

Terror in the Peaceable Kingdom

UNDERSTANDING AND ADDRESSING VIOLENT EXTREMISM IN CANADA

Edited by Daveed Gartenstein-Ross & Senator Linda Frum



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The conference was a stunning success in helping to highlight leading-edge thinking about the problem set of terrorism in Canada, and the day and a half of discussions sharpened our own ideas as we assembled and edited the contributions to this volume. We would like to first thank the truly impressive array of discussants who attended the conference.

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—Daveed Gartenstein-Ross & Linda Frum

Introduction

Eleven years ago, the devastating 9/11 terrorist attacks against the United States redefined the strategic priorities of a number of Western countries, including Canada. Thereafter, violent Islamist non-state actors were seen as a top security concern, and hence a top priority, for a number of Western countries. Subsequently, Canada was deeply involved in this fight. More than 150 Canadian soldiers have died in the Afghanistan war, launched in October 2001 to deprive al Qaeda of the safe haven it enjoyed under the Taliban regime that then dominated the country. Canada also implemented a number of domestic security measures, such as the Anti-Terrorism Act, to address the threat of attacks and financial or logistical support for terrorists on its soil.

At this point, there are intense debates, in Canada and other Western countries, about how highly terrorism and counterterrorism should rank amongst national-security priorities. Prominent U.S. officials have publicly stated that the “strategic defeat” of al Qaeda is within reach, while a segment of public commentators has argued that new developments, such as the revolutionary events in the Middle East known as the “Arab Spring,” have marginalized the jihadi group.¹ Others caution that al Qaeda’s organizational structure makes it resilient, that its affiliates have made significant geographic gains that provide them with new operating space, and that the Arab Spring contains not only perils but also promise for the jihadi group.²

Regardless of the specific fate of al Qaeda, two things seem certain. First, while several Western countries have seen the Middle East and South Asia as of paramount concern to their security interests for the past eleven years, the focus of the United States and others will likely shift to other regions. U.S. forces have withdrawn from Iraq, and coalition troops are scheduled to leave Afghanistan by the end of 2014. Meanwhile, the United States has announced a strategic pivot toward the Pacific in its defense strategy. Second, despite this, the challenge posed by violent non-state actors (VNSAs) is not going away anytime soon. Advances in technology have not only provided VNSAs with more lethal potential, but also have created a dynamic where violent actors in distant lands can pose a direct threat to Western capitals. Further, the communication technology that has enabled globalization also creates a dynamic wherein the legitimacy of states’ reactions to VNSAs will increasingly be questioned, while VNSAs may be more capable of making claims about their own legitimacy. As

Klejda Mulaj, an academic who specializes in conflict and security studies, has observed:

The globalization of media contributes to placing legitimacy of “internal” state uses of force on a transnational public agenda. Moreover, people on the move (migrants, journalists, academics, law enforcers, tourists) play an important role in creating a transnational political space where the legitimacy of use of force at the internal level—by states and VNSAs alike—is contested. The blurring of the distinction between “internal” and “external” legitimacy is important because, by giving visibility to VNSAs and their causes, it makes possible to question the proposition that the state is the only legitimate deployer of coercion at the national level.³

In addition to the impact of technology, other overarching international trends are likely to make the decade we are now in one of instability for the traditional nation-state system. Western countries will be forced to implement painful budget-slashing austerity measures, and natural resource scarcity is likely to weaken the nation-state and create the kind of conditions in which VNSAs can thrive.

Austerity measures are driven primarily by astronomical national debts and slumping economies. The coming budget cuts will hit national security programs and domestic budgets alike. In the United States, for example, the national debt threatens not only its fight against non-state terrorist groups, but perhaps also the country’s continuing role as a superpower. Harvard University historian Niall Ferguson wrote in 2009 that the U.S.’s “ability to manage its finances is closely tied to its ability to remain the predominant global military power.” Not mincing words, he added: “This is how empires decline. It begins with a debt explosion. It ends with an inexorable reduction in the resources available for the Army, Navy, and Air Force.”⁴ By 2019, the annual interest on the U.S. national debt will be more than \$700 billion, a larger sum than the Defense Department’s current budget.

Because the United States remains the world’s sole superpower, its coming cutbacks—even if they are less drastic than Ferguson warns they could be—will uniquely undercut the methods of maintaining global security in which the international order is invested. But the United States is by no means the only country that will be forced to make cuts. Greece, for example, shows how significant domestic budgetary changes can produce the kind of internal instability that benefits violent extremist groups. Further, as governments are faced with diminished resources for domestic spending, and possible unrest, where will this leave their counterterrorism efforts, foreign aid budgets, and appetite for stabilizing remote lands?

As to natural resource scarcity, in the past two decades the global population has burgeoned and unprecedented economic growth occurred in

countries like China and India. The combination of these factors has put a strain on the world's resources. One early indicator has been oil, where demand has outstripped the pace of new discoveries. Even renewable resources are under strain, a fact noted by U.S. intelligence community. In February 2012, it released a coordinated assessment finding that in the next decade "many countries important to the United States will experience water problems—shortages, poor water quality, or floods—that will risk instability and state failure, increase regional tensions, and distract them from working with the United States on important U.S. policy objectives."⁵

Resource scarcity will strain already struggling governments. Scarcity itself can be destabilizing; it will also force tradeoffs, making nation-states choose between dealing with such problems as the physical needs of their citizens and addressing the challenge posed by VNSAs. This is exactly what the above-quoted intelligence assessment hints at when it warns that countries facing water problems will be less likely to work toward U.S. policy objectives. Resource scarcity and resource pressures present new targeting opportunities for terrorist and insurgent groups. This can be seen, for example, in al Qaeda's repeated targeting of Saudi Arabia's means of oil production as global prices have risen.

Because of these converging trends—technological advances that benefit non-state actors relative to the state, austerity, and resource scarcity—I have elsewhere described the decade we are currently in as a "decade of fragility."⁶ A fragile nation-state system means that VNSAs, including terrorist groups, are likely to become more potent, a more typical feature of the globalized world.

Against this backdrop, it is important to make counterterrorism efforts more efficient and effective. For the United States and Canada, this includes better cooperation and the elimination of barriers to joint efforts. Indeed, U.S. President Barack Obama and Canadian Prime Minister Stephen Harper have attempted in recent years to satisfy these twin goals through such initiatives as the Shared Vision for Perimeter Security and Economic Competitiveness.

In service of these goals, this book examines the problem set of terrorism in Canada. The volume is organized into four parts. The first explores the history of terrorism in Canada through a powerful contribution by the distinguished scholar Ron Crelinsten. He argues that despite a "comparatively unremarkable history," the tale of terrorism in Canada has featured "periods of high drama, significant loss of life, and several 'firsts,' including the first political kidnapping (a double one at that) in North America, the early use of multiple attacks long before al Qaeda burst onto the world scene, and the largest mass-casualty attack in aviation history (again a multiple attack) before 9/11." His chapter traces a diversity of violent non-state actors. These include the SOF Doukhobors, the militant wing of a "spiritual Christian" sect based primarily in British Columbia; nationalist terrorists such as the FLQ (*le Front de libération du Québec*); ideological terrorists such as the Squamish

Five and right-wing groups; Islamist terrorists; and the Sikh bombers of Air India flight 182.

The second part takes a sustained look at several terrorist groups of particular relevance in Canada, as well as one country—Iran—that has been recognized as a sponsor of terrorism by both Canada and the United States. John Thompson explores the Liberation Tigers of Tamil Eelam (LTTE), which managed to use Canada as a significant support hub during its fight against the government of Sri Lanka. Michael King, Ali Mohamed, and Farah Aw-Osman contribute a chapter on the intersection of Somali identity and support for the militant group al Shabaab in Canada, the U.S., and the U.K. A number of members of the Somali diaspora living in Western countries have returned to Somalia in recent years to join this group, which in February 2012 announced its official merger with al Qaeda. This fascinating chapter analyzes the results of an attitudinal study measuring youth radicalization within the diaspora. It tests the hypothesis that the intersection of bicultural identity integration failure, heightened interest in Islam, and the appeal of the jihadi subculture can produce greater sympathy for al Shabaab, thus increasing the risk of radicalization and recruitment.

Matthew Levitt examines Hizballah's Canadian procurement network. "In Canada," Levitt writes, "Hizballah has long maintained a robust network of procurement agents able to purchase dual-use items on the open market and send them on to Lebanon." As is well known, the Islamic Republic of Iran has been a major sponsor of Hizballah, and also other terrorist groups. Michael Petrou's chapter, which concludes the second section of this volume, examines Iran's Canadian outposts. As Petrou notes, Canada's relationship with Iran is governed by a "controlled engagement policy": Canada avoids contact with Iran except with respect to certain narrowly circumscribed issues. Though Canada and Iran have not exchanged ambassadors, Canada clearly matters to Iran for a variety of reasons. These include Canada's large Iranian diaspora and the fact that Iran's embassy in Ottawa "is its only official outpost in North America." For that reason, Iran's embassy has been a busy place, used "to spy on anti-regime activists in Canada, shape public policy, and build relations with influential Iranian-Canadians, as well as politicians, students, academics, and police." Petrou's chapter contributes to our understanding of Iran's agenda in Canada, and how that agenda is being pursued.

The third part of this book goes beyond terrorist groups and terror-supporting states to examine broader problem areas. One area of cooperation between the United States and Canada has been efforts to stanch the flow of funds to terrorist organizations. Angela Gendron's chapter explores the evolution of Canada's anti-money laundering and terrorist financing measures. James Bissett's contribution explores two related issues: the security of the U.S.-Canada border, and Canada's immigration and refugee policies. He argues that despite progress on joint border security measures, these efforts could be undermined by serious problems with Canada's immigration and refugee

policies. Efforts to discuss these issues have often proven controversial, and Bissett's will likely be no exception, but the discomfort many have in addressing issues such as immigration does not mean they will disappear, or that they are illegitimate areas of discussion. Indeed, Bissett points to undeniable problems in Canada's present laws, such as the apparent ease with which its asylum system can be exploited. One notable case is that of Mahmoud Mohammad Issa Mohammad, who carried out terrorist acts with the Popular Front for the Liberation of Palestine, and was responsible for the death of a fifty-year-old Israeli citizen in Greece. Despite Mohammad's established connection to terrorism, he has been able to remain in Canada since 1987 by launching a series of judicial appeals, a process that has cost the Canadian taxpayer some \$3 million. The linkage between the flaws in Canada's immigration and refugee policies and North American security is certainly worthy of consideration.

The fourth part turns to tools that can address terrorism in Canada. Sheryl Saperia writes of the recently passed Justice for Victims of Terrorism Act (JVTA), which is designed to allow civil lawsuits by victims of terrorism and their families against the sponsors and perpetrators of attacks. Saperia is in a strong position to outline the thinking behind this measure, as she was intimately involved in the JVTA's passage. D. Elaine Pressman then discusses risk assessment as an important tool in managing the threat of terrorism. Her chapter focuses on the Violent Extremist Risk Assessment (VERA) protocol, a mechanism that she worked to develop and that has garnered attention by various law enforcement and security agencies internationally.

The book closes with a couple of chapters taking a broader view on these issues. Jonathan Kay argues that the past decade has made Canada more prepared to combat terrorism. "After a quarter-century pacifist interregnum," he writes, "we once again became comfortable with our proper historical role as an active military ally to the United States and Britain." And renowned terrorism specialist Brian Michael Jenkins concludes with a contribution on tackling al Qaeda today. Using a report he wrote for the RAND Corporation in early 2002 on "strategy for the second phase of the war on terrorism" as a framing device, Jenkins surveys a range of issues that the United States and Canada are grappling with, and critical developments in these areas in the decade since that report came out. These issues include the war in Afghanistan, intelligence efforts, political warfare, weapons of mass destruction, and civil liberties concerns.

This collection represents a diversity of political perspectives and prescriptions. There is a need for clear thinking and informed policies in this era of state fragility and austerity. I believe the volume you are holding makes a clear contribution to the public discussion of these issues.

—*Daveed Gartenstein-Ross,*
Washington, D.C.

I. History

Canada's Experience with Terrorism and Violent Extremism

Ronald Crelinsten

Canada has often been called “the peaceable kingdom.”¹ This moniker reflects the Canadian values of “peace, order and good government” spelled out in Section 91 of the British North American Act 1867, which created the Dominion of Canada and defined the principles under which the new Canadian Parliament should legislate.² This tripartite motto contrasts sharply with the American values of “life, liberty, and the pursuit of happiness,” as spelled out in the U.S. Declaration of Independence. While the United States was born out of revolution, Canada was born out of loyalty to Empire, i.e. counterrevolution.³ Many Americans who remained loyal to the British Crown during the U.S. revolution relocated to the British colonies that later became the Dominion of Canada. With this history, it’s no surprise that one analyst characterized the Canadian national character as one of “deference to authority,”⁴ and that much public violence in Canada has been committed by the state against challengers, in defense of its authority.⁵ In the twentieth century, the three periods of greatest government repression were near the end of World War I, at the start of the Great Depression, and in the late 1960s and early 1970s.⁶

Some of the earliest experiences of collective violence in Canada related to labor disputes.⁷ The most notable event was the 1919 Winnipeg general strike, which lasted from May 15 to June 25, when organizers called it off because of repressive violence by authorities. Four days earlier, the Royal North-West Mounted Police had charged into a crowd of strikers, causing scores of injuries and two deaths. Local authorities also called in the army to patrol the streets. This was one of the most significant uses of military aid to civil power until the October Crisis of 1970, which I will discuss later. In Canada’s early history as a new nation, various levels of government often used the army to break up labor disputes.⁸

As for terrorism and other forms of violent extremism, the history of this type of violence in Canada is episodic and patchy, with relatively low levels compared to well-known “hot spots” such as Northern Ireland and the Middle East. But despite this comparatively unremarkable history, there have been periods of high drama, significant loss of life, and several “firsts,” including the first political kidnapping (a double one at that) in North America, the early use of multiple attacks long before al Qaeda burst onto the world scene, and

the largest mass-casualty attack in aviation history (again a multiple attack) before 9/11. What follows is a discussion of the arc of this history.

