.’

‘Anything goes in an extradition, and you can't defend yourself. This will happen again.’

Rights groups such as Amnesty International and the B.C. Civil Liberties Association (BCCLA) called for a public inquiry last year after CBC News revealed the steps Canadian government officials took to help secure Diab's extradition.

...

Segal's mandate fell short of the judge-led public inquiry — with full subpoena power and cross-examination of witnesses — that Diab and his supporters had been demanding.

So Diab boycotted this review, arguing the scope was too narrow and appeared to be nothing more than a ‘concerted damage-control effort.’

Diab's objections are spelled out in a letter written by Bayne and sent to Segal in July of last year.

‘These terms of reference are a disservice to Dr. Diab and to all the suffering he and his family have been put through,’ Bayne wrote in the letter, which was also sent to Prime Minister Justin Trudeau and then-justice minister Jody Wilson-Raybould.

Segal's conclusion that the Department of Justice did nothing improper in Diab's case seems to contradict the views of the prime minister, who criticized the outcome.

‘I think for Hassan Diab we have to recognize first of all that what happened to him never should have happened,’ Trudeau said in June 2018. ‘This is something that, obviously, it's an extremely difficult situation to go through for himself, for his family, and that's why we've asked for an independent external review to look into exactly how this happened and make sure that it never happens again.’

... The B.C. Civil Liberties association said this afternoon that Segal's report only proves that ‘Canada's extradition law is severely broken and must be changed.’

‘This report makes clear that our extradition laws are deeply unfair. Dr. Diab was shipped off for lengthy imprisonment in a foreign country on a flimsy case, without even having the right to see and to respond to the evidence against (him),’ the BCCLA said in a media release.

‘Canada's laws must be changed to prevent anything like this from happening again in the future. The report makes suggestions as to how federal lawyers might conduct their cases better in order to protect Canadians' rights — with respect, that's not good enough. The law must be changed to guarantee fairness for Canadians whose freedom and lives are at risk.’ ”

2019 (October 1) – ANALYSIS OF THE SEGAL REPORT

Excerpt from “Justice Dies in the Darkness”: The ‘External Review’ of the Hassan Diab Case, <https://socialistproject.ca/2019/10/justice-dies-in-the-darkness/> October 1, 2019, by Michelle Weinroth

“When former Attorney-General Jody Wilson-Raybould declined Hassan Diab’s request for an independent and transparent public inquiry into his wrongful and harrowing extradition to France, he, along with his lawyer, and countless others, feared that justice would not be served...The “[external review](#)” that Jody Wilson-Raybould had ordered, in lieu of a public inquiry, would constitute a whitewashing exercise. Indeed, when this very report, authored by Murray Segal, former deputy Attorney-General of Ontario, was finally released in July 2019, Dr. Diab’s deepest dread was confirmed.

“Fielding questions at a press conference, Dr. Diab aptly described Mr. Segal’s external review as a form of Orwellian propaganda, a self-justificatory discourse that translates the misdeeds and defects of state institutions into legitimate, worthy, and time-honoured practices. Like much defensive political rhetoric, the report bears the hallmarks of damage control. Indeed, Mr. Segal’s review is nothing short of a desperate, though futile, measure to tart up Canada’s grotesquely unjust extradition law and to quell the disaffection with the justice system that many Canadians have shown in learning of Dr. Diab’s nightmarish extradition.

....

“Most Canadians pondering these facts would be horrified. They would instantly demand that the extradition law be radically reformed and that those persons who applied its rules in the Diab case be denounced. But courtesy of a narrowly defined mandate, one focused almost exclusively on legal rules, Mr. Segal’s task was lightened considerably. The terms stipulated in the mandate afforded him the wiggle room to manoeuvre out of an invidious position: i.e., having to expose the viciousness of the Canadian extradition law and thus shaming the very institution that hired him to write the report. By bracketing out the question of *human justice*, the mandate allowed Mr. Segal to adhere solely to the technicalities of the law,⁴ eschew its profound iniquities, and downplay, if not deny, the wanting ethics of senior litigators. For it was their overweening complicity with French prosecutors that led to Dr. Diab’s wrongful extradition and, this, on [appallingly weak grounds](#).”

