Chapter 8

Is Canada Losing the Balance Between Liberty and Security?

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Balancing liberty and national security is a task that involves resolving competing tensions, weighing evidence regarding risk, and making realistic and informed public policy choices and decisions. Conventional wisdom dictates that rights and freedoms would be limited as security restrictions increase. Although this is true in many respects, balancing liberty and national security involves much more than this. If we fail to appreciate the larger picture, then we also fail to understand the issue of proportion. Understanding proportion, in turn, requires an understanding of the threats and risks that determine how liberty and national security should be balanced.

As we try to determine how rights and restrictions should be balanced, it is important to begin by recognizing how vulnerable the Western world—as a community and a civilization—has made itself by ignoring or underestimating threats. The challenge with which we are presented when faced with complex, unpalatable, and anxiety-inducing phenomena has been partly captured by Anna Freud. She, like her father, wrote about denial, a defence mechanism (Juan, 2006, Sep. 29). There is much in the age of mass casualty terrorism that invites denial. An aid to short-term mental function, denial may help explain why, despite mounting evidence,

our intellectual elite and others choose to observe our current crisis the way they do.[1] As anthropologist Dr. Stephen Juan has written, "denial is the path of psychological and moral least resistance" (Juan, 2006, Sep. 29).

Canada's academic and intellectual elite illustrate the difficulty of dealing with these painful issues. In Canada, gifted and well-meaning leaders, especially in certain arts and social science fields, have been far removed from the realities of terrorism and national security. Prior to 9/11, they had little interest in these areas. Those who warned the elite of what was to come faced an absence of interest, outright denial, and, not infrequently, hostility.

This reaction was, in many ways, natural. Most of us have trouble picturing life at the wrong end of a knife or gun, let alone an A-bomb. Having known mainly creature comforts for the past two generations, few people in Canada wanted their pre-9/11 reverie to end. Even ostensible specialists seem to have found the new reality difficult to grasp. Former American security official Larry C. Johnson, for example, asserted conclusively in *The New York Times* that international terrorism was of marginal significance, and that fears of terrorism were greatly exaggerated. According to Johnson, the American homeland faced no measurable threat:

> The greatest risk is clear: if you are drilling for oil in Colombia—or in nations like Ecuador, Nigeria or Indonesia—you should take appropriate precautions; otherwise Americans have little to fear. (Johnson, 2001, July 10)

Johnson's article was rendered unwise, if not self-immolating, however, by the fact that it appeared a scant two months before the 9/11 catastrophe.[2]

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1 The author recognizes that rationalization and other psychological elements and mechanisms contribute to people's assessment of and reaction to terrorist threats.

2 Johnson's faulty methodology was at the heart of his inability to anticipate anything in the nature of 9/11. Relying on straight-line extrapolations of past experience into an uncertain future, Johnson could not foresee attacks whose combined magnitude and locale were unprecedented and, thus, unavailable in the historical record. The post-9/11

Canada's elite

Having taken little professional interest during the lengthy build up of the terrorist threat, some of Canada's most distinguished, influential academics—most notoriously, those in human rights studies, legal studies, and law schools—suddenly threw themselves into post-9/11 philosophizing about national security. With little noticeable understanding of risk assessment and conditions, and with the most tentative and highly skeptical grasp of the threat, they launched into criticizing security organizations, declared themselves experts on intelligence law and practice, and scribbled out counterterrorism policy prescriptions with abandon. They even became members of government security committees and other official bodies. Often thorough and frequently exhaustive in their criticism of security measures and initiatives, many of these academics unearthed manifold weaknesses in "the system," but did not recognize their own, most devastating frailty. Their criticism skipped over any serious assessment of the nature, scope, and extent of the threats that security law and policy were to be constructed to deal with. Thus, many of the academic prescriptions were made without any serious appraisal of the size or shape of the thing for which the prescription was being written.

An example of this academic approach can be found in *September 11: Consequences for Canada*, a book by Canadian legal academic and University of Toronto law professor Kent Roach. This book covers many issues, often very thoughtfully. To be sure, Roach's examination of post-9/11 approaches to security makes a certain appeal to the Canadian impulse that favours self-congratulation, and reminds us how realistic, sensitive, and generous we tend to be, compared to so many of our benighted American cousins. Roach helpfully discloses that his participation in a United States panel discussion on American and Canadian responses to 9/11 "affirmed my faith that the Canadian response to September 11, while

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persistence of this weakness is illustrated in the unimaginative past-bound analytics of *Fear's Empire* by Benjamin Barber. Consistent with Johnson's approach, Barber finds little to worry about with respect to mass casualty and mass destruction terrorism, for the historical record is not replete with examples of such attacks (2003: 26–29).

far from perfect, was in many ways more civil, productive, and inclusive than the American approach" (Roach, 2003: 262).

But Roach notes that Canada's superiority is not without serious blemishes. *September 11* strains to condemn as overblown and exaggerated various aspects of Canadian security law, management, and attitude. As with many other similar books, the book's fatal flaw is that it does not make a serious attempt to evaluate the nature and scope of the terrorist threat against which the balance of any liberty-national security solution can be measured. The result of such an omission is something akin to studying physics without mathematics.