Domestic Terrorism in Canada

Canada has experienced both domestic and international terrorism, homegrown and imported, nationalist and religious, single-issue and revolutionary. The incidence of terrorism, especially when measured by type, has been distributed unevenly throughout the country, with Quebec and British Columbia experiencing significant campaigns of nationalist/separatist and religious terrorism, respectively. One of the few quantitative studies of terrorism in Canada, produced by Anthony Kellett and his colleagues, focuses on the period between 1960 and 1989. They found that of a total of 366 incidents of domestic terrorism during that period, 200 (54.6 percent) occurred in Quebec, while 157 (42.9 percent) occurred in British Columbia (BC).⁹

The SOF Doukhobors. The BC incidents mostly related to the activities of a “spiritual Christian” sect, the Doukhobors, who migrated to Canada from Russia at the end of the nineteenth century and eventually settled in BC. A militant wing of this group, the Sons of Freedom (SOF), committed many acts of arson, bombing, and sabotage against fellow Doukhobors and symbols of government, such as railways, post offices, hydro and gas transmission lines, and public schools.¹⁰ In 1923, the Canadian government began confiscating properties from Doukhobors because of their refusal to register land with authorities. Since then, estimates of the number of violent incidents attributed to the SOF Doukhobors range from several hundred to more than a thousand, depending on the source. According to one source, the most intense period was 1960-62, featuring 197 terrorist incidents. According to the same source, there were 44 from 1973 to 2003.¹¹

The violent activities of the SOF Doukhobors might be considered a form of religious communal violence, since many of their attacks were directed at fellow Doukhobors with whom they disagreed. However, one study focusing on the most intense period of SOF activity, 1960-62, shows that in 57 of 130 attacks unequivocally known to have been carried out by the group, the primary target was a public building or a power, communication, or transportation facility. Commercial buildings and community buildings were attacked in sixteen and seventeen other cases, respectively. According to the study, “this targeting pattern, juxtaposed with the Sons of Freedom’s doctrine of resistance to any external authority, secular or religious, is for us unambiguous evidence that their acts constituted a campaign of terrorism with political objectives.”¹²

The Front de libération du Québec (FLQ). The terrorist incidents in Quebec arose from the struggle for Quebec independence, most notably that of *le Front de libération du Québec* (FLQ), and were concentrated between 1963 and 1973. However, sporadic, low-level incidents have occurred at various

times since then. The October 1970 double kidnapping of a British diplomat and Quebec cabinet minister represented the peak of the FLQ's activity. This double kidnapping by two separate but related FLQ cells triggered what is known as the October Crisis, one of the most significant political crises in Canadian history. It represents both the culmination of a progressive escalation in the FLQ's tactics over the preceding seven years, and the peak of the group's impact and influence on Canadian political life. It also represents the trigger for the State's greatest show of force, and the beginning of the end of the FLQ.¹³

FLQ activity began in 1963, with 34 violent incidents in a single year.¹⁴ At least five separate waves of terrorist violence occurred before 1970, each centered on a different charismatic figure.¹⁵ Attacks usually involved symbolic bombings, with targets that included statues, military barracks, mailboxes, and other symbols of the federal presence in Quebec. Propaganda, credit card fraud, setting up training camps, and robberies (some of them armed) were among the FLQ's activities during this early period. Essentially, groups of individuals would form "cells" and call themselves the FLQ. There was never central leadership, only a common vision of an independent Quebec. The compartmentalization of FLQ operations was more the result of independent initiatives taken by individuals separated by geography or everyday life than by a conscious policy emanating from a central command structure.¹⁶

Ideologically, the FLQ was not a uniform, coherent entity. Left-wing ideas began to permeate FLQ rhetoric in 1966, with the writings of Pierre Vallières and Charles Gagnon. Before that, it was strictly nationalist and anti-colonial. If one compares the FLQ's manifesto issued in 1963, when the group first appeared, with the one broadcast on national television during the October Crisis in 1970, the difference is striking. The 1963 manifesto identified the enemy as "Anglo-Saxon colonialism," and the solution as "national independence." The manifesto was addressed to "patriots." In contrast, by 1970 the group's enemies had become the "big bosses," finance companies, and banks, and its solution a made-in-Quebec revolution. The manifesto was addressed to the "workers of Quebec."¹⁷

In addition to its shifting ideology, FLQ targeting also changed. Between 1968 and 1971, more than half of FLQ attacks targeted businesses, often in the context of labor strikes.¹⁸ Underscoring shifts within the group, even Vallières and Gagnon, the two individuals who most inspired the FLQ's Marxist reorientation, eventually parted ways on ideological and tactical grounds. Vallières renounced the FLQ and supported the Parti Québécois (PQ) at the end of 1971.¹⁹ A few months earlier, Gagnon decided to devote his energy to the creation of a new workers' party to the left of the PQ.²⁰

The October Crisis occurred at the beginning of what came to be known as the "decade of terrorism," as Palestinian and European terrorists captured worldwide headlines. The October Crisis represents the first and only case in North America of a successful kidnapping of a diplomat or politician by political terrorists. What's more, it was a double kidnapping. Two previous

kidnapping plots had already been discovered and thwarted by the Montreal police's anti-terrorist section (SAT). One came at the end of February 1970, targeting Moshe Golan, the Israeli consul in Montreal; the other came in June 1970, targeting Harrison W. Burgess, the American consul in Montreal. Jacques Lanctôt was one of the people involved in the Golan plot, but he jumped bail when he was arrested for a weapons offense, and went underground before police uncovered the details of the plot. He surfaced seven months later as one of the British diplomat's kidnappers.²¹

The first of the double kidnappings that comprised the October Crisis occurred on October 5, 1970. A group of seven individuals calling themselves the Liberation Cell of the FLQ was responsible. The aforementioned Jacques Lanctôt, a 24-year-old taxi driver active in several radical-left protest groups, led the group. He had also been involved in the first wave of FLQ activity in 1963, when he was just seventeen. The other members of the Liberation Cell were Marc Carbonneau, 37, another taxi driver; Yves Langlois, 23, a former court stenographer; Nigel Hamer, 23, an engineering student at the English-language McGill University and the group's only Anglophone; Louise Lanctôt, 23, Jacques Lanctôt's sister, and her husband, Jacques Cossette-Trudel, 23; and another woman whose name has never been made public, and who has never been formally charged with any crime. The Liberation Cell's victim was James Richard Cross, the British trade commissioner in Montreal. The kidnapping immediately implicated the federal Department of External Affairs in Ottawa, which was responsible for foreign diplomats on Canadian soil, as well as communicating with the British government; and it also implicated the Quebec Department of Justice, which, in the federal system, is responsible for the administration of justice.

The second kidnapping took place on October 10, 1970. Four individuals calling themselves the Chenier Financing Cell of the FLQ were responsible. This name was adopted on the spur of the moment, and none of their friends or associates knew that they were planning a second kidnapping. The leader of the Chenier Cell was Paul Rose, 27, a special instructor for maladjusted children. Rose had been active in various protest movements, and was a member of the PQ and the left-wing independence party that preceded it, *le Rassemblement pour l'indépendance nationale* (RIN). In the summer of 1969, Rose had organized a youth hostel and drop-in center in the east-coast fishing village of Percé. The hostel became somewhat of a *cause célèbre* when the authorities—who disliked the presence of so many rowdy young people in their quiet tourist-conscious town—maladroitly tried to expel the occupants with water hoses.

Rose first met some of the people who joined his FLQ group at the Percé hostel. One such individual was Bernard Lortie, 18, a student from the Gaspé peninsula who participated in the second kidnapping. The other two members of the Chenier Cell were Paul Rose's brother, Jacques, 22, a mechanic for the Canadian National Railway; and Francis Simard, 22, an apprentice electrician

for Canadian National. Simard had helped found the youth hostel in Percé the summer before. The Chenier Cell's victim was Pierre Laporte, deputy premier and minister of employment and immigration in the Quebec Liberal Government. This implicated the provincial government in a much more immediate and dramatic way than did the first hostage.

The acute phase of the October Crisis lasted fifteen days. Negotiations took place in the period between the abductions of James Cross and Pierre Laporte, as the Liberation Cell communicated with authorities through written communiqués deposited at various points around Montreal. Reporters retrieved these communiqués, following instructions phoned in by the kidnappers or their accomplices. They handed the communiqués over to police, who allowed the reporters to photocopy the documents first. The contents of these communiqués were then broadcast on local radio stations, and distributed to newspapers that published them on their front pages. Had the Chenier Cell members not taken matters into their own hands, the kidnapping of Cross might have ended with a negotiated agreement to let the kidnappers go into exile in exchange for their hostage. But the Laporte kidnapping on October 10 changed the dynamics of the crisis, and ultimately led to the use of the military to patrol the streets and guard VIPs and parliamentarians.

On October 16, the federal Parliament invoked the War Measures Act, which allowed the government to enact sweeping powers in the case of "real or apprehended war, invasion or insurrection." In this case, the claim was apprehended insurrection: The phrase was inserted into letters from the City of Montreal and the Government of Quebec to the federal government in Ottawa, allowing invocation of the act. No intelligence ever was revealed supporting this affirmation, and it is generally accepted that there was none. Many at the time, though, viewed the FLQ as a well-organized secret army with many cells, an image created in part by allusions to other cells in some of Paul Rose's communiqués, as well as a flood of false claims, such as bomb threats, that appeared to overworked officials like an orchestrated blitz. Widespread and unexpected support for the FLQ by students, intellectuals and separatist politicians further alarmed authorities.²² In reality, there were no cells other than the two that had committed the kidnappings, and no wider seditious conspiracy.²³ The legislation adopted under the War Measures Act allowed searches and arrests without a warrant, preventive detention of suspects for up to 21 days without laying charges, and detention for up to 90 days without setting a trial date.

On the evening of October 16, Pierre Laporte tried to escape by throwing himself through a window, and was seriously injured in the process. Police found his body the next day, stuffed in the trunk of the car that was used in his kidnapping a week before. The circumstances of Laporte's death remain shrouded in mystery, in part because of a vow of silence by his kidnappers. They all claimed responsibility for his death for reasons of solidarity, even though two of them weren't even present when Laporte died.²⁴

Cross's kidnappers eventually negotiated the release of their hostage in exchange for safe passage to Cuba, where they lived until the summer of 1974, when they went to France. With a PQ government in power in Quebec, they returned one by one during the late 1970s, pleaded guilty, and received short jail terms of two to three years. In contrast, authorities arrested the Laporte kidnappers in December 1970 after patient police work having nothing to do with the extraordinary powers in effect at the time. Paul Rose received two life sentences, Francis Simard received one life term, and Bernard Lortie received 20 years. Jacques Rose was acquitted several times before finally receiving eight years for complicity after the fact in the murder of Pierre Laporte. All four were paroled by the end of 1982. The army left Quebec at the beginning of January 1971, and the emergency regulations were finally lifted at the end of April of the same year.²⁵

By 1971, police informants had infiltrated all active FLQ cells, and by 1972 the FLQ was in essence a pawn of the security service. Police either allowed its terrorist activities to proceed under the scrutiny of authorities, or encouraged these activities through covert facilitation. In some cases, what appeared to the public and even authorities to be new terrorist communiqués or attacks were in fact the work of security agents.²⁶ By 1973, the FLQ was essentially no more, though various individuals continued to use the name when committing occasional acts of vandalism, protest, or even violence over the years.

Ideological terrorism. While the FLQ and the SOF Doukhobors account for most of the domestic terrorism in Canada, ideological and single-issue terrorism also has occurred. The most significant left-wing terrorism took place in the early 1980s, committed by a group of five people from BC who called themselves "Direct Action" after the French revolutionary group, *Action directe*. They were better known as the Squamish Five, after the name of the BC town where they were arrested.

Evincing a mix of environmental, anti-nuclear, and feminist ideals, the five initially committed petty acts of robbery and vandalism. After stealing explosives and weaponry, they quickly escalated to bombings. They are most notorious for two bombings in 1982: one at a hydroelectric substation on Vancouver Island (owned and operated by the provincial electricity supplier, BC Hydro), and one at the suburban Toronto plant of Litton Industries, which manufactured American cruise missile components. The BC Hydro explosion caused several million dollars of damage, and disrupted the transmission of electricity between Vancouver Island and the mainland for several months. The Litton explosion injured ten people—including members of the Toronto bomb squad, passing motorists, and Litton employees—and caused millions of dollars of damage. Two of the group's members, both women, also formed another group with six other women, called the Wimmin's Fire Brigade, and engaged in a series of firebombings of video stores in Vancouver that specialized in violent

pornography. All five members of Direct Action were arrested in January 1983 in Squamish, BC.²⁷

Right-wing terrorism has been less prevalent in Canada, certainly compared with the United States, though definitional and measurement problems make it somewhat difficult to get an accurate picture.²⁸ The most common forms of right-wing violence in Canada have been racist, anti-Catholic, anti-Communist, and anti-Semitic. There were race riots as early as 1784 in Nova Scotia (before Confederation, when the Canadian state was created in 1867), attacks against Chinese and Japanese in BC in the late 1800s and early 1900s, and Ku Klux Klan (KKK) activity in the 1920s and early 1930s. With the rise of Nazism and fascism in Europe during the 1930s, Nazi and fascist parties also developed in Canada. Violent clashes took place between fascists and anti-fascists, and there were also attacks on Jews and Jewish-owned property, particularly in Quebec.²⁹

Between 1960 and 1990, 159 incidents of right-wing violence occurred, with peaks in 1980-81 and 1988-89. They included attacks by anti-Castro Cuban nationalists, by the KKK against minorities, by Croatian nationalists against Yugoslavian interests, and by skinheads against blacks, Jews, and homosexuals.³⁰ More than half (89) were directed against individuals, including assaults (usually in the context of protests), slashings, or shootings. Other attacks involved arson or other forms of property destruction.

Single-issue terrorism. In addition to generalized political violence, Canada has also experienced single-issue terrorism. In 1983, arson struck a women's bookstore in Toronto that stood next to the true intended target: Canada's only abortion clinic at the time. Abortion clinics continued to be targets of arson and vandalism during the 1990s, including clinics in Vancouver, Edmonton, and Toronto. In May 1992, arson destroyed the same Toronto clinic first targeted in 1983.³¹

In the 1990s, anti-abortion violence apparently spilled over the border from the United States, as a series of sniper attacks against doctors who performed abortions took place in British Columbia, Ontario, and Manitoba, as well as in upstate New York.³² An American, James Kopp, was ultimately convicted for the 1998 murder of an American doctor, Barnett Slepian. Well known in militant anti-abortion circles, Kopp has long been suspected of carrying out the Canadian attacks as well.³³

Apart from abortion, other single-issue terrorism in Canada has revolved around animal rights and environmental issues, particularly in the forestry and oil and gas sectors. In the early 1990s, for example, animal rights activists were suspected of an incendiary attack on trucks belonging to a fish market in Edmonton. Several incidents of tree-spiking occurred in BC during the same period, as well as a bombing and arson attack on a logging bridge.³⁴ Activists also attacked institutions accused of mistreating animals, and people wearing furs.³⁵ Authorities arrested activist Wiebo Ludwig after a series of bombings

and other forms of sabotage of gas wells in northwestern Alberta in the late 1990s. Ludwig, a well-known anti-oil patch eco-activist and fundamentalist Christian who heads a small religious community in northern Alberta, was tried and convicted for these attacks in April 2000, and imprisoned for 21 months. Bombings of gas pipelines in Alberta and BC continued into the late 2000s. Though Ludwig again emerged as a suspect, he was never charged.³⁶

Aboriginal issues have also occasionally erupted into violence, usually over land claims. The most serious incident occurred in 1990 in the Quebec town of Oka, where the municipality wanted to build a golf course on ground considered sacred by the Mohawk nation. Natives from the neighboring Kanasatake reserve set up a barricade blocking access to the area, and a standoff between the natives and the municipality began. On July 11, Oka's mayor called in the Quebec provincial police. The police almost immediately assaulted the barricade with tear gas and flash grenades. The resulting firefight left one officer dead.

The situation in Oka escalated further when other Mohawks blocked a major bridge connecting the south shore suburbs with the island of Montreal at a point where it crossed their land. The Quebec government called in the federal Royal Canadian Mounted Police (RCMP) when it became clear that the provincial police couldn't contain the crisis, but they did no better. Other actions in support of the Kanasatake Mohawks took place across the country, including a blockade of a rail line in BC, followed by an arson attack on a rail bridge.³⁷ Finally, on August 20, Quebec premier Robert Bourassa called in the Canadian military under the principle of military aid to civil power set out in Section 275 of the National Defence Act. The military succeeded in bringing the crisis to a negotiated conclusion, and was widely praised for its patience and professionalism.³⁸ Tensions continue to this day, and a recent report by the Canadian Security Intelligence Service lists "Aboriginal extremists" among continuing threats to national security.³⁹

Islamist terrorism. After 9/11, Canada wasn't spared from the threat of homegrown terrorism inspired by al Qaeda and related jihadi groups. Authorities foiled several plots, some with international dimensions. The so-called "Toronto 18" plot—involving a group of young Muslim men from Toronto who planned bombings in Toronto and violent assaults in Ottawa, including against politicians—represented the most significant of these. One of the major influences in the group's radicalization was an online video of Anwar al Awlaki, titled "Constants of Jihad," in which the late ideologue of Al Qaeda in the Arabian Peninsula (AQAP) argued that Muslims were obligated to fight in the name of Islam.⁴⁰ Authorities arrested the conspirators in June 2006 after an exhaustive investigation that culminated in a sting operation involving delivery of what was supposed to be three tons of ammonium nitrate. Of the eighteen men who comprised the group, four adults and three youths had charges against

them stayed. Seven adults pleaded guilty, including the two ringleaders, Fahim Ahmad and Zakaria Amara. Four of the accused chose to fight their charges at trial, and all were convicted. The ringleaders received life sentences and several others received lesser sentences, some of which were increased by the Ontario Court of Appeals.⁴¹

International and Transnational Terrorism

A quantitative study of terrorism in Canada published in 1991, examining the period from 1960 through 1989, found 62 cases of international terrorism (defined as incidents taking place in Canada but related to a conflict in another country). Strangely, the 1985 Air India bombings by Sikh militants based in Canada weren't included. In a 2004 publication that reviews the findings of this study, the lead author of the 1991 study explains that this omission was because of "the event's occurrence outside Canada."⁴² This questionable categorization could be because, at the time of the study's publication as well as the 2004 review chapter, this attack wasn't yet fully understood. It was perceived as a non-Canadian event even though most of the 329 who died were Canadian citizens of Indian origin, and the bombings were conceived and implemented in Canada. Only in 2006 was a commission of inquiry into the tragedy set up by Parliament—known as the Major Commission after its commissioner, Justice John C. Major—and its final report wasn't published until 2010.⁴³ This chapter will say more about the Air India bombings shortly.