⁴ Murray Segal, *Independent Review of the Extradition of Dr. Hassan Diab*, https://www.justice.gc.ca/eng/rp-pr/cj-jp/ext/01/review_extradition_hassan_diab.pdf, p.78.

2021 (January 27) – FRENCH APPEALS COURT RULING: Justice in reverse gear

The French Court of Appeal's ruling is awash in discrepancies and errors. Dr. Diab's lawyer, Don Bayne, responded with a [meticulous account](#) of the report's carelessness, twisted facts, fanciful speculations, and contradictory claims, including the reinstatement of the infamous Bisotti report.



Hassan Diab's Supporters React to French Court Order – January 27, 2021

Video of Press conference on 27 January 2021 reacting to French Court of Appeal decision to refer Hassan to trial. See:

<https://www.youtube.com/watch?v=xYk7innyR90>

“French court orders Hassan Diab to stand trial in terrorism case, 3 years after he was set free.” <https://www.cbc.ca/news/politics/hassan-diab-france-trial-1.6032288>, by David Cochrane, CBC, Jan 27, 2021.

Excerpt:

“France's court of appeal has ordered Canadian academic Hassan Diab to stand trial in connection with a 40-year-old bombing attack outside a Paris synagogue — three years

after a lower court set him free due to a lack of evidence.”

“Order to stand trial in Paris bombing flies in face of evidence, Diab's lawyer says.”

<https://www.ctvnews.ca/canada/order-to-stand-trial-in-paris-bombing-flies-in-face-of-evidence-diab-s-lawyer-says-1.5284242>, by Jim Bronskill, CTV, January 27, 2021.

Excerpt:

“ ‘He's going to be dragged through a future of uncertainty while for political reasons this case marches on in France.’

“Diab's lawyers in Paris said they would contest the court decision.

“Bayne also pledged to continue pleading Diab's innocence and did not rule out asking the Trudeau government to intervene. ‘I'm going to consider all legitimate avenues in protecting my client.’”

“The Hassan Diab case: Injustice expands, need for redress and reform deepens.”

<https://www.caut.ca/bulletin/2021/03/commentary-hassan-diab-case-injustice-expands-need-redress-and-reform-deepens>, by Alex Neve: Commentary /March 2021.

Excerpt:

“It did not come as a surprise that French prosecutors appealed the decision to drop the case. It took three more years before the appeal served up the stunning decision on January 27, 2021 ordering a trial to go forward.

“In that time, the exceptionally weak case against Dr. Diab had continued to collapse. New handwriting analysis further debunked the legitimacy of the report that French authorities had relied upon during the extradition. **Essentially it now means that there not a scintilla of credible evidence to support the decision to hold a trial.**

“Yet the trial will go forward. It is impossible to square that with Justice Maranger’s once upon a time optimistic presumption that in France there would be a fair trial and that justice would be done.

“Diab’s French lawyers point to immense political pressure to keep the case going. Amélie Lefebvre [notes](#) that as ‘the families of the victims continue to call for justice ... it is extremely hard to let go of the only suspect that the victims and the public have.’ Diab’s Canadian lawyer Don Bayne [observes](#) that ‘no justice system worthy of its name offers an innocent scapegoat to satisfy a demanding lobby. The prosecution of a demonstrably innocent man damages the credibility of France’s justice system.’ ”

2021 (May 19) – APPEALS COURT RULING UPHELD: Shock, Outrage, & Action

“How France lied about Hassan Diab, <https://canadiandimension.com/articles/view/how-france-lied-about-hassan-diab>, by Michelle Weinroth, June 6, 2021.