It appears that this approach to security may prevail among the denizens of many law schools and other faculties in Canada. After 9/11, the University of Toronto rushed into the fray, hosting a conference involving a large number of "security skeptic" academics, and produced an unbalanced book that, for a time, seemed to be a staple of human rights and national security university teaching (Daniels et al., 2001). Others were at least realistic enough to experience the shock of realizing that large-scale terrorism wasn't a myth after all.

In a temporary awakening from denial, some of Canada's intellectuals and opinion makers began to assert that the September 11 attackers "got through" because of a "failure of imagination." However useful this was as a phrase, it was, unfortunately, given the wrong spin. The failure was exclusively that of the national and local security authorities and their machinery, we were told, not a failure of national communities finally to realize the truth—that twenty-first century technology was being harnessed by religious ideologues in support of an upgraded seventh century world war that had been declared on the liberal-pluralist West many years before.

Fortunately, a few academic voices still struggle to challenge the academic orthodoxy with realistic appraisal. It has become the task of researchers such as Dr. Salim Mansur, a Sunni Muslim Canadian and professor of political science—who has twice had fatwas (religious edicts) issued against him, calling for his death—to compensate for some of the intellectual elite's shortcomings. Mansur recognizes 9/11 as merely another event in a series of thrusts in Islamo-fascism's long-standing and escalating, ideology-driven war against liberal democracy. "On September 11,

2001," he wrote, "Americans awoke to a war in progress" (Mansur, 2007, Sep. 8). Mansur has written extensively, warning Westerners about the virtually unprecedented nature and scale of the violence and subversion faced by liberal societies such as Canada.

As people such as Mansur have pointed out, the absence of an inclination to understand and quantify the threat means the menace will continue to be underplayed and our attitudes and preparedness will lag dangerously behind the reality of the situation. Thus, the want of reality-based thinking will worsen our plight. It will continue to invite into the vacuum of good sense a host of appealing, if lopsidedly facile, formulae, such as the bald assertion that "the terrorists will have won if we restrict our freedoms." Ironists who are aware of the hard reality of terrorism and its prospects should find much to consider in the near-bravado with which some of the elite pronounce such unhelpful, absolutist formulae. As Shapiro (2006) has pointed out, in an admittedly harsh retort, such arguments are "pure sophistry":

> If our enemies affect our freedoms, they affect our freedoms. We may not like our freedoms being affected. Nonetheless, that has no impact on whether the "terrorists have won" .... If the terrorists achieve global sharia, then they will have won. If they erect a mosque on the ruins of the World Trade Center, then they will have won. They will not stop until they achieve their goals. We must not stop until we have shattered their dreams forever.

Yet, as a whole, the message from Canada's elite has tended to be that threats are certainly exaggerated and possibly nonexistent. Where political correctness rules, it is difficult to open meaningful discussion about the problem and its solution, particularly if the discussion covers sensitive areas such as immigration.

Assessing threats

Certainly, classic terrorist strategy seeks to trigger a hostile governmental overreaction, but overemphasis on possible reaction has at times led to

extravagant claims that terrorists will have "won" if citizens give up any freedoms in the course of the struggle. Such claims ignore the fact that modern martyrdom-bent religious terrorists will be satisfied with butchering every single nonbeliever. From their illiberal perspective, achieving this end is a more than acceptable form of "winning." The evidence of radical jihadists' passion for self-destruction and mass casualties makes the "liberty-though-the-heavens-may-fall" view look like the kind of thing George Orwell had in mind when he wrote, with endearing unfairness, that only "the intelligentsia [could] believe things like that: no ordinary man could be such a fool" (Orwell, 1945).

Let us look at a more concrete example of the importance of grasping the threat and risk of terrorism. Afterwards, let us determine the appropriateness of the balance between rights and restrictions. This exercise should enable analysts to reframe the issue properly, and ultimately ask the abiding question: what is liberty without national security?

Canada's leading terrorist threat has repeatedly been identified as Islamic extremism (see, for example, Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar, 2005, 6315, l. 21–25). This threat may be operationalized in any number of forms: chemical, biological, and so on. To simplify our discussion, let us focus on nuclear considerations, which are becoming insistent and point to our stake in understanding the dangers of terrorism before leaping into resolutions affecting the liberty and national security balance. Though there are various Islamic terror groups and state sponsors, this chapter will focus only on Iran as an example. However, the threat picture that is described in this chapter can, in certain dimensions, be multiplied several times over if one takes into account other countries, terrorist groups, and elements.