The biggest year for international terrorist incidents between 1960 and 1989 was 1968, when a rash of pipe bomb explosions rocked Toronto (13 in just an hour) and Montreal (four) in protest of the Vietnam War.⁴⁴ The majority of incidents over the entire period studied, however, were committed by émigré groups against targets associated with their home countries, such as embassies, consulates, trade missions, diplomats, or businesses of fellow nationals on the other side of the conflict.

Nationalist terrorism. Beginning in the 1960s, anti-Castro Cuban émigrés, who were mostly U.S. residents, crossed into Canada to launch attacks against targets associated with Castro's regime. Because the United States did not recognize Castro's Cuba diplomatically, but Canada maintained diplomatic ties with the country, targets were available in Canada that couldn't be found in the United States. Eleven attacks occurred between 1964 and 1980, causing one death, several injuries, and considerable property damage. The campaign ended in 1980 partly because of police work in Canada and the United States, and partly because the Cuban exile community became more integrated into its host societies.⁴⁵ This probably represents one of the earliest cases of terrorism being imported into Canada from the United States—an ironic reversal of current worries in the United States about terrorists entering America from Canada.

Three other examples of imported terrorism in Canada between 1960 and 1989 involved Yugoslavian émigrés (mostly Croats) in the 1960s and 1970s, and deadly attacks by Armenians and Sikhs in the 1980s.⁴⁶ One Croatian nationalist skyjacking occurred in September 1976. The hijacked plane, TWA Flight 355, flying from New York's LaGuardia Airport to O'Hare International Airport in Chicago, was diverted to Mirabel International Airport in Montreal (now Trudeau International Airport), then to Gander, Newfoundland, where some passengers were let go, and on to Europe (first Reykjavik and finally Paris). In 1982, Canada experienced five attacks by two Armenian terrorist groups, the Armenian Secret Army for the Liberation of Armenia (ASALA) and the Justice Commandos of the Armenian Genocide (JCAG), later known as the Armenian Revolutionary Army (ARA). The most serious of these attacks, both in 1982, involved JCAG's assassination of the Turkish military attaché, Colonel Atila Altikat, and ASALA's failed assassination attempt on Turkish commercial counselor Kani Güngör, who was left paralyzed. In 1985, the ARA seized the Turkish embassy in Ottawa, killing a Canadian security guard and holding eleven hostages. The Turkish ambassador escaped by jumping out a second-story window. Ottawa police responded immediately, the stand-off was negotiated to an end, and the attackers surrendered. Three Armenian-Canadians were convicted of first-degree murder for the death of the security guard and given life sentences. They were released in 2010.⁴⁷

The Air India bombings. In June 1985, two men checked baggage at Vancouver International Airport. One man's baggage was destined for New Delhi, with stops in Toronto, Montreal, and London along the way. The flight departing from Montreal was Air India flight 182. The second man's baggage was also destined for New Delhi, with a stop in Tokyo. The first bag was registered in the name of Jaswant Singh, and the second in the name of Mohinderbel Singh. The bomb hidden in the first man's baggage exploded while Air India flight 182 was off the coast of Ireland, killing all 329 passengers, including 279 Canadian citizens. The bomb in the second man's baggage exploded while baggage was being transferred from one plane to the next in Narita Airport in Tokyo. It killed two baggage handlers, and injured four.

One year earlier, Indian Prime Minister Indira Gandhi ordered an assault on the Golden Temple in Amritsar, which had been occupied by armed Sikh separatists. Gandhi's Sikh bodyguard assassinated her five months later. Two separate informants warned the RCMP in September and October 1984 that Air India, which operated a single flight out of Montreal, was a potential terrorist target. The FBI then warned Canadian authorities in January 1985 that terrorist attacks were being planned against Indian targets. The Indian government issued an urgent warning in May 1985 that terrorist attacks were planned for the first anniversary of the Golden Temple assault—in other words, for June 1985.

And in early June, Air India alerted the RCMP Headquarters Airport Policing Branch that its planes could be subject to sabotage.

Around the same time, in Vancouver, Canadian Security Intelligence Service (CSIS)⁴⁸ agents were following Talwinder Singh Parmar, the leader of Babbar Khalsa (BK), a known Sikh extremist group. On June 4, Parmar, accompanied by two men, went into the woods near the town of Duncan on Vancouver Island. The surveillance team heard a loud explosive sound, and assumed that the men were firing weapons. There was no follow-up. During the Major Commission's investigations years later, it was revealed that the sound was a test bomb being detonated.⁴⁹

Summing up the activities that the Canadian government and its national security agencies undertook prior to the bombing, the Major Commission concluded: "The arrangements in place at the relevant government agencies in June 1985 were entirely inadequate to deal with the threat of Sikh extremism in general or to anticipate and prevent the bombing of Flight 182."⁵⁰ As for the post-bombing investigation, prosecutions and trials, the Commission highlighted the loss of important evidence due to CSIS's focus on keeping its intelligence out of the judicial process. The Commission also found that the RCMP dismissed potential leads prematurely, and undermined the utility of human sources due to its unimaginative approach to the investigation and its dysfunctional focus on self-justification and the pursuit of ready "evidence."⁵¹

The only suspect ever convicted in the case was Inderjit Singh Reyat, based on evidence discovered by Japanese police in Narita Airport. Parmar, the leader of BK and a prime suspect, was arrested but released almost immediately because of insufficient evidence. He died in police custody in India in October 1992. Two other suspects, Ripudaman Singh Malik and Ajaib Singh Bagri, were eventually arrested in October 2000 and came to trial in Vancouver in April 2003. The trial lasted through 2004, and in March 2005 the trial judge acquitted them because the Crown had presented inadequate evidence.

Reyat, who received a ten-year sentence in 1991 for manslaughter in the Narita Airport bombing, testified for the prosecution in the Malik-Bagri trial. In 2006 he was charged with perjury for his testimony in that trial, which played a key role in the acquittal of the two accused. He was found guilty of perjury, and sentenced to nine years imprisonment in January 2011.⁵²

Ahmed Ressam. On December 14, 1999, Ahmed Ressam, an Algerian living in Canada, was arrested by an alert U.S. border guard while attempting to enter the United States from Vancouver Island. American authorities found explosives in the trunk of his car, and ultimately discovered that Ressam had planned to detonate a bomb at Los Angeles International Airport during celebrations for the new millennium.⁵³ Known as the Millennium Bomber, Ressam became even more notorious after the 9/11 attacks launched Islamist terrorism to the top of the U.S. national-security agenda—and consequently,

U.S. officials began looking to Canada as a possible vulnerable point of entry for terrorists. Indeed, some American officials (then-senator Hillary Clinton, for one) argued at the time that some of the 9/11 hijackers entered the United States from Canada, despite all evidence to the contrary.⁵⁴ Some still occasionally do, such as Homeland Security Secretary Janet Napolitano and Senator John McCain in 2009.⁵⁵

Ressam had arrived in Canada in February 1994 from France, using a fake passport. Immigration officials arrested him when he landed in Montreal. Ressam immediately applied for refugee status, claiming that Algerian authorities suspected him of being a terrorist. In his application, Ressam wrote, “To them [the Algerian government], I was but an Islamist terrorist, even though I had no ties to the Islamist movement.”⁵⁶ While waiting for a decision on his asylum application, Ressam had several brushes with the law over shoplifting. In June 1995, Ressam’s application was rejected, but he requested a judicial review, as was his right. While waiting for the decision, he had to report once a month to immigration officials. The judicial review resulted in a final rejection of his application in February 1996, two years after Ressam arrived in Canada.

At that point, Canada could legally deport Ressam, but immigration officials never acted. The most immediate reason was a lack of resources at Citizenship and Immigration Canada (CIC), which necessitated a prioritization of deportation cases. As journalist Andy Lamey notes, “failed refugee claimants with shoplifting convictions were low on the list.”⁵⁷ When his refugee claim was rejected, Canada cut off Ressam’s welfare payments, which he had been receiving since entering the country. Any prospect of finding a job also ended, since employers couldn’t hire failed refugee claimants. So Ressam continued to break the law, committing thirty to forty petty crimes, such as pickpocketing, and was arrested several more times.

During this time he fell in with known Islamist extremists, some of whom had trained in Afghanistan, including at a camp operated by Osama bin Laden. He lived with three other Algerian jihadi wannabes, one of whom was under surveillance by CSIS. Their apartment was bugged, and their conversations recorded by CSIS, which dubbed them the “Bunch of Guys” (BOG).⁵⁸ CSIS considered them nothing but amateurs who talked big.

In the summer of 1997, using a forged baptismal certificate, Ressam applied for a perfectly legal Canadian passport, under the name of Bennie Norris.⁵⁹ At that time in Quebec, baptismal certificates weren’t closely regulated, even though they could be used to obtain passports. By forging one and adding a fake name, Ressam acquired a new identity—and this new identity appeared on his new passport, no questions asked. From that moment on, Ressam could travel without being detected. In March 1998, Ressam left for Afghanistan with the knowledge of CSIS officials, who put his name on a watch list so that he

could be apprehended if he returned to Canada. They also passed his name to U.S. intelligence. Before his departure, Ressam had dutifully reported to CIC every month. Once he left Canada, he missed an appointment, triggering an immigration warrant for his arrest. Montreal police also had an arrest warrant in his name for outstanding criminal charges.

Ressam spent nine months training in two different al Qaeda camps. He then returned to Pakistan in February 1999, and from there flew via Seoul and Los Angeles back to Vancouver. With his valid Canadian passport, he breezed through customs despite two warrants for his arrest in his real name. He was in Montreal a month later, preparing his millennium plot. After Ressam's return from Afghanistan, CSIS never again got his voice on tape. His training had made him careful, and he emerged from it a dangerous man rather than a brash amateur.

Since 9/11, and increasing concerns in the United States about terrorists entering from Canada, people on both sides of the border have used the Ressam case to suggest that Canada is a safe haven for terrorists who use the refugee and immigration system to gain entry and plan attacks. Media reports, television documentaries, and the *9/11 Commission Report* all perpetuate the myth that Ressam was an Algerian terrorist who used the Canadian refugee determination process to gain access to Canada.⁶⁰ The facts of the case simply do not support this. As Lamey writes:

Ressam did not receive terrorist training until the spring of 1998, two years after his final brush with the refugee system. It is therefore a gross distortion to portray his case as one in which an extremist used the refugee system to try to execute a terror plot. Such a false view is potentially damaging, as it risks spreading hysteria about refugee applicants being terrorists. A false understanding might also divert attention away from the institutional failures that did enable Ressam's journey into terror.⁶¹

The real deficiency in Canada's official processing of Ressam was the failure to deport him when his refugee claim was finally rejected. This gave him time to be seduced into an extremist group at a local mosque that he began attending not out of a sense of religion or faith, but simply as a way to meet other Algerians.

Momin Khawaja. In 2006, Momin Khawaja, an Ottawa software developer, was convicted of aiding a British jihadi group plotting a series of fertilizer bomb attacks in and around London in 2004. He was the first Canadian to be charged under the 2001 Anti-Terrorism Act. When he appealed his sentence of ten and a half years, the Ontario Court of Appeal increased his sentence to life imprisonment. Khawaja is now appealing to the Supreme Court of Canada.⁶²

Al Shabaab. The Canadian Somali community, like that in the U.S. twin cities of Minneapolis-Saint Paul, has been plagued by young men going to fight

and train with the extremist group al Shabaab in Somalia, often without the knowledge of their families. While some were motivated by nationalism, going to fight the Ethiopians after that country invaded Somalia, others have been seduced by Shabaab's Islamist agenda.

In March 2010, one Somali-Canadian university student from Toronto, Mohammed Elmi Ibrahim, died in Somalia fighting for al Shabaab. He was the first of six Somali-Canadian men from a Toronto mosque who disappeared in 2009, after being recruited over the Internet.⁶³ The perceived danger of returnees using skills acquired in Somalia back home has been as much a concern in Canada as it has been in the United States.

An Overview of Terrorism in Canada

It is clear that Canada has experienced some significant acts of domestic and international terrorism. Some have gained media notoriety, often for good reason. The 1985 Air India tragedy was the worst case of aviation terrorism before the 9/11 attacks. If the Japan-bound flight had exploded in mid-air, it would have been even worse. The same can be said for the Toronto 18 plot: It could have been disastrous if brought to fruition. Taking a broad view, however, the incidence of terrorism in Canada has remained quite low, especially since the 1990s.

Illustrating this, a study that incorporated the 1960-1989 data of Kellett and his colleagues, and updated the quantitative analysis through 2006, found that the total number of terrorist incidents in Canada was highest during the 1980s, and was quite low throughout the 1990s and into the early 2000s. There was no increase after 9/11.⁶⁴ When this study classified incidents according to severity, it found that the higher level of incidents throughout the 1980s was primarily due to less serious incidents involving vandalism or "terrorist background noise" ("*bruit de fonds*" *terroriste*). For the entire period of 1973-2006, 71% of all incidents were of this nature.⁶⁵ This trend appears to have continued throughout the 2000s. In a 2010 global survey by the British risk analysis company Maplecroft, Canada ranked 67th out of 196 countries in terms of frequency and intensity of terrorist incidents. It was rated "low risk," compared, for example, to the United States—which ranked 33rd, and was rated "medium risk."⁶⁶ In 2011, Canada ranked even lower, at 86th out of 197 (South Sudan being the newest country).⁶⁷

Because the threat of terrorism in Canada is on the whole quite low compared with other regions and countries, including the United States, some have asked why Canadian counterterrorism initiatives post-9/11 have been so robust. Most experts agree that much of the rationale has been what has come to be called "defense against help." In other words, Canada's policies are

often attempts to show the United States that Canada is serious about security lest the American government impose policies unilaterally.⁶⁸ Persistent claims by high-level U.S. officials that some 9/11 hijackers entered the United States from Canada, coupled with the Ressam case in 1999, make this a real concern and, therefore, a legitimate policy imperative. This is particularly true for initiatives such as the Smart Border accords between the two countries and the made-in-Canada no-fly list for airline passengers,⁶⁹ as well as the U.S.-Canada Action Plan on Perimeter Security and Economic Competitiveness announced by President Barack Obama and Prime Minister Stephen Harper in December 2011.⁷⁰

Developing accurate databases on the incidence and nature of terrorism is notoriously difficult because of definitional and methodological challenges. Twenty-four Canadians died in the 9/11 attacks, for example, but it's unclear whether those attacks would appear in a database on terrorism in Canada. According to one report from 1999, sixty Canadians were on an Egypt Air flight hijacked at Luxor (1996); four Canadians were kidnapped in Colombia (1996-97), as well as one in Yemen (1993-94), and one in Chechnya (1998); three Canadian tourists were kidnapped by Rwandan rebels in the Congo (1998); and several local employees of the Canadian High Commissions were injured in the bombings of U.S. embassies in Nairobi and Dar-es-Salaam (1998).⁷¹ Three Canadians died over Lockerbie, Scotland, when Pan Am flight 103 was blown up in mid-air in December 1988. The Canadian ambassador to Peru was among the hostages held by the Tupac Amaru Revolutionary Movement in 1996-97, and later became part of the mediation team that tried unsuccessfully to bring a negotiated end to the stand-off.⁷² In December 2008, Canadian diplomat Robert Fowler—appointed by U.N. Secretary-General Ban Ki-Moon to be his special envoy to Niger—was kidnapped by al Qaeda in the Islamic Maghreb (AQIM), along with his colleague Louis Guay and their driver. The three were held in Northern Mali for four months, along with other foreigners, before they were released in April 2009.⁷³ It's unlikely that these diverse incidents would appear in any chronology of terrorism in Canada, even though Canadians clearly were affected.

Similarly, the Liberation Tigers of Tamil Eelam (LTTE) were quite active in Canada, especially during the 1990s and early 2000s, raising funds from the Canadian Tamil diaspora for their struggle with the Sri Lankan government.⁷⁴ Their principal fundraising tools included intimidation and extortion, but this is not generally considered to be terrorism. Only in April 2006 did Canada list the group as a terrorist entity. Because of this listing, the RCMP and CSIS were then able to target anyone who aided the group in its fundraising activities. Searches and arrests of suspects began almost immediately.⁷⁵

History's Lessons: The October Crisis of 1970 Revisited

History often teaches lessons that are useful for contemporary times. While Canada has not suffered from high or persistent levels of terrorism and extremist violence, some periods or individual, high-profile cases have had a significant impact on Canadian counterterrorism policy and political life. The October Crisis of 1970 stands out as one of the earliest tests of Canada's democratic institutions, which in the ensuing four decades have increasingly come under pressure from the cascading threats typical of today's globalized world.