Excerpt:

“Given that the hard facts [speak in favour of Dr. Diab’s innocence](#), and having watched his lawyer, Don Bayne, easily refute the prosecution’s case, it was a fair assumption that Dr. Diab’s freedom would soon be granted. But on May 19, flying in the face of exculpatory evidence, France’s *Cour de cassation* (Supreme Court) upheld the Court of Appeal’s decision. Why is Diab being scapegoated? For an answer to this question we need to examine the politics of deceit underpinning France’s second Dreyfus Affair.

For 40 years, French authorities have tried to solve the conundrum of the 1980 bomber of the Paris synagogue on rue Copernic. They struggled for many years and finally realized that they had reached an impasse. But they could not admit failure publicly; nor would pressure from the victims’ lobby allow them to abandon the file. The victims’ lobby demanded closure. The hunt thus continued undeterred, but with one caveat: the sacrifice of an Arab would be imperative—it would align with France’s Islamophobic politics and the spread of anti-Arab racism.

The French authorities relied on foreign intelligence. Yet, the scenario they dreamt up could barely satisfy the script of a B movie. For even by its own logic, the fiction that prosecutors concocted makes no sense. Their story is [incoherent](#), speculative, fanciful, and, not least, brazen. Replete with groundless assertions, its most salient howler is a convoluted narrative about Diab’s [lost passport](#) coupled with a contradictory claim that he had taken exams in Beirut between late September and early October while also planting a bomb in Paris during that same period.

If telling tales of Dr. Diab’s superhuman ubiquity were not enough, French authorities also presented a [deceitful extradition request](#). In 2008, they suppressed fingerprint analyses that proved that Diab’s fingerprints did not match those of the bomber (they were fortunate that Canada’s flawed extradition laws [prohibited the disclosure of Diab’s alibi](#), that he was in Beirut at the time of the bombing writing exams, since that alibi, along with the mismatching fingerprints, would have scuttled his extradition from the start)...

2021 – URGING THE CANADIAN GOVERNMENT TO ACT NOW:

Open Letter to the Minister of Justice, The Honourable David Lametti, from Members of the Legal Profession and Legal Scholars

August/September 2021 Dear Mr. Lametti,

Recently, over 10,000 letters from individuals and organisations were sent to your government expressing grave concern about the latest news regarding Hassan Diab and the prospects of a second extradition. In what appears to be a standard reply, you wrote the following:

“As extradition requests are confidential state-to-state communications, I cannot confirm or deny the existence of a request until and unless it is acted upon. Canada would review a new extradition request in accordance with the *Extradition Act*, the *Canadian Charter of Rights and Freedoms*, and our treaty obligations. A decision to start extradition proceedings would consider whether there is sufficient evidence to support the request as well as whether it is in the public interest to proceed.”

Your reply is unconvincing for the following reasons:

1. A wait-and-see approach is unjustifiable

The urgency of the Hassan Diab case demands your intervention and, as expert lawyers have noted, you have the power to act now and not delay. Your wait-and-see approach is thus unjustified. “Parliament [has given you] full discretion not only to reject extradition requests out of hand but also to terminate them when to proceed appears to be against the national interest. This unusual provision, repeated in sections 14, 23(3) and 48(1) of the *Extradition Act*, is founded on the notion that extradition is not at base a legal or judicial issue, but rather is political in nature” (Gary Botting, <https://legalmatterscanada.ca/hassan-diab-deserves-better-from-the-justice-minister>).

Parliament has also given you, the Minister of Justice and Attorney General, certain extraordinary powers, including the ability to exercise your “discretion to stop an extradition proceeding in its tracks... where proceeding to court would likely have major political ramifications” (Gary Botting, <https://legalmatterscanada.ca/hassan-diab-deserves-better-from-the-justice-minister>).

You are no doubt aware “that in extradition matters, the courts act only in an advisory capacity. As soon as [you decide] to exercise [your] discretion to say “enough is enough” in an extradition case, the extradition is over, because under s. 23 of the *Act*, the judge is then *compelled* to discharge the person facing extradition” (Gary Botting, <https://legalmatterscanada.ca/hassan-diab-deserves-better-from-the-justice-minister>).