A précis of this particular threat must begin with Iranian President Mahmoud Ahmadinejad's September 2005 address to the United Nations General Assembly. In recorded conversations after the event, Mr. Ahmadinejad noted that, throughout his speech, his head was orbited by a green halo, and his divinely-inspired words paralyzed attending diplomats (Melman and Javedanfar, 2007: 41–42). For guidance, Ahmadinejad corresponds with a number of sources, including a deceased imam in a well, whom he is confident can be brought back to life as the Mahdi, the

Twelfth Imam, bringing with him an age of paradise. According to Mr. Ahmadinejad and his key associates, mankind is in the happy position of being able, through its own intervention, to accelerate this momentous development. All that is required is Armageddon (Melman and Javedanfar, 2007: 41–57). This violent eschatology encourages dyspeptic feelings abroad where many find it difficult to digest the regime's theology, which is routinely expressed in repeated Iranian threats to destroy selected countries and civilizations. In the meantime, discomfort deepens with the knowledge that Ahmadinejad is running crash nuclear weapons programs. Although Ahmadinejad claims Iran's nuclear program is peaceful, the United States and key European nations believe the program is a cover for an Iranian attempt to produce nuclear weapons. President Ahmadinejad is joined in his convictions by Iran's constitutional leader, the Supreme Guide Ali Khamenei, and by those whom the two leaders have inserted into influential government decision making positions—including military and security.[3]

In light of these facts, it seems that, for all practical purposes, Iran's national command authority is essentially of the same mind as the men who crashed 767s into the World Trade Center and Pentagon on September 11, 2001. Iran's leaders have associates among us. The country's aggressive foreign intelligence service has a documented record of assassinations and bombings throughout the world. In North America, their sleeper agents are called "submarines."

Also disturbing is that fact that the rabid, Iranian-controlled terrorist organization, Hezbollah, lives among us, too,[4] and has committed some of

3 Although reportedly variable in quality, the relationship between Supreme Guide and Ahmadinejad seems considerably more constructive than the Guide's dealings with former President Muhammad Khatami (for example, see Melman and Javedanfar, 2007: 36–40, 65, 149). As Yossi Melman and Meir Jafarzadeh report, based on a 2000 media assessment, "Contrary to some media reports, Ahmadinejad is fully devoted to Supreme Leader Ali Khamenei" (2007: 20).

4 Hezbollah's Canadian presence has been well documented in court proceedings and the press. Levitt, for example, notes that they have a "Canadian network … under the direct command of Hajj Hassan Hilu Lakis, Hezbollah's chief military procurement officer who is also known to procure material for Iran" (2003).

its worldwide acts of bloodshed in close cooperation with Iran's VEVAK (Vezarat-e Etelaat va Amniat-e Keshvar) intelligence service, among other groups.[5] During the Israel-Hezbollah war in the summer of 2006, demonstrations in Toronto, Montreal, and other Canadian cities showed that Hezbollah supporters and operatives were prepared to brazenly advertise themselves, despite Parliament's having banned the organization in Canada.

In the face of martyrdom-fixated Iranian leaders, some would argue that the deterrence doctrine[6]—which guaranteed 40 years of Cold War nuclear peace—would be meaningless. "Meaningless" doesn't quite capture the situation, because, consistent with the 9/11 attackers' sensibility, the promise of paradise would actually be a positive incentive to trigger a nuclear cataclysm. Only in a secular, Westernized context could this logic seem controversial at a time when Mr. Ahmadinejad promises the "wiping out" of the United States, the West, Israel, and so forth. If Iran obtains nuclear weapons, the only questions remaining will be narrow ones: when? Where? And how often?

In light of this situation, it is possible that Hezbollah suicide squads could be used to smuggle multiple weapons into the cities of the "Great Satan"—the United States—or into Canada and other Western nations. Indeed, the prodigious number of actual and prospective Canadian al-Qaeda sympathizers may be sufficient to allow this to happen. Rough estimates based on an Environics poll suggest that there are thousands of these sympathizers (Corbella, 2007, Feb. 18). The polling data suggest that between 49,000 and 119,000 Canadian Muslims could justify an alleged

5 A classic example of cooperation between the two groups was the Mikonos operation, a successful Iranian intelligence-Hezbollah plot to assassinate dissidents in Germany. For general background on this and comparable foreign intelligence issues, see Federation of American Scientists (2007).

6 In strategic security relations, deterrence theory posits that adversary countries or blocs will avoid—or be "deterred" from—commencing hostilities with a country or bloc that has the capacity and will to respond with sufficiently damaging military means.

2006 Islamic terrorist plot to attack public buildings in Toronto, blow up Parliament, and behead the Prime Minister.[7]

The nuclear element

Let us consider the impact of nuclear weapons. One estimate suggests that a somewhat limited 150 kiloton nuclear ground burst in Manhattan would kill 800,000, and injure 900,000 (Atomic Archive, 2006; Glaser, 2006). Nothing suggests that Canadian municipalities would fare much better. Moreover, virtually no hospital, water, or energy facilities would survive in the region. Radiation and blast-effect would be catastrophic. A detonation above fifty kilometres in altitude would produce an electromagnetic pulse effect (EMP) likely to fry electrical and electronic equipment over a substantial area—perhaps nationwide, if exploded at above 400 kilometres[8]—paralyzing any surviving rescue vehicles, generators, communica-

7 These numbers are based on interpretations of an Environics poll of Canadian Muslims that was published February 13, 2007, by CBC Television. As columnist Licia Corbella reported, "Fully 12% of Muslim Canadians polled by Environics said the alleged terrorist plot—that included kidnapping and beheading the prime minister and blowing up Parliament and the CBC—was justified" (2007, Feb. 18). Based on the poll and a wish to be "really non-alarmist," Corbella reduced the estimate using the margin of error (4.4%) and conservatively "translated" the 12% to signify that between 49,000 and 84,000 of Canada's 700,000 Muslims would feel that an attack on Canada would be justified (Corbella, 2007, Feb. 18). A more statistically-proficient economist consulted by me reported that the 4.4% error margin is, in statistical terms, a "two-tailed error"—meaning that the statistical range should be between the mean plus 4.4% and the mean minus 4.4%. Thus, the true range of Muslim Canadians willing to justify terrorism against their country is between 49,000 to 119,000, with a mean of 84,000. As Corbella pointed out, however, denial springs eternal: "Predictably, the CBC managed to find a talking head—in this case York University sociology professor Haideh Moghissi—who dismissed this disturbing revelation. 'It's really negligible that 12% feel that the attacks would be justified,' said Moghissi. 'I don't think it even warrants attention'" (Corbella, 2007, Feb. 18).

