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Lai Changxing and the Erosion of Canadian Values

BY CLIVE ANSLEY, FOR THE VANCOUVER SUN JULY 27, 2011 10:03 AM



This June 2006 file photo shows Chinese fugitive Lai Changxing speaking to reporters in Vancouver, Canada.

Photograph by: Deborah Jones, AFP PHOTO/FILES

I dined with Canada's Consul-General in Shanghai the evening in 1999 when the news of Lai Changxing's landing in Canada had just broken.

He said the case placed Canada in an impossible position. Beijing would be demanding Lai's deportation, but Canadian law prevented his return to China in the absence of assurances that the death penalty would not be applied.

Another Canadian diplomat confided shortly thereafter, "We will probably deport him to Hong Kong because HK has no death penalty. Then it will take the HK authorities only an hour or two to push him across the border and the Chinese can shoot him."

A second Canadian consular officer, participating in the same conversation, opined "Even if they don't get him across the border, once he is in HK, someone will just walk up to him in the street and shoot him; good riddance!"

Tao Mi was a young mother who had worked for Lai's company in China. She was one of a number of individuals who signed statements against Lai while in the custody of

Chinese police. Tao Mi came to my office in Shanghai after she had signed her statement against Lai for the Chinese police. She told me she had signed the statement after two months of torture. She recanted it in a new statement to me, on the assurance that she would be a Protected Witness and her identity would never be disclosed to any Chinese authorities.

Immigration Canada and its Justice Department lawyer had given formal legal undertakings to this effect.

Tao Mi asked repeatedly if she could rely on these legal undertakings, saying "I am dead if the Chinese police ever find out I talked to you." Immigration Canada and its lawyer subsequently identified Tao Mi to the Chinese police, provided the Chinese police with her statement to me, and arranged for Tao Mi to be picked up by the Chinese police and brought to the Canadian Consulate-General in Shanghai. There she was interrogated by an RCMP police officer, in the presence of a Chinese Gestapo officer.

On the videotape, the RCMP officer identifies two other protected witnesses. Tao Mi has never been heard from since and no one who knows her has been able to contact her. David Matas' argument before Mr. Justice Shore of the Federal Court of Canada included extensive discussion of the Tao Mi matter and its obvious implications for the likelihood that Lai will face torture in China. Tao Mi's recantation of the statement she had signed under torture was central to the determination of Lai's risk.

Yet Mr. Justice Shore failed to make one single mention of Tao Mi in his judgement.

In 2000, the Chinese Trade Ministry ("MOFERT") requested the Canadian Visa Section in Beijing to fast track visitor visas for four Chinese "businessmen".

The four, MOFERT explained, would be going to Canada to investigate the possible purchase of a Canadian pulp mill. Canada issued the visas. It turned out that the four "businessmen" were actually three Chinese police officers and Lai Changxi's brother.

The brother had been released from prison to accompany the police and persuade Lai to return voluntarily so as not to expose his family to reprisals.

The attempt failed, Lai applied for refugee status the next day, and his brother died mysteriously in prison shortly thereafter. Three successive Canadian governments have striven to deliver Lai to the perpetrators of the 1989 Tiananmen massacre.

Now a Federal Court judge has rendered a decision based not on any of the central legal arguments, but solely on diplomatic assurances tendered by what is arguably the least credible government on this planet. The UN Rapporteur on Torture, Amnesty International, Human Rights in China, Human Rights Watch, Human Rights Without Borders, and

Lawyers' Rights Watch Canada have all established that torture is endemic in the Chinese criminal "justice" system.

But, says Mr. Justice Shore, Mr. Lai has failed to prove that he will not be an exception to the general rule!

The refugee board panel earlier dismissed argument by David Matas, Lai's lawyer, that the statements against Lai by witnesses in police custody were coerced; the board noted that the lead Chinese police officer, when asked at the hearing whether he had ever tortured anyone, had said "no"! Minister's Counsel at the latest Canadian hearing argued that it is irrelevant whether Lai receives a fair trial or not "because he's guilty!"

John Baird is "confident" and has no reason to doubt the assurances of the Chinese Communist Party.

Lai's delivery to the world's leading perpetrator of crimes against humanity was decided by a judge with no knowledge of China. He based his decision on blind faith in the integrity of a dictatorship, rather than on Canadian legal principles and values.

Are our leaders and officials really this gullible? Or are they cynically and willfully obtuse? Neither moral bankruptcy nor incompetence should be tolerated by Canadians.

Clive Ansley is a lawyer who practices law in Courtenay. He worked in China for two decades litigating cases.

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