2. A Non-reciprocal Extradition Treaty between France and Canada is iniquitous and defective

The extradition treaty with France to which you refer is inherently defective. There is no comity between France and Canada. In the Hassan Diab case, this lack of reciprocity has revealed France's disrespect towards Canada. France has proven to be an untrustworthy extradition partner. It claimed to have evidence where there was none; it claimed to be ready for trial when it was not; and it lied in 2007 about a lack of fingerprint evidence when there was an abundance of fingerprints, each of which excluded Dr. Diab. France's dishonesty was one of several factors that led to Dr. Diab's unconscionable 39-month imprisonment in France.

As Rob Currie, Professor of Law at the Schulich School of Law at Dalhousie, has pointed out, the United Nations International Covenant on Civil and Political Rights (ICCPR) requires fair criminal investigation and trial procedures (Rob Currie, <https://rabble.ca/news/2021/06/canada-should-suspend-its-extradition-treaty-france-over-persecution-hassan-diab>). By ignoring evidence and substituting speculation, France has clearly violated this covenant in its Court of Appeal ruling of January 27, 2021.

3. There is no evidence to support a second extradition request

The last shred of flimsy handwriting "evidence", on which Dr. Diab was wrongly extradited in 2014, was jettisoned earlier this year by French handwriting analysts. There is no more evidence to support any extradition request. Short of veritable proof, the French Court of Appeal has thus resorted to fictions. In an exhaustive statement, Dr. Diab's lawyer, Don Bayne, showed with impeccable logic that France's Court of Appeal misstated facts, relied on discredited evidence, made up non-existent evidence (fanciful speculation), and engaged in contradictory reasoning (Don Bayne, <https://www.justiceforhassandiab.org/bayne-memos-2021-05>).

4. It is not in the public interest to proceed

The persecution of Dr. Diab has now exceeded 14 years of his life, including more than 3 years in a French maximum-security prison, mostly in solitary confinement. He should no longer face the uncertainty of another extradition and Canada should take strong action to let France know that unfair political trials of Canadian citizens are not tolerated.

Thousands of Canadians have come to know the Ottawa professor as an innocent man, whose life has been massively damaged and whose rights and freedoms have been violated by France's relentless persecution. These many persons, along with many organizations, have become Dr. Diab's fervent supporters. They understand that he represents every Canadian, and that his loss of freedom could one day be theirs. That realization governs their passionate and persistent vindication of his cause. And they will not renounce their fight for justice until it is served. You, Sir, together with Prime Minister Justin Trudeau and Minister of Foreign Affairs, Marc Garneau, have the power to make that happen. Indeed, you have the obligation to reject any renewed extradition request from France and to bring this case to a close.

We, the undersigned, therefore ask:

- a. That, as Minister of Justice, you give immediate assurances that Canada will not accept nor accede to a second request for Hassan Diab's extradition;**
- b. That, as Minister of Foreign Affairs, Minister Marc Garneau urge France to put an immediate end to this continuing miscarriage of justice;**
- c. That, as the head of the Government of Canada, Prime Minister Justin Trudeau suspend the extradition treaty with France.**

cc:

- The Right Honourable Justin Trudeau, Prime Minister of Canada
- The Honourable Marc Garneau, Minister of Foreign Affairs

To date: **No answer received** from the Justice Minister, the Honourable David Lametti.

2022 DATE OF TRIAL IN FRANCE SET for APRIL 2023 – the Behemoth Approaches

2022-2023 LA LUCHA CONTINUA: Say it louder: “No justice, no peace!”

FROM the HASSAN DIAB SUPPORT COMMITTEE:

<https://www.justiceforhassandiab.org/campaigns>

CURRENT Campaigns and Petitions

- Letter writing campaign urging the Canadian government to reform Canada’s unfair and broken Extradition Act.