8 This is an approximation assuming a one-megaton yield, and is based on the testimony of Dr. George W. Ullrich (1997), Deputy Director, Defense Special Weapons

tions equipment, and other life-saving apparatus. And what if this were to happen during a stifling summer or freezing winter?

This type of analysis is often portrayed by academics and others as irresponsible and alarmist,[9] yet it relies on facts and common knowledge (see International Atomic Energy Agency, 2007; Barnaby, 1997). Its message is bleak, but realistic, and its warning is clear: if we consider this kind of nuclear holocaust as a mere fraction of the overall threat that civilization faces, without the blinders of denial, we can see that survival is dependant on assessing the threat correctly before rushing in to determine the balance between liberty and security. How we respond in terms of our

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Agency, US Department of Defense, before a US Congressional subcommittee, on July 16, 1997.

9 An example of such a tendency is found in a work by McGill University economics professor, R.T. Naylor. Jeffrey Breinholt, US Justice Department counterterrorist prosecutor, tersely summarized the worldview captured in Naylor's book, *Satanic Purses*: according to Naylor, "Al Qa'ida is a 'synaptic leap in some US prosecutor's brain,' and … there is no such thing as a terrorist organization" (Breinholt, 2007). These sentiments are similar to those expressed in Benjamin R. Barber's *Fear's Empire*, in which Barber appears to claim that the fear of mass-casualty terrorism is at least as great a threat as terrorism itself. He argues that "[t]errorists otherwise bereft of power have bored into the American imagination," and that "it is not terrorism but fear that is the enemy" (2003: 15, 32). On the other hand, *The New York Times* reports that distinguished strategic thinker and Harvard University professor, Graham Allison, "offers a standing bet at 51-to-49 odds that, barring radical new anti-proliferation steps, a terrorist nuclear strike will occur somewhere in the world in the next 10 years" (Kristof, 2004, Aug. 11). In April 2008, Dr. Cham E. Dallas, Director of the University of Georgia's Institute for Health Management and Mass Destruction Defense, told the US Senate Committee on Homeland Security that a nuclear attack was "inevitable," adding, "it's wistful to think that it won't happen by 20 years" (Emerling, 2008, Apr. 16). Assessing the prospect of nuclear terrorism, former Speaker of the United States House of Representatives, Newt Gingrich, declared that "we are not very many mistakes away from a second Holocaust … Our enemies would like to get those [nuclear] weapons as soon as they can, and they promise to use them as soon as they can" (Gingrich, 2007). As for the risk of a radiological "dirty" bomb terrorist attack, International Atomic Energy Agency chief Mohamed El Baradei has said, "Sometimes I think it's a miracle that it hasn't happened yet" (Bednarz and Follath, 2007, Sep. 3).

national security policy will define our long-term ability to enjoy liberty of any kind.

In light of these kinds of risks and consequences, we can begin to examine how our immigration-related national security policies threaten both our liberty and security.

Immigration and security

Despite the existence of the terrorist threat, the extent of which is only hinted at in the example of Iran, Canada welcomes more immigrants per capita than almost any other nation: 260,000 each year. Canada is also among the world's greatest per capita recipients of refugee claimants, accepting about 22,910 people in 2006 (United Nations High Commissioner for Refugees, 2007), compared to 500 in 1977 (Bissett, 1998).

An extremely powerful lobby of politicians, immigration lawyers, government-funded settlement organizations, non-governmental organizations (NGOs), and others claim various justifications for these high levels: aging population, growing economy, and so on. Principled social and economic thinkers who are not beholden to the immigration industry—such as Daniel Stoffman, Martin Collacott (2006), and many others—risk being called racist, anti-immigrant, or "Islamophobic,"[10] for saying that this is simply unjustified (Dhillon, 2003, Aug. 16). Canada's immigration and refugee system has become largely a vote-importing mechanism designed to play on identity politics. It gives no consideration to the kinds and scale of terrorist threats, subversion, and disruption that such massive population movements can facilitate, even at the best of times.

10 Many critics agree that the term "Islamophobia" is being used to censor debate on immigration. Dr. Sam C. Holliday (2007) of the Armiger Cromwell Center refers to Islamophobia as "a term invented to shut down legitimate and vital debate about the threat of the Third Jihad," his term for the present worldwide radical Islamist offensive and associated subversion. Kenan Malik (2005, Feb. 10) observes that "[t]he charge of 'Islamophobia' is all too often used not to highlight racism but to silence critics of Islam, or even Muslims fighting for reform of their communities."

