



Ontario
Civil Liberties
Association

“The OCLA takes a vigorous and highly principled approach to defending free speech rights, which is an approach that is sorely needed in Canada today.”

— John Carpay,
President,
Justice Centre for
Constitutional Freedoms

“I am very pleased to learn of the Ontario Civil Liberties Association, and wish it the greatest success in its work, which could not be more timely and urgent as elementary civil rights, including freedom of speech, are under attack in much of the world, not excluding the more free and democratic societies.”

— Noam Chomsky,
Institute Professor, MIT

“Freedom of expression is our most fundamental and most precious freedom. It has been under attack in Canada for years. The Ontario Civil Liberties Association has taken a position on freedom of expression that is both courageous and principled. The OCLA now stands alone and its position should be supported by all Canadians who cherish democracy and freedom.”

— Robert Martin,
Professor of Law,
Emeritus,
Western University

January 29, 2016

By Email

The Honourable Ralph Goodale
Minister of Public Safety and Emergency Preparedness
House of Commons
Ottawa, Ontario
Canada, K1A 0A6
ralph.goodale@parl.gc.ca

Re: Canada’s threatened expulsion of refugee Mohamed Harkat

Honourable Minister Goodale:

The Ontario Civil Liberties Association (OCLA) requests that Canada permanently stay any expulsion of refugee Mohamed Harkat, and that a public announcement be made confirming an end to the expulsion procedures.

While we note that Article 32 of the *Convention Relating to the Status of Refugees* (“*Convention*”) allows expulsion under the exceptional “grounds of national security”, the OCLA is of the opinion that Canada has not satisfied its obligation to demonstrate valid grounds of national security because, as we understand the matter:

- (a) The particulars of the said grounds have never been disclosed to the Canadian public, to the international community, or to the refugee himself.
- (b) The evidence in support of the said grounds has not been disclosed in open court, has not been disclosed to the refugee himself, and no particulars of the reasons for such non-disclosure have been disclosed to the public.
- (c) The said evidence has not been tested in open court, which is the universal standard for the type of penal charges involved, which have led to lengthy imprisonment in Canada, contrary to international law (fair trial provisions), and which could lead to consequences including torture and death in Algeria.

Furthermore, there is no police evidence whatsoever of any crimes committed in Canada, and no nation has claimed crimes committed elsewhere. On the contrary, Mr. Harkat is integrated and is married to a Canadian citizen, his dedicated wife of many years, Sophie.

More importantly, Canada is barred from actuating expulsion, by virtue of Article 33(1) of the *Covenant*:

No Contracting State shall expel or return (“*refouler*”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

Canada’s protracted judicial and penal attacks against Mr. Harkat materially increase the risk to him in Algeria, in addition to his original reasons for seeking asylum.

There can be little doubt that Canada’s said judicial and penal attacks on alleged grounds of “national security”, which have included many years of imprisonment and extreme bail conditions, put Mr. Harkat at great risk to his life and liberty in Algeria, a country that has suffered terrorist attacks, that is an ally of the US, and that is not a model of human rights.

In the words of Human Rights Watch:

Despite the Algerian government’s promises in 2011 to introduce reforms, Algeria has made little progress since then on improving human rights. Authorities curtail free speech and the rights to freedom of association, assembly, and peaceful protest. They also arbitrarily arrest and prosecute political and trade union activists. Perpetrators of torture, enforced disappearances, unlawful killings, and other serious rights abuses committed during the civil war enjoy impunity. The Algerian government blocks the registration of Algerian nongovernmental human rights organizations and has maintained its non-cooperation with UN human rights experts. [Emphasis added]

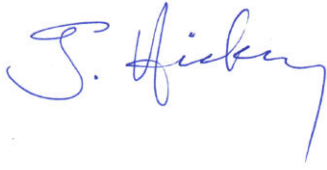
Canada has been shown in the recent past to have transferred individuals to torturers and to have been indifferent to extracting citizens from jurisdictions that practice torture. We respectfully submit that this negative record must not be repeated, nor appear to be condoned.

It is clear on the face of it that the risk of danger to the life and liberty of Mr. Harkat is far greater than any risk to “national security” that would result from not destroying the Harkat family by allowing Mr. Harkat to stay.

Finally, the OCLA is of the opinion, from direct contact with Mr. Harkat and his family, and from the known circumstances of his Canadian detentions, that Mr. Harkat has suffered significant harm at the hands of Canada. We hold that enough is enough, and we plead that The Honourable Minister exercises his authority to stay the expulsion.¹

¹ The OCLA also notes that there is at least an appearance that the Canadian securities certificates, with their egregious non-conformity to principles of natural justice and international law, are used as an instrument to manipulate public opinion into accepting the so-called “war on terror” and Canada’s participation in that US project of “regime changes” in the Middle East and beyond, for the purpose of US-allied dominance in World affairs and the global economy. There are too many factors giving an appearance of Canada’s possible geopolitical motives for Canada not to take a strong principled approach anchored in human rights and international law in all its domestic decisions.

Yours sincerely,

A handwritten signature in blue ink that reads "J. Hickey". The signature is written in a cursive style with a large initial "J" and a long, sweeping tail on the "y".

Joseph Hickey
Executive Director
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