- Many problems encountered then presaged those we face today, though each has become more complicated:
- What to do about ideologically motivated violence, especially when radicalization and recruitment can be fueled by unscrupulous fanatics at home and abroad.
- The need for authorities to have a clear chain of command, given the global scope of today's terrorism and counterterrorism.
- Multiple levels of government for decision-making, often where threat perceptions differ, as well as multiple law enforcement agencies, often with differential access to intelligence, rendering coordination and policy coherence problematic. All of this can be exacerbated now that a whole-of-government approach is widely recognized as necessary.
- Control of media coverage, now fundamentally transformed by the Internet, cell phones, social networking, cloud computing, mobile forms of constant connectivity, geolocation tracking, and other newly emerging technologies.
- The temptation to bend or suspend the rule of law, including whether to impose sunset clauses on the special legislation and procedures introduced after 9/11.
- The role of the military in peacetime, in the face of the tendency by many to depict today's terrorist threat as a "never-ending war."
- The use of deception or fabricated intelligence to justify governments' responses to terrorist crises, now made easier by the polarization of political discourse and the way in which conspiracy theories persist in the face of incontestable facts.

Add to this the current concerns about homegrown terrorism and the parallels are even more striking. The FLQ was homegrown, networked through family and friends, and inspired by Marxist and revolutionary ideology imported from Algeria and Latin America.

One of the most useful lessons that history can teach us is how terrorism comes to an end.⁷⁶ How did the October Crisis end, and how was the threat of terrorism eliminated in Quebec?

- In the short term, ordinary policing led to the capture of the principal terrorists.
- Emergency powers permitted the round-up of suspected sympathizers without arrest warrants, and their detention without charge or bail. These powers were revoked within seven months. Of hundreds arrested, fewer than 100 were charged; no one was convicted. But support for the FLQ plummeted, not only among English-Canadians, but also among French-Canadians.
- One year after the Crisis, one of the leading ideologues, Pierre Vallières, denounced terrorism and joined the provincial separatist party, the Parti Québécois.
- In the medium term, the main battle for Quebec independence shifted to the realm of provincial electoral politics. Six years after the Crisis, the PQ gained power.
- The federal and provincial governments co-opted many nationalists into working in government, reducing the incentive to seek a violent path.
- The creation of a federal separatist party, the Bloc Québécois, in 1990, also reinforced the political realm over the terrorist one.
- In the long term, economic factors such as federal equalization payments from wealthier to less wealthy provinces (including Quebec) and Ottawa's largesse in locating many federal agencies in Quebec (with its positive impact on employment prospects) appear to have convinced most Québécois that independence is a dead end.

So what implications can we draw from this for the terrorist challenges we face today?

- At the level of the terrorist organization and its internal dynamics, internal splits and disagreements can be exploited, particularly at the ideological and doctrinal level. Ordinary policing, as well as disruption, continue to be valid responses.
- Islamism has many characteristics of a cult, so deprogramming, creating counter-narratives, and providing alternative means of finding meaning or a sense of belonging and identity remain important.
- At the wider socio-political level, the "Arab Spring" may have created an incentive for some violent Islamist elements related to or

inspired by al Qaeda to consider entering the political arena. They may either do so directly by creating a political wing, or indirectly by supporting Islamist political parties that already exist or are newly formed.

- Differentiating between lobbying groups, NGOs, or charitable organizations with Islamist goals or sympathies, and groups that are directly or indirectly linked with terrorist groups such as al Qaeda, will be an increasing challenge if a move to the political realm emerges. Hizballah and Hamas have posed similar challenges to coordinated counterterrorist policies among like-minded nations.
- Finally, there is the problem of anti-democratic political parties: Are we willing to recognize an Islamist democracy that eschews terrorism but fails to respect minority rights? Are we willing to allow an Islamist political party that is openly hostile to Western values to participate in elections in our own countries?

The ongoing Arab Spring provides hope that an alternative to al Qaeda's violent message may ultimately prevail. Nevertheless, there is growing concern that post-revolutionary regimes in Tunisia, Egypt, Libya, Yemen, and elsewhere may be neither democratic nor secular, nor will they automatically be pro-Western. In Yemen, al Qaeda affiliates, most notably AQAP, have made geographic gains in the south of the country. In Tunisia and Egypt, fundamentalist parties are strong and gaining popular support, especially among rural, more devout, and less educated segments of the population. Tunisia's "moderate" Islamist party, Ennahda, won 40% of the vote and its deputy leader, Hamadi Jebali, became prime minister. Clashes have broken out between salafists and secular university officials over dress codes for women, including a prolonged sit-in by salafists that brought academic life at the University of Manouba, in northeastern Tunisia, to a halt.⁷⁷ In Egypt, Islamist groups—specifically, the Muslim Brotherhood's Freedom and Justice Party (FJP) and the salafist party Al Nour—experienced overwhelming success at the ballot box. Further, the September 2011 attack on the Israeli embassy in Cairo by an angry mob and the outbreak of sectarian violence between Muslims and Coptic Christians are worrying signs.

In Libya, where NATO has been so helpful, the leader of the National Transitional Council, Mustafa Abdul Jalil, promised that the new state would be based on a "moderate Islam," with sharia-based legislation, and warned against secularism.⁷⁸ In Morocco, the Islamist Justice and Development Party (PJD) won the most seats in Parliament and, under new rules announced by King Mohammed VI, PJD's leader will be asked to be prime minister and form the government.⁷⁹

These developments threaten to hijack the revolutions that were triggered by educated, mostly urban and elite youth inspired by Western values of democracy and freedom. These youth are the greatest hope for a brighter future and a blunting of the al Qaeda-inspired narrative of a clash between Islam and Western democracies. But if the Arab Spring leads to more fundamentalist, anti-Western governments, then al Qaeda may have scored a proxy victory. On the other hand, if Islamist political parties—in government or in opposition—embrace democracy and openness, perhaps alternative paths will prevail over the violent ones.

This would not necessarily make things easier. In Turkey, for example, a democratically-elected government based on “moderate Islam” has been in power for some time, and secular people are increasingly encountering difficulties as the politicization of Islamic customs leads to new social divisions and pressures. Turkey’s relationship with Israel has imploded, and freedom of the press has suffered. According to *The Economist*, there are more imprisoned journalists in Turkey than in China.⁸⁰

Years before the Arab Spring began in Tunisia, one analyst suggested that change in the Middle East would create difficulties for the United States, Israel, other allies, and liberal Muslims, particularly women—consequences that were unpalatable in the short to medium term, but essential if al Qaeda-inspired terrorism were to be eliminated in the long term:

The United States should use its bully pulpit and its economic muscle to encourage those who want change and punish those who do not. In doing so, we will undoubtedly aid those who hate us and we may well hurt true friends. We should be generous in opening our borders to those secular Muslims who cannot stomach the democratic transition. Westernized women who grew up under secular dictatorships may find it very rough going. Many Israelis and their American supporters may rise in horror contemplating replacing peace-treaty-signing dictators with fundamentalists who may partly build a democratic consensus on anti-Zionism. But down this uneasy path lies an end to bin Ladenism and the specter of an American city attacked with weapons of mass destruction.⁸¹

In Canada in the late 1970s, the channeling of Quebec separatist advocacy and activism away from violence and into the political realm created considerable difficulties for Canadian politics, government, and governance over the ensuing years and decades—difficulties that continue to some extent to this day. But thirty-five years after the PQ first gained power in Quebec, serious violence has not recurred, independence parties are in disarray, and the threat of Quebec separatism has receded significantly. Canada’s “uneasy path” has led to a more peaceful and confident country.

II. Terrorist Groups and Terror-Supporting States

Hosting Terrorism: The Liberation Tigers of Tamil Eelam in Canada

John Thompson

The Western world has good reason to be deeply interested in the likes of al Qaeda, Hizballah, Lashkar-e-Taiba, and a host of other Islamist groups with access to Kalashnikovs and do-it-yourself explosives manuals that make the old *Anarchist Cookbook* look like a children's primer (which it was, come to think on it). But why should anyone be interested in the old Liberation Tigers of Tamil Eelam (LTTE)? Aren't they all mopped up now?

The latter question can be answered truthfully with either a *yes* or a *no*. There are in fact very good reasons to study the old LTTE. The world has long been familiar with terrorist groups that have evolved into organized criminal societies. This is how the Chinese Triads came to be, is what has become of the Provisional Wing of the IRA, and looks to be happening to Hizballah. Less familiar are criminals that form terrorist groups, and the LTTE is a prime example.

The story of terrorist groups making use of emigrant or expatriate communities goes back to the Irish Fenians of the 1860s, and the story continues today with "homegrown" jihadi terrorists. While this may be an old story, a terrorist group that deliberately creates such communities is a new twist. Indeed, the LTTE's creation of a Sri Lankan diaspora as a mechanism to maintain an international support structure is definitely worthy of study before some enterprising insurgent elsewhere does the same thing.

Finally, with the probable exception of Hizballah, no terrorist group has fully grasped the possibilities of globalization to the extent that LTTE did. The LTTE created a new template for its political, fundraising, and recruitment functions that was far more sophisticated and brazen than anything seen before. By creating its own diaspora community to feed upon and give it unchallenged support, the LTTE became totally independent of outside political backing, and was free to become one of the most innovative terrorist groups the world has yet seen.

Splashing Ashore

In August 1986, two lifeboats carrying 155 Sri Lankan Tamils turned up on the coast of Nova Scotia. At first the Tamils implied that they had used the boats to travel directly from Sri Lanka. The cover story and the new

arrivals' identity papers were both fishy, but they knew exactly what to do under Canadian immigration law: claim refugee status.¹ Even in a country geared for immigration, which prides itself on its tolerance, this still might not have been enough traditionally. However, a 1985 Supreme Court decision guaranteed that anyone arriving in Canada was entitled to such benefits as access to legal aid, and the chance of arguing a case all the way to the Supreme Court.²

Canada's new openness laid the way for a massive influx of Sri Lankan Tamils. Within fifteen years it seemed that Toronto had become the true center of Tamil Eelam. More Tamils lived in the Ontario city (200,000 by the community's claims, 98,500 according to Statistics Canada) than the 40,000 living in their old cultural capital of Jaffna in northern Sri Lanka.³

The Tamil refugees who arrived in Nova Scotia in 1986 had fled Sri Lanka's civil war, most claiming reasonable fears of being harmed by the government. But they arrived off Canada's coast by a suspiciously epic route.⁴ First they stopped at Tamil Nadu in Southern India, the Tamil state of the southeast. This would have been reasonable safety by any measure, but the group pressed on. Its next stop was Moscow—and I need not elucidate how distinctly odd it was for refugees to flee *into* the Soviet Union during the Cold War. The refugees next appeared in East Germany; but the truly miraculous transition was how they then arrived in West Germany, at a time when millions of East Germans would have loved to take the same trip.

West German authorities were suitably suspicious, and it was clear that the Germans weren't in a charitable mood. So one night, 155 Tamils disappeared onto a freighter in Hamburg Harbor, then turned up a few days later on the ship's lifeboats in Nova Scotia. At about this time, the Hamburg police station where the notes on this group of travelers had been accumulated was firebombed.⁵

The Canadian government wasn't inclined to listen to the suspicions of its immigration officers, and the refugee claimants were welcomed into Canada. Also welcomed were the tens of thousands who have followed since. Toronto police and local Tamils who had arrived prior to the lifeboat incident said that at least five of the 155 were LTTE organizers.⁶

Here's one interesting point about refugee claimants from Sri Lanka. In 1992—at a time when all parties in the Sri Lankan conflict were committing atrocities—some 8,452 Tamil refugee claimants showed up at the Sri Lankan High Commission in Ottawa to apply for travel documents for a return visit to Sri Lanka, which they claimed to have fled because of a fear of persecution by a supposedly genocidal government.⁷ Business remained brisk at the High Commission, and the Sri Lankan government opened a consular office in Toronto in 2000 to help handle the continuing high volume of requests for visas.

A History of the Conflict in Sri Lanka

Sri Lanka is an island country located off the southeast Tamil Nadu coast of India. Some older maps refer to it as Ceylon. At 64,000 square kilometers (24,700 square miles), it is about the size of West Virginia. Although the conflict in that country has often been characterized as one of the Sinhalese versus the Tamils, the situation was in fact far more complex.

Sri Lanka currently has a population of about 21,283,000. The Sinhalese are the largest group, making up about 74% of the population.⁸ The Sinhalese are mostly Buddhist, and can trace their presence on the island back for 2,500 years. Tamils comprise 8.5% of the population. They're predominantly Hindu, albeit with a strong Catholic admixture. The Tamil population is largely split between northerners, with roots in Sri Lanka going back more than a thousand years, and rural plantation workers whose ancestors were imported by the British in the nineteenth century. Another 7.5% of the population is Muslim, and the bulk of the remainder is a mix of European and Sri Lankan ancestry.

The island has been multicultural for centuries. Indeed, ethnic conflict is a modern phenomenon in Sri Lanka even though LTTE-invented versions of history attempt to depict the Tamils and Sinhalese as having been hostile for centuries. In truth, relative cooperation and long periods of mutual tolerance were the norm. Tamils sometimes ruled Sinhalese kingdoms, and served in the highest posts of their militaries.⁹

In the aftermath of gaining independence from the United Kingdom, the island (like so many developing nations in those days) underwent a population explosion while simultaneously investing heavily in education. Its economic growth didn't keep pace with population growth, and competition for high-end jobs got harder. Tamils were generally more eager to pursue higher education than the Sinhalese, and tended to be slightly better represented in the island's commercial, professional, and managerial arenas. As has been so often seen, there's nothing like a successful minority to incite some ugly instincts among the majority.

Inter-communal rioting occurred between 1956 and 1958, primarily Sinhalese attacks on Tamils. Running parallel to this violence, Solomon Bandaranaike's Sri Lanka Freedom Party made efforts to reduce the status of the Tamil language, which remains an official language alongside Sinhala. Some Sinhalese attempted to make Buddhism the country's official religion, and to impose restrictive quotas for higher education and civil service employment on the Tamils. These measures weren't too severe, but the thought counts more than the effect.

The next major outbreak of violence occurred in April 1971. A Maoist party, the Jantha Vimukthi Peramuna (JVP), launched simultaneous attacks on police stations, military posts, and government facilities—attacking police stations in five cities and taking control of 93 of the country's 273 rural stations

in the first few days.¹⁰ Members of the JVP tended to be young, educated, and under-employed Kandayan Sinhalese from the hilly interior of the island, a relatively remote area with an underdeveloped infrastructure. The Sri Lankan security apparatus stretched their resources to the limit, but the insurrection was put down in a few months with thousands of fatalities. As usual, the final death toll is still a subject of partisan debate, but at least 5,000 JVP rebels were killed, possibly far more.

In the mid to late 1970s, the Tamils became restive, and several new insurgent groups appeared, including the LTTE. This occurred in a context where “national liberation” movements were springing up around the world, and radical chic was in vogue. Prior to the insurgencies of the 1970s, Sri Lanka had an active criminal underworld.¹¹ This included black market goods, and extortion and protection rackets. It was a tough, often brutal subculture. It is also where the LTTE has its roots.

The leader of the Tigers, Velupillai Prabhakaran, dropped out of school at sixteen. He began to associate with Tamil “activist gangs,” which mixed underworld life with protest and nascent terrorism, participating on one occasion in a political kidnapping. Eventually he helped form a new gang, the New Tamil Tigers, in 1972. He personally assassinated a Tamil politician (Alfred Duraiappah, mayor of Jaffna) in 1975, who was a member of a largely Sinhalese political party. Prabhakaran advertised this deed by putting up posters throughout Jaffna claiming responsibility. Prabhakaran then consolidated complete control over the gang, and renamed it the Liberation Tigers of Tamil Eelam.¹²

Prabhakaran had paid close attention to several models of insurgency, noting in particular Yasir Arafat’s insistence that all opposition be united in a single front. The late Mayor Duraiappah had been a federalist Tamil politician who represented a nonmilitant solution to the Tamils’ grievances, so naturally he had to go. Hundreds of other Tamil figures who believed in answers other than armed insurgency would also be murdered by the LTTE over the coming decades.