Those of us who are concerned with terrorism, liberty, stability, and public safety recognize that, in today's world, sheer numbers can constitute a clear and present danger and threaten our liberty. Consider that some of the Canadian Security and Intelligence Services' (CSIS) 2,500 personnel and perhaps a few thousand other government employees are involved in screening approximately 250,000 newcomers every year (Singer, 2002, Dec. 6). Many of these people are coming from, for example, Pakistan, Iran, and Saudi Arabia—countries that are, to varying degrees, virtual enemy states.

Iran's leadership, for example, remains devoted to the memory of Ayatollah Ruhollah Khomeini, leader of the Iranian revolution that took place in the late 1970s, whose photo appears in Tehran government offices today. Listing "11 things which are impure" Khomeini included urine, excrement, the sweat of the excrement-eating camel, dogs, pigs, and non-Muslim men and women (Khomeini, 1980: 48; quoted in Harris, 2007, June 4: A11). In 1989, Khomeini issued a fatwa (a religious edict) calling for the assassination of writer Salman Rushdie because of his alleged blasphemy against Muhammed in his novel, *The Satanic Verses*.

As for Pakistan, the radicalism of some of the country's influential elements was illustrated when Rushdie, who was knighted in 2007 by Queen Elizabeth. Mohammed Ijaz ul-Haq, Pakistan's religious affairs minister, recently said that Rushdie's knighthood could justify suicide bombing: "If someone exploded a bomb on his body, he would be right to do so unless the British government apologizes and withdraws the 'sir' title" (Pennington, 2007, June 18). National Assembly opposition leader Maulana Fazlur Rehman told protestors that by knighting a "blasphemer," the British government had "hurt the religious sentiments of Muslims throughout the world" (*Daily Times*, 2007, June 23). Rehman also attacked the late Pakistan People's Party (PPP) chairwoman, Benazir Bhutto, for opposing suicide attacks on blasphemers (*Daily Times*, 2007, June 23).

Other Pakistani leaders are also hostile to non-Muslims, and to peaceful coexistence. Muhammed Taqi Usmani, a retired sharia judge of Pakistan's Supreme Court and a reported "moderate-leaning" Deobandi Muslim scholar, has expressed the view that "Muslims should live peacefully in countries … where they have the freedom to practise Islam, only

until they gain enough power to engage in battle" (Norfolk, 2007, Sep. 8). This view is consistent with that of some Pakistani extremists who, according to Arnaud de Borchgrave (2002, Aug. 21), promised that "in the next 10 years, Americans will wake up to the existence of an Islamic army in their midst—an army of jihadis who will force America to abandon imperialism and listen to the voice of Allah."

Despite these threats, Canada's policy with respect to Pakistani immigrants remains lax. Only 10% of Pakistani immigrants are screened by CSIS. Moreover, based on United Nations figures, Martin Collacott (2006) concludes that "[a]ltogether in 2003, Canada granted refugee status to more than twice as many Pakistanis as did all other countries in the world combined."

Saudi Arabia has also shown hostility towards Canada. This largely Islamic country, which is home to a variant of sharia law that condones the stoning of women and the killing of homosexuals, injects money and its values into various Canadian Islamic and non-Islamic institutions in a process that has been subjected to increasingly critical scrutiny (Kaplan, 2004, Apr. 5). When Sheikh Abd Al-Rahman Al-Sudayyis, Saudi Arabia's highest ranking government-appointed cleric, has spoken to outreach-hungry churchgoers and naïve social justice advocates, he has talked about interfaith peace and dialogue (Stalinsky, 2004). But at home in Saudi mosques, he reportedly "refers to Jews as 'the scum of the Earth,' and … exhorts his followers against the Christian 'worshippers of the cross' and the 'idol-worshipping Hindus.'"[11] When the Islamic Society of North America, a supposedly mainstream Islamic group, reportedly invited him to officiate at their conference in Canada, authorities were ready to bar his entry (B'Nai Brith Canada, 2004; United States Senate Committee on the Judiciary, 2006).[12]

In light of the seriousness of the threats noted above, Canada must reconsider its current immigration policies. The number and sources of

11 This quote has been attributed to Canadian Member of Parliament Jason Kenney (Stalinsky, 2004).

12 For more information on the strange background to—and fallout from—this invitation, see Sharrif (2004, July 1).

immigrants to Canada are undermining the foundational requirements of our liberal-pluralist society: integration, stability, and public safety. The number and concentration of extremists increases, while the possibility of diluting such tendencies decreases. When immigrants arrive in Canada after being taught in the madrassas and mosques of certain countries that Hindus, Buddhists, Christians, Jews, and moderate Muslims are subhuman, one cannot expect a change in their thought patterns once they settle in Canada. A change is even more unlikely if they set up their own schools. With this development, an increase in the number of recruits to extremism becomes possible, and the probability of the realization of ghastly scenarios, similar to those already mentioned, increases.

Once again, it would seem reasonable to speculate that the bulk—quite possibly, the vast majority—of people entering Canada will contribute positively to the country. However, it would seem naïve to assume that none of the many newcomers would possess the training, conditioning, and values imparted in some of the world's illiberal and anti-liberal jurisdictions.