 <https://iclmg.ca/extradition-reform>

- Letter writing campaign urging the Canadian government to end the injustice against Dr. Hassan Diab following the French Court of Appeal’s decision (January 27, 2021) referring his case to trial.

 If you live inside Canada: <https://iclmg.ca/diab-letter>  If you live outside Canada: <https://iclmg.ca/diab-letter-intl>

- **Postcard** calling on Prime Minister Justin Trudeau to protect Hassan Diab from ongoing persecution. Pick up postcards from **Octopus Books** in Ottawa, or email diabsupport@gmail.com to request that postcards be mailed to you.
- Email a link to the **“Act Now Sir!” video** to Prime Minister Justin Trudeau (pm@pm.gc.ca), asking that he guarantee Hassan Diab’s freedom once and for all.
- Petition to Prime Minister Justin Trudeau: Protect Hassan Diab from further injustice. Say NO to any future request for Hassan's extradition!

<https://you.leadnow.ca/petitions/pm-trudeau-protect-hassan-diab-from-further-injustice-say-no-to-another-extradition>

SELECTED ARTICLES ON CANADA'S FLAWED EXTRADITION LAW & THE DIAB AFFAIR

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*

Among the most powerful articles on Canada’s extradition process is the following by Neil MacDonald. I quote it in part to give the reader a sense of the crux of the issue:

“Canada betrays its own citizens. Hassan Diab’s case is among its most egregious.”

“And now, Hassan Diab. Apologists for the government say it had no choice, because of our extradition law, and neither did the judge who ordered him extradited to France. Sorry, it’s just the system.

“Sorry, not good enough. The real problem is that Canada’s eagerness to please foreign allies supersedes concerns for its own citizens.

“Consider this: France would not have extradited one of its citizens to Canada. Its position is that if foreign authorities have a case against a French citizen, they should supply the evidence to France, and France will put the person on trial.

“‘We'd have been happy to have the trial here in Canada,’ says Don Bayne, Diab's lawyer. ‘We knew how long it would last.’”

“Instead, Diab lost years of his life, and the Canadian government, rather than profusely apologizing, has now arrogantly appointed a retired prosecutor and former senior Ontario justice official — yes, a lifelong prosecutor — to ‘review’ the case.

“Diab, meanwhile, remains on the American no-fly list. And French prosecutors are appealing his release. They may yet demand he be turned over again, and that law that gave the judge and the government no choice remains unchanged. You know, the system.

“Terrifying.”

Excerpted from: “Canada betrays its own citizens. Hassan Diab's case is among its most egregious.” <https://www.cbc.ca/news/opinion/hassan-diab-1.4823570>, by Neil MacDonald, *CBC News, Opinion*, Sep. 15, 2018.

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[Former International Amnesty Canada Director Roger Clark: “Let’s Not Allow Another Wrongful Extradition of Hassan Diab” \(Part 2\)](#)

Sada Al-Mashrek, September 7, 2021

[Former International Amnesty Canada Director Roger Clark: “Let’s Not Allow Another Wrongful Extradition of Hassan Diab” \(Part 1\)](#)

CROSSWORD PUZZLE

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DOWN

1 To hurt

9 Opposite of down

10 The first in a trio consisting of “myself and I”

11 to breed

16 part of the *pseudonym* belonging to Copernic bomber. (See document, p. 3)

20 He wrote: “The real problem is that Canada's eagerness to please foreign allies supersedes concerns for its own citizens.” (See document, p.47.)

35 Nota Bene

38 One of two investigative judges who released Dr. Diab in 2018 (see Weinroth, “Unfinished Business: The Hassan Diab Affair Continues,” *The Bullet*, May 11, 2022, <https://socialistproject.ca/2022/05/unfinished-business-the-hassan-diab-affair-continues/#more>, p. 47 of document.)

46 simple

82 ordeal

88 Don Bayne remarked: “_____ is gravely at stake.”
See <https://www.youtube.com/watch?v=1grSrK2kFrQ> -- between 10:03 and 10:14 ;
also between 10:22 and 10:25.