There were rival organizations for Tamil nationalist leadership, among them the Tamil United Liberation Front (TULF), the People’s Liberation Organization of Tamil Eelam (PLOTE), the Tamil Eelam Liberation Organization (TELO), and Eelam Revolutionary Organization of Students (EROS). But Prabhakaran would brook no rivals inside or outside of the Tamil Tigers. The rival groups eventually either merged with the LTTE or else formed paramilitary organizations that aligned with the government against the Tigers. LTTE’s conflict with Sri Lanka’s government has a long, complex history. A truncated version:

1975-83. A terrorist phase featured attacks on rival Tamil groups, provocative attacks on the Sri Lankan police and military (which obligingly followed the revolutionary script with clumsy, brutal responses), and logistical preparations for guerrilla war.

1983. The armed guerrilla conflict began following deadly rioting in several cities. This development polarized Sri Lankan Tamils, and displaced hundreds of thousands inside Sri Lanka. The Tigers rapidly assembled trained guerrilla units and an international support structure. Sanctuary areas appeared around Jaffna and in northern jungles, which largely stayed under Tiger control until 2008.

1983-87. Conventional guerrilla warfare, with numerous atrocities committed by both the LTTE and the Sri Lankan armed forces. The LTTE used suicide attacks and eliminated many members of rival Tamil organizations. It also cemented its international structure.

1987-90. India intervened, as Indian troops attempted to impose New Delhi's peace process of increasing regional autonomy inside Sri Lanka while disarming the Tamils. However, the LTTE refused to cooperate, and turned on the peacekeepers. At the same time, a second Maoist JVP uprising engaged the attention of the Sri Lankan military, with brutal results.

1990-2001. Fighting punctuated by two major ceasefires, during which the LTTE restocked its arms chest. The Tigers engaged in ethnic cleansing of Sinhalese and Muslims, and massacres of prisoners. The LTTE also made major use of suicide attacks and terrorism, including the assassination of former Indian prime minister Rajiv Gandhi (1991) and Sri Lankan president Ranasinghe Premadasa (1993). Government forces slowly improved their conduct, but there were many collateral casualties from their use of airpower and artillery.

2002-06. Ceasefire and peace talks. Numerous infractions took place, the vast majority instigated by the LTTE, as well as continuing LTTE-orchestrated assassinations of dissenting Tamils. Indications that Prabhakaran intended to resume the war cost him support in the international diaspora. The LTTE's boycott of the 2005 Sri Lankan elections also backfired, as it resulted in the election of a government committed to decisively defeating the LTTE.

2006-09. Endgame. The LTTE's use of terrorism soon eroded any remaining international neutrality toward it, and the rough balance that had existed since 1983 tipped the government's way. By late 2008, long-held LTTE sanctuaries had fallen. In early 2009, 200,000 Tamils moved from LTTE-held areas into a "no-fire zone" decreed by the Sri Lankan military on the northeast coast, but the last Tigers soon fell back among them and used them as human shields. In this way, the LTTE managed to hold out until its powers of resistance collapsed in May 2009. Prabhakaran's concentration of the reins of power in his own hands prevented any one person from having the knowledge and influence to competently take over the LTTE after he was killed.

The War Tax System

The hundreds of thousands of Tamils displaced inside Sri Lanka after the 1983 riots were internal refugees, and supporting them drained LTTE's

resources. It seemed a better idea to get them out of the country. At first these displaced Tamils would be on welfare in Australia, Canada, or Western Europe. But given time and their natural talents, they would earn money. The structure to tap them for money from abroad was already in place.

The 1983 riots gave rise to the World Tamil Movement (WTM), which would be the main front organization for the LTTE internationally.¹³ Established in London, it provided such a ready framework for LTTE organizers and fundraising that one might suspect its founding was a response to a pre-planned contingency.

Given Prabhakaran's origins in the Sri Lankan underworld, it was inevitable that extorting civilians (or "taxation," as the LTTE called it) would be a source of income for the Tigers. LTTE also imposed this taxation in Sri Lanka, where most extortion revenue came from businesses that were taxed according to their apparent success.¹⁴ Families were also taxed, being forced to pay the LTTE 10,000 rupees (about \$280) annually, and to provide one family member for its "Civil Defense Force."¹⁵ Some residents of LTTE-dominated territories faced heavier demands for money if they had well-off relatives living abroad.

The taxation system was eventually extended throughout the Sri Lankan diaspora. For example, in Germany ten LTTE members were caught extorting 50 Deutschemarks (DM) per month from Tamil families (about \$53 Canadian). They threatened to harm relatives who still lived in Sri Lanka if they weren't paid. The ring grossed 200,000 DM per month.¹⁶ Extortion networks also operated in India, where 210,000 Sri Lankan Tamils had moved by 1990.

Canada also hosted extortionists who collected "war taxes" for the Tigers. Fear of the Tigers was evident within portions of the Tamil community by the late 1980s.¹⁷ Young men, often ex-guerrillas in the diaspora communities, approached those with relatives still in LTTE-controlled territories for money; their relatives were often threatened if they didn't pay the tax. The LTTE also used direct violence to secure these taxes. For example, Canadian authorities ultimately arrested five Tamil refugee claimants who entered as "boat people" from Germany in 1986 for beating another young Tamil man who hadn't paid an assessment of \$2,500.¹⁸

The concentration of Tamils in Toronto meant that the war tax was levied with particular effectiveness in that community. According to police, Toronto-area members of the LTTE met in 1993 to discuss strategies for increasing the amount extorted from businesses and individuals. The new levies demanded that Tamil businessmen turn over 20% of their profits. To ensure this, LTTE fundraisers drew up lists of profitable businesses.

Not all coercion was physical. The Tiger apparatus's control over Tamil cultural institutions in Canada was so complete that a Tamil openly taking an anti-Tiger stance risked ostracism. Further, coercion was not the only motive for contributing war taxes. A large number of Tamils who had been displaced by the war in Sri Lanka felt that they owed their safety to the LTTE. Their contributions were made willingly, and without duress.

Conversations I have had over the years with many Tamils and police investigators have helped me to understand how well the war tax system worked. A newly arrived family on welfare might be hit for \$30 per month; the highest amount I ever heard of was a \$3,500 monthly assessment from a prosperous shop owner. His father back in Sri Lanka needed to get from a Tiger-controlled town in the north to Colombo for medical treatment every month, and needed permission to pass through LTTE checkpoints. When the Toronto-based shop owner balked at his monthly assessment, the father was refused passage until his son paid.¹⁹

War taxes were raised as the Tigers started to build up their war chest in 2003-05. Human Rights Watch issued a 2006 report suggesting that the average Tamil family in Toronto was being dinged for \$200 to \$400 per month, and some businesses were being assessed for as much as \$100,000 annually.²⁰ LTTE fundraisers told some families to mortgage their homes, max out their credit cards, and borrow money to pay off these demands. The LTTE may also have raised war taxes at other points in the conflict, including when it tried to launch a major offensive in 2000. As the Tigers readied for a key battle that year, they reportedly expected every Tamil family in Australia, Canada, and the U.K. to contribute about USD \$1,000 to the cause.²¹ These extraordinary fundraising efforts presumably served a dual purpose. Like wartime war bond drives, they contributed to the general health of the organization, but they also let diaspora Tamils feel more involved in dramatic events back home.

Other LTTE tentacles included “development” and “reconstruction” groups that gathered funds for supposedly humanitarian purposes in northern Sri Lanka. The two largest of these were the Tamil Eelam Economic Development Organization (TEEDOR) and the Tamils Rehabilitation Organization (TRO). Both were in fact elements of the LTTE, and it was no secret that large portions of the donations made to either front were used to buy weaponry for the LTTE’s anti-government efforts.

LTTE fronts also staged fundraising and cultural events featuring members of the community parading in camouflage uniforms—sometimes with dummy AK-47s—under the colors of LTTE guerrilla formations. These became common until the LTTE was listed as a terrorist group in 2006, but it is still common in Toronto to see some Tamils wearing jackets and baseball caps in the distinctive camouflage pattern the guerrillas once used. But since the end of LTTE guerrilla forces in Sri Lanka in May 2009, I haven’t encountered a single Canadian Tamil who currently pays war taxes.

Criminal Enterprises

In addition to war taxes, LTTE generated revenue through criminal enterprises. This section outlines Tamil involvement in various criminal enterprises that helped support, or were connected to, the LTTE.

Drug trafficking. Smuggling has been a long tradition within the Jaffna area, and also among the Hindu caste that provided the LTTE's early leadership. The common ties of language, culture, and religion between Sri Lankan Tamils and residents of the nearby Indian state of Tamil Nadu aided the smugglers. Later, these ties would aid the insurgents.

Smugglers usually carried alcohol, tobacco, films, and jewelry. By 1970, authorities found a political dimension to the smuggling. Links between Tamil nationalists in India and Sri Lanka were noted, and the loads they smuggled came to include printed material and films espousing Tamil nationalism. By 1973, the smugglers also carried weapons and detonators.²² Tamil smugglers also added narcotics to their repertoire. By the late 1970s, authorities began to find small quantities of heroin in fishing boats used for smuggling. These shipments were not intended for use in Sri Lanka, as the smugglers were part of a route from Madras to Europe.

The LTTE's reliance on heroin smuggling began in the early 1980s after the Soviet invasion of Afghanistan and the revolution in Iran disrupted traditional opium smuggling routes through Pakistan. In response, Pakistani smugglers began to refine their own heroin (more easily transported than opium), and sought to develop new routes.²³ These smugglers initially tried shipping their products directly to Europe and North America, but Western authorities caught on. So, instead, the products began to go through India, thus putting Pakistani heroin traffickers in contact with Tamil insurgents in southern India. Between 1984 and 1985, heroin-related offenses in Sri Lanka rose tenfold. By 1993, an estimated 50,000 heroin addicts lived on the island, as heroin was becoming cheaper and more plentiful.

Tamil terrorists involved in international drug trafficking were first arrested in September 1984 in Rome. That month, Italian police stopped a vehicle carrying several Italians and a Tamil, and the search turned up 100 grams of heroin. Follow-up investigations resulted in the arrest of another thirty Tamils involved in drug trafficking and the discovery of a massive Sri Lankan Tamil network. Many within the network were LTTE members. The Italians arrested 174 more Tamils in the course of another drug trafficking investigation. By 1988, Italian police had broken up four separate rings of Tamil heroin smugglers. All were using some of their profits to fund the insurgency. The Swiss also made numerous arrests related to Tamil drug trafficking rings. Indeed, in 1984 a full 20% of the heroin seized in Switzerland was found on Tamil refugees. By mid-1985, more than 200 Tamil drug runners had been arrested around the world. Hardly any Tamils were known to be involved in drug trafficking just a few years before.

This drug trafficking also occurred in Canada. Canadian, French, and West German police captured some 200 Tamil couriers in a two-year period ending in 1987. Tamil trafficking networks received a mention in the RCMP's 1991 National Drug Estimate, their annual report on the narcotics industry in

Canada. One major center for Tamil operations was Montreal, which then had a \$1 billion narcotics market. Heroin trafficking remained a major source of funds for the LTTE well into the 1990s.

Human cargo. Another source of funds came from smuggling human cargoes into Europe and Canada. In the early days of the insurgency, a group of eight Tamils might pay a basic fee of \$500 to be taken out of Sri Lanka (in addition to the cost of their LTTE-issued “exit visas”).²⁴ The rates increased thereafter, with costs for a Sri Lankan Tamil to be brought into Canada eventually running between \$10,000 and \$40,000. The insurgents would often offer to locate Tamil refugees in a safe country, and even find employment for them.

Several other mass shipments of Tamils to Canada by sea were undertaken in 1986. One lift of 250 originated in West Germany, and another of 700 came from Turkey. An attempt to smuggle 269 Tamil refugees from West Germany to Canada was foiled by Canadian immigration authorities and German police in 1988. But by the early 1990s it became clear that the Tamils’ preferred method for human smuggling was by air: Their cargo would board a Canadian-bound flight in Europe, and claim undocumented refugee status upon landing.

In late 1994, authorities in Holland found a strong connection between heroin smuggling and refugee smuggling. An investigation of a narcotics ring revealed that it had smuggled more than 200 Tamils into the Netherlands via Russia. Once on Dutch soil, the smugglers confiscated the false identity documents used by the refugees, who then claimed asylum. Similarly, French authorities found Tamil-run offices solely dedicated to the production of fake IDs and visas.

A series of arrests in Toronto hinted that a similar system of forged refugee documents existed to bring Tamils into Canada.²⁵ The smuggling ring would purchase valid passports from Canadian Tamils for about \$200 apiece. These were then fitted with new photographs and personal information that were provided by co-smugglers in India. Couriers for the ring then covertly brought the doctored passports out of Canada and gave them to the new users, so that they could enter the country. Upon entry, the passports were returned to the smuggling ring, to be reused.²⁶ Another passport operation was run out of fifteen forgery shops in southern Ontario.

Tamil youth gangs. In the 1990s, Toronto was home to two major Tamil youth gangs. The VVT was more oriented toward the Tigers and their cause, while members of AK-Kannan tended to oppose the group (often for reasons related to caste, and stemming from differences within the Tamil community inside Sri Lanka). One of the main points of contention between the VVT and AK-Kannan concerned drug distribution areas.²⁷ These gangs contained a mix of older members, many of whom were veterans who fought with the Tigers in Sri Lanka, and younger kids caught up in the violent lore and images of the LTTE’s war. They weren’t able to go to Sri Lanka themselves to fight in the

conflict, but found a surrogate outlet. VVT had somewhere between 350 to 500 members, while AK-Kannan had about 300.

The two groups fought with each other inside Ontario on a number of occasions, often in violent melees between dozens of supporters with machetes and handguns. Automatic weapons were sometimes used in drive-by shootings. The body count was low, but several young Tamils were killed, and dozens were injured.

With so many combat veterans, the Tamil youth gangs had nerve to spare. In early 1998, the Tamils—in a display of ruthlessness—took over a prime narcotics market area in Toronto controlled by Jamaican gangs. The day’s business had not yet begun, and some of the “Yardies” (*patois* for gang members) from a Jamaican posse were gossiping while leaning against one of their cars when a Tamil walked up and pulled a Kalashnikov from under his coat. The Yardies, accustomed to discharging handguns at each other at ranges of more than 50 meters (164 feet), were stunned by this point-blank approach. The Tamil emptied thirty rounds into the hood of the car, switched magazines and then told the staring Jamaicans that the corner was now controlled by Tamils; and so it remained.²⁸

The youth gangs engaged in lethal fights over girls, soccer games, and access to doughnut shops (a favorite hangout), among other things. Gang members often hung around in some Tamil neighborhoods in the early afternoons, which caused discomfort and anxiety for many older Tamils, and cruised around in white Cherokees and Toyotas in the evenings.

Leaders of the Tiger front organizations were embarrassed by the notoriety the gangs generated, and strove to reduce gang violence. Perhaps predictably, Tamil leaders attempted to capitalize on cooperative efforts with Toronto police as “evidence” of the overall lawfulness and civic spirit of the community. “We Tamils are not a terrorist group, we are cooperating with police,” the president of the Federation of Associations of Canadian Tamils related in a television panel on TVO in May 2002.

As the Tamils’ fortunes waned in Sri Lanka, the street gangs’ fortunes waned, too, particularly because the Tamil community had grown tired of them. Authorities arrested forty gang members in Toronto in 2001 and, after the usual legal battles, a number were deported.²⁹ The deportations broke the back of Toronto’s two most powerful Tamil street gangs. What remains today are groups of youngsters like the Killah Brown Thugz, Brave Lankan Soldiers, and Junior Lankaz whose taste in music and dress can be discerned from their names.

The Political Front

Wherever the World Tamil Movement was located, it employed several tactics to become connected to the local political structure. When it first appeared in Canada, the WTM started to spin off franchises and local chapters to dominate the diaspora community and lend credibility to its cause. These franchises and

local organizations included such groups as the Academy of Tamil Arts and Technology, set up by the WTM through the Tamil Eelam Society of Canada; the Tamil Anti-Racism Committee, also set up by the WTM through the Tamil Eelam Society of Canada; and the World Tamil Movement–Ontario, which was one of the various local branches of the WTM throughout Canada.