Meanwhile, none of this even begins to address the developing risk that chain migration involving radicalism may reinforce the growth of a dangerous political demographic in Canada. It is far from clear that politicians and other vote- and lobby-conscious authorities would be willing to challenge the demands of zealous blocs. In this regard, the recent openness of several public universities to radical demands for taxpayer-supported prayer rooms, footbaths, and even separate, gender apartheid-style female swimming hours, could be regarded as a compromising of basic, religiously-neutral standards in the face of fundamentalist pressure.[13] This unwillingness to "grasp the nettle" is also demonstrated by politicos and officials who are considering providing, in the tradition of Saudi-style gender separation, women-only government screeners to check beneath face-veils at polling stations. At recent Canadian House of Commons committee hearings on "burqua voting," moderate Muslims seemed startled to hear a Member of Parliament, who had recently observed Morocco's elections,

13 See Carrigg (2007, Aug. 14). See also CRARR (2006) for some insight into the role that human rights' commissions may play in related matters.

commending that country's gender-separated approach to the screening of veiled women as a model for Canada to consider emulating.[14]

Simply put, rational polities do not bring in large numbers of newcomers from such potentially "Western-hostile" source regions while a war is going on. But they might if their influential intellectual elite were bereft of a proper sense of the risks involved, and therefore, of the appropriate balance. If polities bring in large numbers of such immigrants during wartime, they must expect to see their freedoms curtailed as their government anticipates larger communities of hostile residents in their midst—and the infiltration of government, security, and emergency services.

This latter prospect is far from being a paranoid delusion. In *The Management of Savagery*, senior al-Qaeda strategic thinker Abu Bakr Naji (2006) calls for,

> infiltrating the adversaries and their fellow travelers and establishing a strong security apparatus that is more supportive of the security of the [revolutionary Islamic] movement now, and later the [resultant Islamic] state. (We) should infiltrate the police forces, the armies, the different political parties, the newspapers, the Islamic groups, the petroleum companies (as an employee or as an engineer), private security companies, sensitive civil institutions, etc.

Naji notes that this "actually began several decades ago," but adds, "we need to increase it in light of recent developments."

Indeed, it appears that a good start has been made on Naji's plan. The 9/11 Commission hearings were one forum in which American officials recounted enemy efforts to install operatives into various government and para-governmental positions, including those of FBI translator and defence contractor (*Washington Post*, 2004, June 16). From Britain (Leapman, 2007, Apr. 29; see pg. 143) to Spain (Jordán and Wesley, 2007) to India (*India Times News Network*, 2006, July 21), and beyond, there

14 As one of those testifying at the House of Commons' Standing Committee on Procedure and House Affairs hearing on September 13, 2007, the author was witness to the dismayed reactions of those described.

A Security Breach in the House of Lords

In the House of Lords in November 2005, Baroness Cox expressed concern about interference with the Lords' microphone system during her discourse on extremist Islam. She reported the advice of an independent specialist she had sought who "pointed out that such jamming is easy to achieve and that it demonstrates the ability to penetrate the security of Parliament, shows contempt for democracy, was a specific threat to me, and a general threat to anyone who dares to speak critically about Islamists" (United Kingdom House of Lords, 2005).

In her speech, Cox pointed to an article printed in the *Sunday Times* on July 30, 2000, which reported that,

> A Sudanese businessman who has been linked by the American CIA to the world's most wanted terrorist is the leading shareholder in a company that provides security systems to the House of Parliament … [This person's] pharmaceutical factory in Sudan was flattened by American cruise missiles after it was linked to Osama bin Laden … [The businessman] owns 25 per cent of IES, a company specialising in high-technology surveillance and security management.

The article claimed that IES had provided such equipment to New Scotland Yard, British Airways, Texaco, and other blue chip firms (United Kingdom House of Lords, 2005).

is growing evidence of actual and attempted radical fundamentalist and terrorist penetration of Western countries' machinery of government and national infrastructure.

In sum, if the government fails to restrict the enjoyment of some liberties in the face of infiltration and growing threats, one might expect to see other liberties ultimately going unenjoyed—perhaps even the right to life and security of the person, which is guaranteed under the Canadian Charter of Rights and Freedoms.[15] These are among the liberties that bombings and intimidation tend to remove.

This is a lesson in how a failure to take national security sufficiently seriously, and to translate this seriousness into immigration policy will

15 Canadian Charter of Rights and Freedoms, s. 7, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11.

lead, at best, to an unrealistic balance between liberty and security, and restricted freedoms. In an era of proliferating weapons and materials of mass destruction, the risk of social, economic, and political chaos and infrastructural collapse is not to be disregarded. In fact, chaos can create the worst form of unconstitutionality,[16] for, in a chaotic situation, there is no judiciary, no government, no rule of law, no liberty—and perhaps, for increasing numbers—no life. However, well before this point were to be reached, more subtle restrictions on freedom would be felt.

The radical traditions of *sharia*, as known in Saudi Arabia, Iran, and parts of Pakistan, are already pressed upon us in the form of "Islamic civil law," frequently in the teeth of objections from Canadian Arabs and Muslims who may have escaped the horrors of certain sharia jurisdictions. Hard-line immigré-based groups such as the Canadian Council on American-Islamic Relations (CAIR-CAN) and the Canadian Islamic Congress (CIC) are the leading advocates of adopting sharia law. These groups have caused alienation within the Muslim community with their improbable "studies" (see pg. 146) that allege Canadian Muslims are being victimized everywhere, and their calls for further "accommodation" of the fundamentalist view.