117 personal pronoun

144 First and last names of he who called the case against Dr. Diab “weak” and said that the “rancor and tension between counsel was at times palpable ... unprecedented.”) (See document, p. 21.)

164 The French had procured the wrong handwriting samples from this university. (See document, p. 12.)

170 “He is made of the same ____ as his father.”

173 Propose

177 Name of Dr. Diab’s eldest child

215 “____ and tear”

262 A long, spear-like weapon that infantry troops used in the medieval and Renaissance eras.

264 the hand-over

268 That he was in Beirut taking exams was his _____.

273 She authored this line: “Canada should bring Hassan Diab home.” (See document, p. 45.)

275 worked over again

298 altercation

324 Author of “The Hassan Diab case: Injustice expands, need for redress and reform deepens.” (See document, p. 38.)

350 The handwriting evidence used against Dr. Diab has been described as _____. (See document, p. 41, point 3.)

354 to remove water from a boat

363 Tandoor

373 the English equivalent of “droit”

378 eschew

380 neutral personal pronoun

415 conjunction

416 encountered

417 The province in Canada where Dr. Diab *would not* have been extradited. (See Matthew Behrens’s piece “A Canadian in Paris: Hassan Diab’s indefinite jail journey,” *rabble.ca*, February 22, 2015. <https://rabble.ca/columnists/canadian-paris-hassan-diabs-indefinite-jail-journey/>)

ACROSS

1 Acronym of the extraditing group in Canada’s Department of Justice. (See document, p. 4.)

7 He tweeted the following: “Covfefe” (/kʊʾ fɛfi/ koh-FEH-fee)

25 Pretty town outside of Ottawa that shares its name with a city in Australia and a city in Scotland.

33 month named after a Roman goddess (god of marriage and childbirth)

51 The name of the person who produced a methodologically flawed handwriting report. (See document, p. 24.)

59 Justice Minister of a former (Federal) Liberal government of Canada

81 “and so forth”

85 small public thoroughfare

88 He is taking a “*wait and see approach*.” (See document, p. 40.)

117 He ordered the release of Dr. Diab in 2018 from Fleury-Mérogis prison. (See document, p. 28.)

129 Many Canadians rejoiced when he left office; their code was ABH.

142 Evidence against the person sought -- abbreviated and inverted. See <https://www.youtube.com/watch?v=1grSrK2kFrQ> -- **between 10:26 and 10:29.**

164 RCMP confiscated this item when Hassan was extradited (See “A Canadian in Paris: Hassan Diab’s Indefinite Jail Journey,” by Matthew Behrens, *rabble.ca*, February 23, 2015.

177 Complicit in a whitewash of the Diab file. See “Hassan Diab: Nothing less than a public inquiry will do,” by Michelle Weinroth, *Canadian Dimension*, July 16, 2018. <https://canadiandimension.com/articles/view/hassan-diab-nothing-less-than-a-public-inquiry-will-do>

205 A mechanism that meshes together via teeth and is used to transmit rotary motion from one shaft to another.

211 sole evidence on which Diab was extradited

260 the English equivalent of the French “cassation” as in “cour de cassation” (See document, p. 39.)

268 preposition

273 half of a dreadful dream

293 Kurt Browning

305 physical gesture of approval

314 rotational path

339 refused

350 First three letters of a name belonging to he who co-wrote the following: “Extraditing Dr. Diab a second time would be a travesty...” (See document, p. 46.)

372 “To...is human.”

376 French judge in the Diab case who reached out to Mr. Lemire of the IAG. (See document, p.15.)

394 The doctor that animals typically hate.

404 Time forces this upon us all.

410 indefinite article

414 She wrote that Diab was “paying with his life.” Contracted name. (See document, p.47.)

428 A most excellent counsel. (See document, p.12.)

433 They have failed Diab at every level. (See document, p. 31.)

447 DT – abbreviation for a condition of physical distress: delirium and tremors resulting from alcohol withdrawal.