In Jacques Ellul’s classic study *Propaganda: The Formation of Men’s Attitudes*, he observed that propaganda had to be “total” and universal to succeed.³⁰ One can imagine the effect on a Sri Lankan Tamil family that arrived in Canada and found that supporters of the LTTE ran all of the services designed to facilitate their transition. The family’s breadwinner found that English-language training, new job skills, and employment services were run through groups affiliated with LTTE. The parents found that LTTE supporters were babysitting their children. The LTTE’s supporters ran events at the cultural centers, and staffed tables at the temple. If this family looked for Tamil media or commentary, it would find no shortage of newspapers, radio programs and television shows. These were neutral at best (by not mentioning the conflict at home), or else pro-Tiger.

The consequences of taking an anti-LTTE line are illustrated by a pair of events: a 1992 drive-by shooting at the home of a Tamil-language broadcaster who refused to play pro-Tiger ads on his show, and the 1995 persecution of distributors and advertisers for David Jeyaraj’s newspaper *Muncharie*. Nobody was hurt in the first case, even though three bullets were fired through the broadcaster’s front door. In the latter case, Jeyaraj was forced out of business. Before his business went under, the distributor of his paper had his leg broken and his van set aflame.

LTTE’s support network also worked to form linkages outside the Tamil community. LTTE-affiliated groups played an active role in “anti-racism” causes in the early 1990s, and connected to Canada’s progressive left by presenting themselves as a national liberation struggle. But this was less important than the work of wooing politicians from established parties, something the Tamil Tigers did throughout the 1990s. One apparent weakness of democratic societies is that popularity may carry more weight than principle. Political figures at all levels have to work hard toward their own reelection. Margins of electoral victory are often quite thin, with few of Canada’s provincial or federal representatives winning more than 50% of the popular vote. One result is that most representatives are careful about ethnic/cultural issues, especially if they have a large bloc of people from the same background in their riding. (Canadian ridings are the electoral districts for parliamentarians, each having roughly 100,000 residents.) Militants, activists, and self-appointed community leaders in Canada are well aware of this fact.

Over the past thirty years, it has become difficult to avoid encountering ethnic blocs in all federal ridings, especially during nomination battles. Various Tamil sources have told me that the LTTE’s front groups ensured

a plentiful supply of eager young Tamil volunteers to help out in particular ridings. Moreover, politicians are constantly seeking out civic events that draw media coverage and give them exposure and photo ops. The Hindu New Year's celebration in a city with hundreds of thousands of Hindus, for example, would be a valuable function for a politician to attend. Unfortunately, too many attended the 2000 Hindu New Year's party in Toronto hosted by the Federation of Associations of Canadian Tamils (FACT), an open front group for the LTTE. Among the municipal, provincial, and federal political figures in attendance were two Liberal cabinet ministers, finance minister Paul Martin (who subsequently served as prime minister from 2003 to 2006) and Maria Minna, then the minister of international cooperation.

The two ministers (or staffers who vet their appointments) should have known better. Ottawa had already spent five years trying to deport Manickavasagam Suresh, a FACT leader, for reasons of national security (the RCMP believed that he was a former terrorist leader in the LTTE). The RCMP and CSIS were aware of the group's nature, and the latter had published a report on FACT describing it as a front organization. The report also mentioned that FACT raises money from often unwilling Canadian Tamils to support the Sri Lankan insurgency.³¹ The two ministers did not give an inch to those who questioned their decision to dine with a terrorist group, even accusing their critics of being "un-Canadian."

Representatives at various levels of government are only too happy to raise an issue for constituents who believe an injustice is happening. Often the representatives lack the time to examine these issues closely. This was presumably the case for Marlene Catterall, a Liberal MP from the riding of Ottawa West, where there are some Tamils, but not the decisive concentration that can be found in Toronto's Scarborough area. Catterall introduced a petition to the House of Commons in April 1996 calling for Ottawa to remain neutral toward Sri Lanka (by which one might presume the parliamentarian hoped for official leniency toward the LTTE), and demanding Manickavasagam Suresh's release from a Canadian immigration detention center. Other representatives may not have fallen prey to simple ignorance, but may have been actively manipulated.

The LTTE's Undoing

By 2004 it was clear that a 2002 ceasefire between Sri Lanka and the LTTE had a limited life expectancy, and war would return. In September 2004, the LTTE fronts in Toronto ordered maximum attendance for a demonstration—meaning that WTM organizers told Tamil store owners to shut their establishments so that more people would attend. The demonstration was extremely well organized, but it seemed clear to many of the estimated 10,000 Tamils in attendance that the call for Ottawa to encourage peace talks was accompanied by a subtext that the war would likely resume. This full-scale

rally with giant posters of Prabhakaran and hundreds of Tiger flags implied that the Tiger fronts were getting back in gear after a thirty-month hiatus. The attendance also suggested that the Tigers could no longer draw the kind of crowd they once commanded. The devastating tsunami that struck in December 2004 apparently put the LTTE's plans on hold, but by 2006 headlines out of Sri Lanka suggested the old pattern of Tiger provocation and government reaction had resumed.

In 2006, the Liberals were displaced after thirteen years of governing, and Stephen Harper's Conservatives formed a minority government. Thirteen years of assiduous Tamil networking had gone to waste; the Conservatives were more alert to Tiger tactics. One of the first acts of the new government was to add both the LTTE and the World Tamil Movement to the list of entities to which Bill C-36 antiterrorism laws apply. With this listing it finally became illegal for the Tamil Tigers to raise money, distribute propaganda, acquire equipment, and condition youngsters in Canada.

The Canadian police, particularly the Integrated National Security Enforcement Teams (INSET) and Ontario's Provincial Anti-Terrorism Section (PATS), had developed sources on the LTTE for years. Translating this intelligence into courtroom-ready evidence is something else. Even so, authorities raided a number of sites associated with FACT and the WTM.

The Tigers reacted with typical brazenness. They used alternate front groups to host events, yet still flew the Tiger flag and sung the group's anthem. But donations to the LTTE in Canada were declining. Canadian Tamils were increasingly tired of unending war, tired of the war taxes, tired of the Tigers themselves. Ordinary Tamils found it easier to excuse themselves from paying their dues or turning up to compulsory events because of the changes to the legal regime.

Thus, the LTTE saw it as increasingly important to stage major events in order to show the community that the Tigers still ran things. This became especially vital as news from the war front got worse, with the Tigers unable to halt a major Sri Lankan military offensive aimed at areas held by the LTTE since the 1980s. In 2008, the Tigers saw their annual rally throughout the diaspora as an opportunity to make this statement. Prabhakaran used the occasion to make a live address to the diaspora. But in Toronto, the meeting hall's owner pulled the video feed just before the event; he apparently had been told this was a cultural event, not a rally for supporters of a banned terrorist organization. At the climax of the ceremony, police in raid jackets started clomping around the stage in front of the uniformed Tiger veterans. Worse, word quickly spread that police in the parking lot were filming license plates, which sparked a general exodus by a third of the audience.

The event undermined much of the credibility of the Tigers' front organizations, and let local Tamils see the humiliation of the Tigers with their own eyes. It also emboldened critics in the Tamil community; the Provincial

Anti-Terrorism Section and intelligence desks of the Toronto Police Service starting fielding calls from dozens of new Tamil informers eager to see the continuing reduction of the Tigers' presence.

The LTTE's situation in Sri Lanka also grew grim, as the renewed fighting saw a heavily reinforced Sri Lankan army remorselessly wrest away the Tigers' longest held sanctuaries. As the army's vice closed around the Tigers in northern Sri Lanka, the front groups got desperate, often hysterically so. Protest after protest occurred in Toronto, Montreal, and Ottawa, yet these did nothing to win support from the Canadian public. To provide an illusion of high numbers, even as real attendance dwindled, Tiger demonstrators lined the sidewalks in single file at protests, each one with a large sign or a flag. Flash mob tactics would send several hundred at a time to one major intersection after another, each group being counted repeatedly to create the impression that tens of thousands were in fact present. The Tigers also won no friends when a mob of them swarmed the cars of the Canadian prime minister and several cabinet members as they left a cabinet meeting in early April 2009.

Another protest worried Toronto police when the demonstrators suddenly surged up an entrance ramp onto a major highway. Police scrambled to put a thin line of officers across the end of the ramp, and summon extra resources to contain traffic on the highway before the demonstrators dashed into high-speed traffic. The intensity of the demonstrators' emotions chilled many officers, though none of them believed they were at risk of personal harm. After several hours, the demonstrators were persuaded to return from the ramp to street level.

Meanwhile, the LTTE was penned into a tiny zone on Sri Lanka's northeastern coast, along with 200,000 Tamil civilians. As the Tigers' holdings diminished to a few square kilometers by late April 2009, most of the trapped civilians fled the Tiger lines. The LTTE's powers of resistance crumbled after that, and by May 18 Prabhakaran was dead, along with thousands of Tigers and civilians caught in the crossfire. As the fighting in Sri Lanka concluded, Canadian Tamils mounted a prolonged demonstration outside the U.S. consulate in downtown Toronto. They maintained it for months, but their numbers dwindled over time. By July 2009 the demonstration was abandoned altogether. (It didn't help that participants in an announced hunger strike were observed traipsing into the local Tim Horton's doughnut shop.)

Conclusion

The Tigers' marginalization has been liberating for most Canadian Tamils, but a trial for others. The war tax system is definitely over, and community expression is now freer. But many Tamils were emotionally attached to the Tigers, and contributed freely to the group; it is hard for many in the community to accept that the long struggle was all in vain.

The hydra fought by the legendary Greek hero Hercules could regenerate two new heads every time one was lopped off. In the Tigers' case, the front groups have lost their main body, and several are trying to regenerate it while butting and gnawing on the other heads.

One persistent legacy may trouble Canada in the future. Given the uncontested control they had over the diaspora for more than twenty years, the LTTE's front organizations were largely able to define Tamil identity for the children born into that community. While many of the first generation of Tamil arrivals knew the reality of multicultural life in Sri Lanka, the Tiger narrative of bloody division and a Sinhalese appetite for genocide has been transmitted to many Tamils born here. Given the passage of time, some of their children will seek revenge for real or imagined slights, as they try to connect with their Tamil heritage and only find the Tiger narrative describing it.

Somali Identity and Support for al Shabaab in Canada, the U.S., and the U.K.

Michael King, Ali Mohamed & Farah Aw-Osman

Like many other young Westerners, Mohamed Elmi Ibrahim was attending university, majoring in English.¹ He maintained a blog where he posted pictures of pilgrimages to Mecca, unsurprising for a young Muslim wanting to display his faith publicly. Ibrahim's blog also contained pictures of snow-filled landscapes featuring the northern lights, also unsurprising for a young Canadian.² In 2009, however, he diverged from the usual path of a second-generation Somali living in Canada, and disappeared. He was not alone. That same year, five other young Canadians of Somali descent went missing.³ It was feared that Ibrahim and the five others were lured into joining al Shabaab (Arabic for "the youth"), a terrorist group fighting the Somali government and aligned with al Qaeda.⁴ In March 2010, a video posted on the Internet not only confirmed that Ibrahim had indeed joined the ranks of al Shabaab, but also posted his eulogy: Ibrahim had died in combat.

Unfortunately, other young Somalis living in the West have been subject to similar fates. Most notable was Shirwa Ahmed, who left Minneapolis to join al Shabaab. In 2008, he drove a bomb-laden vehicle that exploded in northern Somalia, infamously becoming the first American suicide bomber. At the time of writing this chapter, approximately forty American-Somalis, twenty Canadian-Somalis, and fifty British nationals are thought to have participated in al Shabaab's insurgency. Moreover, young Somalis have been arrested on terrorism charges in the Netherlands and Australia.⁵

A Brief History of al Shabaab

The group referred to as al Shabaab, officially known as Harakat al Shabaab al Mujahedin, is now part of the global jihadi movement. In 2012, it formally joined the al Qaeda organization. It has an active international recruitment drive, and has established links with other jihadi organizations, most notably al Qaeda in the Arabian Peninsula (AQAP). Like similar jihadi groups, however, al Shabaab is also the product of other organizations that pursued different, more local objectives. Indeed, before acquiring a global dimension, Islamic extremism in Somalia could best be described as successive revivalist movements driven by local circumstances.

One of the first revivalist waves was embodied by the Islamic Union (IU), a fundamentalist group formed during the 1980s that sought to unseat the dictatorship of then-president Siad Barre and transform Somalia into an Islamic state. It also had the expansionist goal of creating a “greater Somalia” that would encompass neighboring regions. Given that the IU and the then-nascent al Qaeda had compatible objectives, informal ties between the two organizations developed during the 1990s. Al Qaeda sent trainers and money to the IU, while the IU sent fighters to al Qaeda for training and service in Afghanistan.⁶ The first Somalia-based training camp for jihadis was reportedly established circa 1996.

In the early 2000s, the youngest, most militant members of the IU formed al Shabaab.⁷ As IU dissipated, al Shabaab was incorporated into the newest emerging revivalist organization, the Islamic Courts Union (ICU). The ICU emerged from a coalition of Islamic courts operating across Somalia. These courts arose independently, each being a local response to the lawlessness and absence of official, state-level governance.⁸ As these courts united and formed the ICU, al Shabaab acted as their militia, and helped the ICU establish its authority and gain control over most of southern and central Somalia.

Since its creation, al Shabaab’s ranks, its objectives, and its support from the wider population have all been shaped by geopolitical events occurring in the Horn of Africa. One significant event was the Ethiopian invasion of 2006, which galvanized the Muslim identity of many Somalis. The Ethiopian forces defeated the ICU, but not al Shabaab, who waged an effective guerilla campaign against the invaders.⁹ Their successful campaign led many to view al Shabaab as champions of Somali interests, leading to increased popular support, and motivating many to join their ranks. Unable to conquer al Shabaab, Ethiopian troops withdrew in January 2009.

Since 2008, and especially following the Ethiopian withdrawal, al Shabaab has reframed its activities from a local insurgency against invaders and the Western-backed transitional federal government to a more global struggle to defend Islam from the West. This ideological shift had much to do with al Shabaab’s increasing ties with al Qaeda’s senior leadership. As these ties intensified, al Qaeda cadres acquired important positions among al Shabaab’s decision-making structure.

Now considered a major player in the global jihadi movement, al Shabaab attracts foreigners from all over the globe, not least from Western countries. Among al Shabaab’s ranks, non-Somali jihadis are currently estimated to number 200, and vary from foot-soldiers to high-ranking leaders.¹⁰ Somalia will likely continue to attract aspiring jihadis for the foreseeable future.

Among its efforts to wage global jihad, al Shabaab is actively recruiting Western citizens. Recognizing these recruitment efforts, the Canadian government formally designated al Shabaab a terrorist organization in March 2010. This legislation, however, did not put a stop to Canadians’

attempts to join the organization. In March 2011, a year after the legislation was passed, Mohamed Hersi was arrested at Toronto's international airport and charged with attempting to travel to Somalia with the intent of joining al Shabaab.¹¹

While Western security services are attempting to prevent Westerners from traveling to join Somalia's insurgency, al Shabaab is promoting other ways to participate in the global jihad. In an audio message released in October 2011, an American member of al Shabaab urged: "My brothers and sisters, do jihad in America, do jihad in Canada, do jihad in England [and] anywhere in Europe, in Asia, in Africa, in China, in Australia—anywhere you find *kuffar* [infidels]."¹² The threat al Shabaab poses to Canada is clear; but precisely why young Somali-Canadians choose to join al Shabaab remains poorly understood.

Research Objectives

It is in this context that the Canadian Friends of Somalia (CFS), a nonprofit organization serving the Somali community of Canada, conducted a research project to better understand the possible motivations leading Somali youth to become involved with al Shabaab. To be clear, this research was not an academic pursuit. The initiative was set forth by CFS, a grassroots, community-based organization responding to a growing concern that is expressed both within and also outside the Somali diaspora. This is not to say that violent radicalization is a rampant phenomenon among Somali-Canadians. Radicalized individuals arrested on terrorism charges have very much been isolated cases. Yet CFS wanted to respond to its community members' concerns, and preventively address the issue of youth radicalization. In the present chapter, we describe the research that resulted from this initiative: an international survey completed by Somali youth living in the United Kingdom, the United States, and Canada.