Challenging CAIR-CAN statistics, Fraser Institute CANSTAT Project Director Neil Seeman (2002, Sep. 14) concluded that "however much some in the media tried to imagine a 'backlash' against Muslim Canadians, the truth is there never really was one." In fact, Statistics Canada reports that the number-one target of hate crimes in 2001 and 2002 after 9/11 was not Muslims but Jews. Twenty-five percent of 1,000 hate crimes reported by 12 big-city police forces in Canada were committed against Jews. By comparison, Muslims (11%) were targeted in roughly the same numbers as South Asians (10%) and gays and lesbians (9%) (*The Globe and Mail*, 2005, July 14).

In the United States, FBI statistics have led the *Investor's Business Daily* to declare that "Muslim groups are crying wolf about exploding anti-Muslim abuses" (2007, Dec. 3):

16 On this subject, it is worth recalling the Canadian Supreme Court's warning to this effect in Reference re Manitoba Language Rights [1985] 1 S.C.R. 721.

A Closer Look at a CAIR-CAN survey

The credibility of one of CAIR-CAN's surveys on the treatment and perceptions of Canadian Muslims came into question when a representative of CAIR-CAN testified before the Maher Arar Commission regarding its curious statistical "survey," conducted in June 2005 and titled *Presumption of Guilt*.

Testifying about the survey, CAIR-CAN's Chair, Sheema Khan, faced only deferential questions from Commission staff. However, Simon Fothergill, Counsel for the Attorney General of Canada, exposed doubts about the survey's reliability and credibility (Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar, 2005: 6290ff). It turned out that the anonymous, questionnaire-based study had made response-forms available on the internet, making it possible for foreigners who had never even set foot in Canada to attest to the imaginary anti-Muslim abuse they had suffered in the country. Copies had also been emailed to those on the CAIR-CAN member list, raising issues of bias, given CAIR-CAN's *idée fixe* about "anti-Islamic" behaviour.

Fothergill pointed out that over half the respondents were connected to CAIR-CAN (6323, l. 3–6), and a "good proportion" were from those interested in Muslim and/or Arab advocacy or issues (6323, l. 17–22). In the end, the survey's credibility—and its implicit claims regarding anti-Islamic tides—were dashed as Khan proved unable to clarify fundamental aspects of the study, including the number of forms that were distributed: "I can't really say"; the number of hard copies that were distributed at centers and mosques: "I don't have the number on me right now"; and whether the ethnic make-up of respondents was statistically-representative of Muslim Canada: "I would have to look at the Census to speak to that" (6321, l. 16–21; 6322, l. 1–2; and, 6322, l. 25–6324, l. 1–2).

> In 2006, a whopping 66% of religiously motivated attacks were on Jews, while just 11% targeted Muslims, even though the Jewish and Muslim populations are similar in size. Catholics and Protestants, who together account for 9% of victims, are subject to almost as much abuse as Muslims in the US (see also Salman, 2006, Aug. 31).

As mentioned, it is unclear why anyone would propagate unreliable information that might trigger upheavals, but this is part of the challenge Canada now faces (for a critical, annotated bibliography of the

claims of anti-Muslim bias, see Appendix C to Canadian Coalition for Democracies, 2008).

Charter values as a defensive measure

Free speech rights have also been under pressure from hardliners. Despite constitutional guarantees, a number of Canadian and American researchers, media outlets, and commentators have been sued for libel by the Canadian Council on American-Islamic Relations (CAIR-CAN) and its troubling American parent organization, the Council on American-Islamic Relations (CAIR).[17]

In general, these lawsuits were brought against media outlets and commentators who asked questions about the history, links, agendas, and leading personalities of CAIR and CAIR-CAN. Aware of the free speech issues raised by these suits, several defendants in these lawsuits made a principled stand and drove the plaintiffs—who then faced disclosure risks—to ask for the dismissal of their own suits, and, it seems, to leave the libel suit business entirely.

Unfortunately, those who struggled in defence of Canada's constitutional rights had to do so without any help from the intellectual and humanitarian organizations normally considered to be advocates for

17 The US government has CAIR on its "List of Unindicted Co-conspirators and/or Joint Venturers," under Section III ("individuals/entities who are and/or were members of the US Muslim Brotherhood's Palestine Committee and/or its organizations") (see *United States of America* v. *Holy Land Foundation for Relief and Development* as incorporated into the Government's Trial Brief by reference at Trial Brief, Section IV B.2). CAIR derives from the Islamic Association for Palestine (IAP), and, according to the US government, the IAP, "as well as its members, representatives and supporters were participants in the same joint venture or conspiracy—the conspiracy to support Hamas." Like CAIR, certain other organizations with a Canadian presence were identified in the "List of Unindicted Co-conspirators and/or Joint Venturers," including the Islamic Society of North America (under Section VII: "individuals/entities who are and/or were members of the US Muslim Brotherhood"), and the Jerusalem Fund (IRFAN) (under Section VIII: "individuals/entities that are and/or were part of the Global HAMAS financing mechanism").

human rights. Well-known organizations in Canada such as Amnesty International, PEN, Reporters Without Borders, and the Canadian Civil Liberties Association (CCLA) did not come to anyone's aid, while, at the same time, many of these rights' groups pontificated about post-9/11 freedoms on platforms shared with CAIR-CAN and similar groups. Indeed, during these lawsuits, the CCLA stunned some observers by electing to its own board one of CAIR-CAN's leading plaintiffs, a development that, in the freedom of expression context, invited metaphors about foxes and henhouses. None of the free speech lawsuit victims dared approach the CCLA for assistance after this occurred.