The first phase of our research consisted of developing a theory of radicalization that was not only based on academic expertise, but also rooted in the Somali diaspora's conception about the issues affecting youth. This theory is presented in the next section. Following the description of our theory, we summarize the data-collection phase of the research, and detail how our survey was used to measure factors believed to contribute to the radicalization process. Thereafter, an analysis of the data is presented with the goal of determining if the survey results supported our theory of youth radicalization. In the final section of the chapter, we offer a discussion of our findings, raise questions elicited by our survey results, and propose recommendations for future research.

Understanding Youth Radicalization

Much has been written about the radicalization of young Muslims in Western countries who become involved in violent jihad. Within this literature,

security experts and social scientists have offered many theories about how this occurs.¹³ To review the current state of knowledge about radicalization, CFS organized an international conference convening security experts, policymakers, law enforcement officials, academics, and community leaders. Most notable was the additional presence of Somali diaspora members from the United States, U.K., Sweden, Holland, and Canada. This conference was held in Ottawa on December 6-7, 2010, under the banner “Promoting Peace and Preventing Youth Radicalization,” with the express goal of understanding why Somali youth in Western countries join al Shabaab.

From the various presentations and discussions held during the conference, a theory of radicalization emerged. Experts, academics, law enforcement officials, and Somali youth commonly pointed to the mismanagement of the dual identity held by second-generation immigrants as a central factor in youth radicalization. Somali youth living in the West must manage a heritage identity inherited from their family at the same time they wrestle with internalizing some form of identity conferred by their country of residence.¹⁴ For some youth already confronted by identity-construction tasks typical of adolescence, managing these two identities can be especially difficult.¹⁵ These challenges, many conference attendees claimed, can lead youth to explore and eventually embrace violent jihad.

It is important to highlight that the centrality of identity to youth radicalization emerged as a *theory*. That is, this notion was rooted in the educated supposition of academics, the professional insights of security officials, and the personal experiences of Somali diaspora members. No empirical evidence was presented at the conference to support this notion. Nevertheless, in having so many experts, as well as youth themselves, describing similar identity-related processes, it became the focal theme for our research on radicalization.

The conference attendees’ focus on identity accurately reflected a growing consensus among many terrorism researchers about the potential role of identity in the radicalization process leading to violence.¹⁶ To be clear, researchers are not referring to personal identities, but rather collective identities, such as those based on gender, ethnicity, citizenship, and of course, religion. When individuals consider themselves part of a social category (in other words, when they *identify* with a group), this identity becomes psychologically important, and can determine behavior.¹⁷ Indeed, the implications of one’s collective identity are wide-ranging; it often is a driving force underlying social movements, prejudice, and social influence.

The insights generated during the Promoting Peace and Preventing Youth Radicalization conference were used as a basis for a theory of youth radicalization. Building on the theme of identity, this theory was further developed in order to correspond with established academic research from social psychology and terrorism studies. This identity-centered theory of youth radicalization is presented next.

An Identity-Centered Theory of Youth Radicalization

Three factors are suggested to increase the likelihood for Somali youth living in a Western country to radicalize and ultimately support, or even join, al Shabaab. The first factor consists of the failure to successfully internalize their bicultural identity, leading to a rejection of their Western identity. The second factor is a heightened interest in Islam, which can sometimes lead an individual to explore jihadi ideology. The third factor is the appeal of jihadism, a sub-culture that emphasizes bravado, adventure, and the glorification of violence.

Independently, each of these factors is insufficient to raise the likelihood of radicalization. For example, when unaccompanied by the two other factors, a heightened interest in Islam can lead to positive personal and social outcomes. We contend, however, that under the circumstances where an individual rejects Western culture (factor 1) and finds subversive ideologies such as jihadism personally appealing (factor 3), an increased interest in Islam (factor 2) raises the likelihood of radicalization. Thus, when each factor is present, the combined effects are thought to increase the possibility for Somali youth living in a Western country to espouse an ideology that legitimizes violence and ultimately join an organization that embodies that ideology, such as al Shabaab. Following is a detailed explanation of each factor.

Factor 1: bicultural identity integration failure and rejecting Western identity. Somali youth living in Canada, like many others, must integrate two collective identities derived from two different cultures. Immigrants, the children of immigrants, and First Nations all must psychologically integrate a heritage culture with its corresponding identity along with a mainstream Canadian culture and its corresponding identity.

Much research has been devoted to understanding the adaptation of those faced with integrating the identities arising from two different cultures. As a whole, findings suggest that bicultural youth living in the West do learn to comfortably navigate their two cultures, and generally adopt aspects of both identities. An individual can thus feel both Somali and Canadian, without having to favor one identity over the other.¹⁸ Although conflicts may sometimes arise from living in two different cultures, bicultural individuals tend to be psychologically as well-adjusted as their monocultural peers.¹⁹ When adequately internalized, a clear understanding of one's bicultural identity has been linked to increased self-esteem and well-being.²⁰ More pertinent to this research, however, is the claim made by some experts that developing a dual identity, or at least internalizing aspects of North American cultural values, may inoculate bicultural individuals against radicalization.²¹

Unfortunately, some individuals do not effectively internalize their two cultural identities. There are a multitude of reasons for this to happen.

For simplicity, however, barriers to identity integration can be categorized along two dimensions.²² First are barriers that are *external* to the individual; these mostly concern the acceptance of others. For example, research has illustrated how despite feeling just as American as their peers, Asian-Americans report being perceived as less American than their mainstream peers, and being treated as foreigners in daily interactions.²³ In such circumstances, a minority group member's Western identity is "denied" by mainstream others.

Second are barriers that are *internal* to the individual; these mostly concern motivation. Indeed, those who are faced with internalizing two cultures must be motivated to internalize each culture. Here it is important to distinguish between those who might apathetically lack motivation to acculturate from those who actively seek to reject a specific culture. According to our theory, it is the active rejection that constitutes the first step in the radicalization process.

To be clear, Somali-Canadian youth are faced with a psychological task they have little control over: they must integrate two cultures as part of their identity. By living in Canada, they are subjected to Canadian culture and bestowed a Canadian identity. They also possess Somali heritage, an undeniable feature that differentiates them from mainstream Canadians. Many, if not most, comfortably internalize this dual identity. In some cases, though, Western identity is avoided; and sometimes it is actively rejected.

The rejection of Western mainstream culture can be expressed in a variety of ways, from art and activism to criminality and violence.²⁴ How youth choose to express this rejection may depend on the framework they find to structure what many describe as a vague, simplistic, and often naïve hostility toward mainstream culture. The danger is that among other ideologies, jihadism is readily available. For young Muslims who reject the mainstream, jihadism offers validation, coherence, and structure for their negative attitudes regarding the Western culture surrounding them. To become interested in jihadism, however, two other psychological factors must also be present in the individual. One of these factors is an interest in Islam.

Factor 2: heightened interest in Islam. By itself, the rejection of Western culture cannot account for youth radicalization. Among bicultural youth who reject the Western dimension of their identity, the vast majority do not radicalize toward jihadism. To begin exploring jihadism, we contend that those who reject Western culture must concurrently experience a heightened interest in Islam.

For some Muslims living in Western countries, this heightened interest was instigated by the 9/11 attacks and the ensuing public debate about Islam. Research in the United States and the U.K. describes how many Muslims asserted their religious identity in reaction to the negative media coverage

of Islam and the discrimination that followed 9/11.²⁵ Alongside the negative attention brought upon Muslims, 9/11 also aroused a genuine curiosity about Islam by people of all faiths. This widespread public curiosity has seemingly led many, not least young Muslims themselves, to learn more about Islam.

It is through their attempts to learn about Islam that some youth may, out of curiosity, explore jihadism. Lectures, books, essays, and even magazines advocating jihadi ideology are easily found, and the Internet allows for easy access to a vast array of informative and visually compelling sources for interested youth. For those becoming acquainted with its tenets, jihadism may be appealing as it provides a coherent framework for structuring their hostility toward Western culture.

Among those for whom jihadism's anti-Western doctrine resonates, many will find its extremity and rigidity unpalatable. Some, however, will not, and will venture to learn more. These individuals are on the cusp of beginning the radicalization process. At this point, a major factor that ultimately leads youth to radicalize is the subculture surrounding jihadism. The features rendering this subculture attractive are discussed next.

Factor 3: the appeal of jihadi subculture. The final factor in our theory of radicalization is a personal resonance with jihadi subculture. Youth, especially young men, might be motivated to explore the ideology because of its accompanying lifestyle, which involves secrecy, adventure, danger, and heroism. Although violence is generally considered to be morally wrong, the violence perpetrated by jihadis is framed in righteousness, piety, and the fight against injustice. Terrorism specialist Jessica Stern claims that for some young Muslims in the West, "jihad is a cool way of expressing dissatisfaction with a power elite."²⁶ Experts have echoed this observation by suggesting that sensation-seeking underlies the motivations of many individuals charged with homegrown terrorism.²⁷

It is thus not a surprise to find al Shabaab exploiting the allure of the jihadi subculture in its recruitment efforts. Omar Hammami, an American Muslim who has risen through the ranks of al Shabaab, has produced half a dozen English-language rap songs since 2009, all aimed at attracting young Western Muslims to join the global jihad.²⁸ His rhymes focus on themes of bravado, self-sacrifice, and injustice, often interspersed with the names of weapons used by Western armies.

Our identity-centered theory of youth radicalization thus consists of three independent factors that, when combined, are thought to increase the likelihood that a Somali youth living in the West would radicalize to the point of espousing jihadism. While different avenues are available to conduct jihad, supporting and ultimately joining al Shabaab may appear as the most obvious avenue for Somali youth.

Testing the Theory

To test the identity-centered theory of youth radicalization, we designed a survey that was completed by Somali youth living in the Canada, the U.S., and the U.K. As a preliminary study, we kept the survey simple and short, focusing only on testing the theory's two initial factors. The first factor, *bicultural identity integration failure* (rejecting Western identity), was assessed by asking youth about their Somali, Muslim, and Western identities. To assess the theory's second factor, the *heightened interest in Islam*, we asked youth about their level of religiosity since 9/11. The survey also included questions to determine youths' attitudes toward al Shabaab, which was used as a proxy indicator of "radicalization."

Recruitment. Several strategies were undertaken to recruit Somali youth for this research project. The CFS contacted various Somali youth organizations located in Canada, the U.S., and the U.K. to help advertise its survey. Each organization hosted Somali youth in a classroom setting to complete the survey; compensation was given to each participant.

The survey was also made available on the Internet. Various social media platforms, such as Facebook, LinkedIn, and Twitter, were used to advertise the survey. An Internet link was also posted on the CFS website that redirected youth to the online survey. The CFS also sent emails announcing the survey and inviting youth to participate to various members of the diaspora. The survey was advertised on websites often visited by Somali youth, such as Hiiraan.com, Somalinet.com, Hadwanaag.com, and Bartamaha.com. Participation was restricted to residents of the United States, Canada, and Britain between the ages of 16 to 25 who identified as Somali.

Respondents. In total, 357 youth completed the online survey. Of these, 105 respondents were women and 252 were men, with approximately half (53.5%) of the sample between the ages of 23 and 25. The largest portion (161, or 45.1%) was from the United States, with 121 (33.9%) from Canada, and 75 (21%) from Britain. The majority of respondents (204, or 57.1%) were university students, while 83 (23.2%) were in high school. Others had either full-time or part-time employment, or were in search of work.

Survey. The online survey, and its corresponding printed version, consisted of three broad sections. The first section contained demographic questions about age, gender, occupation, and country of residence.

The second section contained a question assessing youths' perception of their collective identity. Here, respondents were asked to specify which categories among four best described their identity. Respondents could choose Somali, Muslim, or an identity representing their Western country of residence, such as American, Canadian, or British. They could also select a category that represented a dual identity, combining their Somali identity with that of their Western country of residence. Respondents could choose

more than one category, thus specifying, for example, their identity as “Somali-Muslim.”

The third section contained questions about religiosity and al Shabaab. One question assessed about respondents’ increased religiosity after the 9/11 attacks. Here, respondents could answer from 1 (not at all) to 4 (definitely). The last question in this section asked if al Shabaab fighters were fighting a “just cause.” To answer, respondents could choose from a three-point scale ranging from “no,” to “not sure,” to “yes.”

A concluding section thanked respondents for completing the survey, and contained CFS’s coordinates, inviting questions or comments about the research.

Survey Results

A statistical breakdown of respondents’ answers is presented next. It is important to note that although 357 youth participated, some respondents did not answer all questions on the survey. Consequently, the following statistics are based on smaller samples; the exact sample size (*N*) is provided for each statistic.

Table 1 displays how Somali youth, across the three countries, categorized their identity. For each country, the most popular identity category is indicated in **bold**. The statistics in Table 1 indicate that youth living in the United States and Canada were more likely to categorize themselves as bicultural, whereas youth living in the U.K. were more likely to consider themselves Somali only. These results suggest that Somali youth in North America and those in Britain carry different attitudes toward the Western dimension of their identity. Somali youth in North America who responded to this survey were more likely to espouse their Western identity.

Table 1. Identity categorization of Somali youth.

| | U.S. (N = 112) | Canada (N = 100) | U.K. (N = 53) |
|-----------------------|----------------|------------------|---------------|
| Only Somali | 35.7 % | 23.0 % | 39.6 % |
| Only Muslim | 8.9 % | 16.0 % | 13.2 % |
| Somali-Muslim | 14.3 % | 6.0 % | 26.4 % |
| Only Western | 0.9 % | 7.0 % | 1.9 % |
| Somali-Western | 40.2 % | 48.0 % | 18.9 % |

Table 2 displays the youths’ increase in religiosity following 9/11 across the three countries. Canadian- and British-Somali youth report, on average, having slightly greater increases of religiosity following 9/11 as compared with American youth; however, these differences were not statistically significant. Table 2 also contains youths’ reported support for al Shabaab. Youth in all three countries uniformly indicated little support for al Shabaab.

Table 2. Increased religiosity following 9/11 and support for al Shabaab

| | U.S. | Canada | U.K. |
|--------------------------------|------|--------|------|
| Increased religiosity | | | |
| Mean (on 4-point scale) | 1.89 | 2.22 | 2.15 |
| Standard deviation | 1.07 | 1.16 | 1.17 |
| Number of respondents | 116 | 94 | 54 |
| Support for al Shabaab | | | |
| Mean (on 3-point scale) | 1.48 | 1.58 | 1.56 |
| Standard deviation | 0.56 | 0.74 | 0.72 |
| Number of respondents | 100 | 76 | 45 |

Testing Factor 1: identity rejection and support for al Shabaab. The small sample sizes from each country prevented us from testing the relationship between identity and support for al Shabaab. Specifically, when samples were subdivided into each identity category, the number of respondents in each category was too small to enable reliable statistical comparisons. For example, we could not reliably establish if respondents who identified as Somali-Canadian had different levels of support for al Shabaab compared to those who identified as Somali only.

Testing Factor 2: increased religiosity and support for al Shabaab. Table 3 contains the statistical relationship between respondents' self-reported increased religiosity after 9/11 and their level of support for al Shabaab. Here, when youth in the United States and the U.K. report an increase in religiosity after 9/11, they also tend to report increased support for al Shabaab. This statistical relationship is strongest for British-Somali youth, but does not occur for Canadian-Somali youth. Despite not occurring for each sample, the positive correlation between increased religiosity and support for al Shabaab lends support to the second factor described in our model of youth radicalization.

Table 3. Correlations between post-9/11 increased religiosity and support for Shabaab

| | U.S. | Canada | U.K. |
|------------------------|-------|--------|--------|
| Correlation (r) | .30** | .17 | .49*** |
| N | 93 | 69 | 41 |

Note: ** $p < .01$; *** $p = .001$

When the results from Table 3 are considered alongside the results in Table 1, a pattern emerges that corresponds to our hypothesized model of youth radicalization. The youths who most strongly rejected their Western identity, the British-Somali youth, were also those whose increased religiosity

was strongly linked to increased support for al Shabaab. Overall, the results tentatively suggest that the two factors tested, rejecting one's Western identity (bicultural identity integration failure) and increased religiosity (heightened interest in Islam), might lead to support for al Shabaab.