Even presenters at the Fraser Institute's immigration conference in June 2007, the conference from which this chapter derives, were obliged to fight for free speech. Apparently uncomfortable with the prospect of a mainstream conference regarding immigration, security, and radicalism, the Canadian Islamic Congress and Canadian Arab Federation jointly—and implausibly—called upon the police to put the conference under surveillance. Though a number "free speech" organizations stayed selectively silent on this issue, journalists such as *Calgary Sun* Editor Licia Corbella (2004, Oct. 31; 2007, June 15) stepped into the gap and exposed the disturbing origins and implications of the attempts to shut down the Institute's learned and responsible exercise of the Charter-guaranteed right to free expression.

However, by the end of 2007, the prospects of those wishing to silence speech and warnings about radical Islam had improved. Media developments had led to fears that "silencers" could avoid the costs and disclosure-risks of the courtroom simply by appealing to one of Canada's human rights commissions—at the taxpayers' expense (Levant, 2007). In 2007, the Alberta Human Rights Commission moved forward with a Canadian imam's complaint against the *Western Standard* for reprinting controversial cartoons of Mohammed. In one fell swoop, expenses were forced on a media outlet, a deterrent effect was imposed on publishers, and—particularly in this case—Canadians had to contend with the possibility that government quasi-judicial "human rights'" bodies might be used indirectly to enforce sharia law bans on portrayals of the Islamic Prophet.

Ezra Levant, who was the publisher of the *Western Standard* at the time, has highlighted the attractiveness of appealing to a human rights board, rather than filing a civil law suit, for those wanting to control speech:

> After the *National Post* ran my column, the CIC served us with notice under the defamation laws. Of course, they had no case—we had the defences of truth, fair comment, etc.—so the CIC had to settle for a letter to the editor almost a year later.
>
> But the CIC learned their lesson: there's no point suing in defamation law, where the CIC would have to pay for their own lawyers, and our lawyers if we won, and where silly things like the rule of law apply. Better to go to the human rights commissions where the taxpayer pays for the prosecution, traditional rules of evidence and procedure don't apply, and free speech is not protected. It still has all of the down-sides for the defendant—the hassle, the cost, and a lower bar for a "conviction"—but none of the cost for the complainants. (Levant, 2007)[18]

At the end of the year, alarms were growing louder as federal and provincial human rights' commissions were simultaneously served with a formal complaint, supported by the Canadian Islamic Congress, against *Maclean's* magazine. *Maclean's* had published an excerpt from internationally-syndicated journalist Mark Steyn's best seller, *America Alone*, and this had been deemed unacceptable by those making the complaint (Levant, 2007). Levant suggests that the Canadian Islamic Congress' record in their libel law contretemps with him led that organization to

18 By early 2008, the complainant, Imam Soharwardy, was facing growing pressure from the media and the public, and, in a strange turnaround, was having to fend off formal complaints from certain members of his own mosque. This public relations' debacle was said to have led to his withdrawal of his "human rights'" complaint in February 2008. Levant contended that he would pursue Mr. Soharwardy for the costs involved in the commission exercise (see Levant, 2008, and Corbella, 2008, Feb. 16).

recognize the value of human rights' commissions to its campaign against *Maclean's* magazine.

Conclusion

Without an appropriate, proportionate understanding of the threat, our national community will continue to downplay the challenge of radicalism and terrorism, and to pursue a course of freewheeling laxity in immigration, refugee, and other social and security matters. The unrealistic belief that Canadians enjoy an unconstrained luxury of public policy choice—that virtually nothing can justify inconveniencing our freedoms—will paradoxically bring nearer and make more imposing the restrictions that our freedoms will eventually face. A naïve public policy—such as relatively open borders during wartime—means that we will see more "no-fly" lists, more agitation and instability, more crises, and more constraints.

Under current conditions, vast intakes of immigrants from a world at war—part of which is at war with us—is a recipe for non-assimilation, provocation, violence, genuine alienation, domestic chaos, panic, and reactive, if unavoidable, state inhibitions on civil liberties. Once we are very far down the road to chaos, reassuring government statements and human rights organizations' resolutions will have no more relevance than burnt-out courtrooms and judges in hiding. If we reach a state of panic and reaction, the essence of liberty will be undone.

"Liberty lies in the hearts of men and women," Learned Hand, the great American judge, once said. "[W]hen it dies there, no constitution, no law, no court can save it; no constitution, no law, no court can even do much to help it" (Hand, 1960, quoted in Mehta, 2007: 82). With this in mind, we must govern ourselves accordingly while there is still time.

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