Discussion of the Results

The research described in this chapter was conducted as a preliminary investigation of the factors involved in the radicalization of Somali youth living in Western countries. Based on social psychology and terrorism studies, as well as presentations and discussions from the Promoting Peace and Preventing Youth Radicalization conference, we suggested that three psychological factors might be involved in the radicalization process. First is the rejection of one's Western identity. Second is an increase in religiosity following the events of 9/11. The third factor is the appeal of jihadi subculture.

The two first factors in our theory were tested using a survey completed by Somali youth in three Western countries. The survey results yielded a pattern that supports the two factors tested. More precisely, the group that most strongly rejected Western identity, the British-Somali youth, was also the group whose increased religiosity was strongly linked to increased support for al Shabaab. This pattern suggests that support for al Shabaab, which we used as a proxy indicator of radicalization, is related to youth's identity and religiosity. The implications of our findings are discussed next.

The rejection of mainstream Western identity. The claim made by researchers and diaspora members that "identity" is somehow involved in youth radicalization is reflected in our data. When identity integration has failed and individuals reject their Western identity, support for an extremist organization is more likely to occur.

While we recognize that our survey did not capture the whole experience of a failed identity integration, it nonetheless provided a snapshot of the relationship between youth's heritage and Western identities. In this snapshot, large portions of youth excluded the Western dimension of their identity despite living in a Western country. Our results suggest that, among the three samples, youth in Canada are less likely to reject their Western identity. These differences across countries might be linked to the composition of the country's population, and the policies toward this composition. As depicted in Table 4, Canada has less overall population than the United States or the U.K., but a larger ratio of immigrants. The greater proportion of immigrants, combined with an official federal policy about multiculturalism, may render Canadians more inclusive in their definition of citizenry. Feeling more accepted as Canadian might lead, in some reciprocal fashion, bicultural residents to internalize the Canadian dimension of their identity more willingly. The possibility that governmental policies about multiculturalism affect population attitudes, which in turn affect levels of radicalization, is a supposition that warrants research.

Table 4. Total population, immigrants, and Somalis per country²⁹

| Country | Population (in millions) | % of immigrants | Population of Somali heritage |
|---------|--------------------------|-----------------|-------------------------------|
| U.K. | 59.67 | 8.98% | 93,000 (2008 census) |
| U.S. | 298.21 | 12.81% | 36,000 (2000 census) |
| Canada | 32.27 | 18.76% | 34,000 (2001 census) |

Although the comparisons with the United States and the U.K. might lead some Canadians to feel smug, in isolation the numbers about youth identity do not allow for any hubris. There remain 45% of Somali-Canadian youth in our sample who did not include a Western dimension when describing their identity.³⁰ Although the exact reason for this is not clear, what is clear is that Western identity denial by such a sizable proportion must be addressed. More urgent still, there is no apparent reason for this phenomenon to decline. In all likelihood, rejecting one's Western identity may be self-reinforcing among youth. A Somali youth who chooses to reject the Canadian dimension of his identity, arguably, is likely to befriend other like-minded youth who also reject their Western identity. Between them, group polarization might occur, whereby each individual's pre-existing attitudinal tendencies become amplified by interacting with others who hold similar attitudes.³¹

The increase in religiosity. Increased religiosity following 9/11 was found to be linked with support for al Shabaab in the U.S. sample, and to a greater extent in the U.K. sample. These results substantiate the observation made by terrorism experts that extremists usually experience such a transformation during their radicalization.³² To be clear, we are not insinuating that individuals who acquire knowledge about Islam are more likely to engage in terrorism. To the contrary, having religious expertise may inoculate individuals from accepting the questionable justifications offered by extremists promoting violence.

It is therefore necessary to differentiate between an increase in religious knowledge and an increase in religiosity, an important nuance. Whereas an increase in knowledge may decrease one's likelihood of radicalizing, an increase in religiosity may have the opposite effect. It may be that an increase in religiosity denotes an individual's desire for change, perhaps even a search for greater meaning or purpose in life. Such existential pursuits are not uncommon for young adults. It is this underlying search for change and meaning that potentially leads to radicalization. The mindset of a young man who is readily open to change might be more receptive to a new ideology, even if it is an extreme ideology.

The appeal of jihadi subculture. The third and final factor described in our model of youth radicalization was not tested. Questions measuring the appeal of the jihadi subculture were intentionally omitted from the survey. We

assumed such sensitive questions would lead some respondents to doubt our objective, suspect alternative motivations for our research, and fear possible misuses of data.

Despite not being tested in the present research, we maintain that the allure of jihadi subculture is a promising avenue for research aimed at understanding the radicalization process. Many experts have noted that violent extremists seem to be seduced by the trendy and adventurous dimension of jihad. However, this has yet to be researched empirically.

Assuming that jihadi subculture does entice some individuals, researchers might consider the prospect that certain personality characteristics, such as sensation-seeking, also contribute to the radicalization process. Indeed, if terrorist activities are perceived as perilous (or at least exciting), then the individuals most likely to engage in these activities might be risk-seekers (or at least sensation-seekers). Following this logic, risk-averse individuals might be less likely to engage in terrorist activity. Character traits, and personality more broadly, remain relatively unexplored in studies on violent radicalization.

Conclusion

When analyzing various aspects related to terrorism perpetrated by al Shabaab, one might assume that the violent radicalization of its members is complex. The ideology used by al Shabaab to justify violence, jihadism, is filled with technical Islamic jurisprudence. Al Shabaab's organizational structure is composed of specialized members, such as recruiters, strategists, propagandists, trainers, financiers, and soldiers. Al Shabaab must also be contextualized in the broader jihadi movement, where organizations strategically merge, or establish franchises, depending on geopolitical events. Given the complexities of the broader context, the radicalization process leading a young Somali to join al Shabaab might be presumed to also be complex.

Yet when our analysis shifts to the individual, a much simpler phenomenon emerges. Seemingly contributing to the radicalization of young Somalis are issues that affect all youth, such as those related to identity and the appeal of subcultures. To be clear, we are not claiming to have fully identified the factors leading to violent radicalization. We are suggesting, however, that the radicalization of Somali youth living in Western countries may well be simple, and largely consist of normal social psychological processes. We can only hope that the solution to violent radicalization is found to be equally simple.

Hizballah's Canadian Procurement Network

Matthew Levitt

As recent events in Thailand, the former Soviet republic of Georgia, and India attest, Hizballah has built an extensive global network with operational capabilities to attack Western interests beyond the Middle East. This network relies for logistical and financial support on operatives and supporters living with Lebanese Shia diaspora communities around the world. U.S. intelligence reports indicate that Hizballah cells operate in Europe, Africa, South America, and North America.¹

Hizballah has leveraged its worldwide network of members, supporters and sympathizers to provide the group financial, logistical, and other types of support. Some members of this worldwide support network serve as agents in operations, but the vast majority of these sometimes formal, often informal, networks are called upon for another role. “The Hizballah fighter wakes up in the morning, drinks his coffee, takes a rocket out of his closet, goes to his neighbor’s yard, sticks a clock timer on it, goes back home and then watches CNN to see where it lands,” Lt. Col. Ishai Efroni, an Israeli deputy commander, noted in 2006. Procuring a variety of Hizballah’s needs, from weapons to dual-use items like night vision goggles or in the case illustrated by Lt. Col. Efroni, a clock timer, is a critical component of the services provided by the group’s global network. In Canada, Hizballah has long maintained a robust network of procurement agents able to purchase dual-use items on the open market and send them to Lebanon.

Hizballah Procurement Efforts

Since the July 2006 war, Hizballah’s procurement program has taken on renewed importance, as the group has invested heavily in efforts to replenish its depleted stock of weapons and dual-use items. Speaking in December 2011, Hizballah secretary general Hassan Nasrallah underscored the group’s

The material in this chapter is drawn from Matthew Levitt’s forthcoming book *Hezbollah: The Global Footprint of Lebanon’s Party of God* (Georgetown University Press).

procurement efforts. “We will never let go of our arms,” he said. “Our numbers are increasing day after day, and we are getting better and our training is becoming better and we are becoming more confident in our future and more armed. And if someone is betting that our weapons are rusting, we tell them that every weapon that rusts is replaced.”² Most of those items have been replaced by Iran, but Hizballah complements the financial and material support it receives from Iran with its own fundraising and procurement efforts abroad. An Israeli study of Hizballah highlighted the group’s procurement efforts worldwide:

Hizballah uses its apparatuses throughout the world not only to strengthen its operational capabilities for launching terrorist attacks, but also as a means of purchasing the advanced arms and equipment needed for the organization’s operational activities. To transact these purchases, Hizballah uses its operatives who reside outside Lebanon (either permanently or temporarily), “innocent” businesspeople (including Lebanese), and companies founded by the organization (some of which are front companies).³

According to a study on the group prepared for the United States Special Operations Command, “both U.S. and Canadian authorities track Hizballah’s procurement of proscribed high-tech military and other equipment.”⁴ And for good reason. North America has long served as base for a wide variety of Hizballah criminal enterprises, ranging from fundraising to recruiting to forging travel documents to procuring dual-use items for the group. An early example is Fawzi Musatapha Assi, who, after surrendering to U.S. authorities in 2004, pled guilty to charges of providing material support to a terrorist organization for his attempt to smuggle night vision goggles, a thermal imaging camera, and two global positioning modules to Hizballah. Assi was described by a senior Hizballah operative and procurement officer, Mohammed Dbouk, as “‘the guy’ for getting equipment on behalf of Hizballah until he got caught and fled the U.S. to Lebanon.” Dbouk, who had previously led a major procurement network in Canada but was now back in Lebanon, met Assi at the airport in Beirut to ensure Hizballah got the equipment he obtained.⁵

Procurement Efforts in Canada

Hizballah procurement activities in Canada are hardly a recent phenomenon; the group has built a significant pool of members, supporters and sympathizers in the country. Indeed, material that came to light during the immigration case of Mohammad Hussein al Husseini, who was ultimately ordered deported from Canada in 1994, highlighted Hizballah’s presence in Canada. Interviewed by Canadian security officials, al Husseini provided information not only on Hizballah attacks abroad but also on Hizballah’s

presence and activities in Canada. Asked if Hizballah maintained a presence in Montreal, he replied, "Yes, Hizballah has members in Montreal, Ottawa, Toronto—in all of Canada."⁶

In one early case, Hizballah recruited and trained a Lebanese-Canadian and known Hizballah supporter, Fawzi Mohammed Ayub, as an operative. In mid-2002 Israeli authorities conducting a search in Hebron arrested Ayub, who had entered the territories by sea using a forged American passport. In Ayub, Hizballah planners secured a Canadian passport, and a Hizballah veteran who had taken part in sensitive operations abroad in the past. Ayub immigrated to Canada in 1988, where he was welcomed by family members already there, and he became a Canadian citizen in 1992. While in Canada, Israeli officials claim, Ayub "maintained contact with senior Hizballah officials and carried out operations." Asked by an Israeli judge if he told Canadian authorities about previous charges of attempting to carry out an act of terrorism, Ayub replied: "They never asked."⁷ And he never told.

In a notable transnational procurement case, Mohammed Dbouk was indicted in U.S. federal court for his role in a Hizballah fundraising and dual-use procurement network operating in the United States and Canada. According to U.S. investigators, Dbouk was an Iranian-trained Hizballah operative and "an intelligence specialist and propagandist [who] was dispatched to Canada by Hizballah for the express purpose of obtaining surveillance equipment (video cameras and handheld radios and receivers) and military equipment (night-vision devices, laser range-finders, mine and metal detectors, and advanced aircraft analysis tools)."⁸ According to information collected by CSIS in the course of its investigation into Dbouk's activities in Canada—first in Montreal and then in Vancouver—Dbouk was acting under the direction of Hizballah's then-chief procurement officer, Haj Hassan Hilu Laqis, who was based in Lebanon.⁹

Under Dbouk's leadership, the Hizballah procurement network in Canada engaged in a long list of crimes and frauds, including passport fraud, credit card fraud, immigration fraud, use of counterfeit currency, and more. Hizballah wired tens of thousands of dollars from Lebanon to Canada to fund the purchases of dual-use items by Dbouk and others. Later, the Hizballah operatives based in Canada engaged in a large-scale credit card fraud scheme in which they purchased the items using fraudulent credit cards and charged Hizballah just half the original price of the wanted items.¹⁰

Dbouk solicited the assistance of an old friend from Lebanon, Said Harb, to help facilitate the purchase of dual-use equipment, and to test a scheme to use counterfeit credit cards to purchase these materials.¹¹ Harb described Dbouk to the FBI as "one of his (Harb's) closest friends."¹² At one time, to support the fraudulent credit card scheme, Harb owned twelve credit cards and three driver's licenses, each in different names. He used five distinct cell phone rings and a notebook of social security numbers and bank accounts to keep his many identities in order.

As it happened, Harb was already involved in a variety of criminal enterprises and frauds, some of which involved other members of a Hizballah fundraising support network in Charlotte, North Carolina. That ring raised funds for Hizballah primarily through cigarette smuggling and other criminal activities. Harb attended a weekly meeting in the homes of members of the Hizballah network in Charlotte at which Mohammed Hammoud, the group's leader, screened Hizballah videos—including some produced by Mohammed Dbouk—and then solicited funds for Hizballah. At these meetings the group also shared pointers and advice on how to carry out various types of criminal schemes. Harb personally carried money for Hammoud, and delivered it to a Hizballah military commander in Lebanon. Harb proved to be the linchpin between the fundraising schemes in Charlotte and procurement efforts in Vancouver. But it was his relationship with Dbouk that brought him to the attention of CSIS, which was already monitoring Dbouk's activities.¹³

Unprecedented cooperation between American and Canadian law enforcement and intelligence services led to the U.S. indictment of Mohammed Dbouk and others. Several indicators suggest Dbouk ranked as a significant Hizballah operative. For example, U.S. Attorney Robert Conrad, whose office successfully prosecuted the Hizballah case in Charlotte, testified before the U.S. Congress that according to human source intelligence (HUMINT), "Dbouk is such a major player in the Hizballah organization that on five separate occasions his application to be a martyr was rejected." Asked to explain why his application to be sent on a martyrdom mission (that is, a suicide or other mission from which he would be unlikely to return) was rejected, Conrad replied, "He was rejected five times because of his significance to the organization."¹⁴ With his intelligence, military training, and expertise in information operations, Hizballah officials apparently saw Dbouk as too valuable a commodity and too significant a player to expend on a martyrdom mission.

Moreover, Dbouk was valued for his inventive fundraising and procurement methods. In a particularly telling case, the Vancouver network discussed taking out a life insurance policy in Canada for a Hizballah operative who it appears was about to carry out a suicide attack targeting Israeli forces in Southern Lebanon. According to a wiretapped conversation with another member of his cell, which was summarized by Canadian intelligence, "Dbouk referred to a person down there [words redacted], who might in a short period of time go for a 'walk' [words redacted] and never come back, and wondering if Said [in Canada] could fix some papers and details [words redacted] for him (person) and put himself (Said) as the reference." Said wondered if the typical life insurance policy might not cover such a "thing" (i.e., a suicide or other kind of martyrdom mission), and "Dbouk countered that (suppose) the person was sitting in his village which was bombarded and got hit."¹⁵ Dbouk added that this is what the Lebanese death certificate would state. In other words, the Hizballah

network considered trying to take out a life insurance policy in Canada for a prospective Hizballah fighter in Lebanon who might be killed carrying out a suicide attack or otherwise engaging in combat from which he would not return. Concerned a Canadian insurance company would not honor the policy if the person were killed while fighting for the militia of a sub-state militant group designated by several countries as a terrorist group, Dbouk suggests a death certificate could be produced falsely claiming the person was a civilian killed while “sitting in his village.”

Other members of the network recognized Dbouk as a senior Hizballah operative, and were keenly aware that the dual-use items they were providing Hizballah were being used to improve the military capabilities of Hizballah's militia. For example, on February 28, 1999, Hizballah operatives set off two roadside bombs as an Israeli military convoy drove by in Southern Lebanon. An Israeli general was killed in the blast, along with two sergeants and a reporter. On hearing the news, Ali Amhaz, Dbouk's brother-in-law and a member of the Hizballah procurement network, contacted Dbouk congratulating him for role. According to the CSIS intercepts:

Ali Adham Amhaz informed Mohamed Hassan Dbouk that he was watching the latest news on today's operation involving Hizballah in southern Lebanon. Amhaz congratulated Dbouk for Hizballah's success and their improving ability which was making the Israelis retaliate for the attacks.

The connection between Dbouk's procurement activities and Hizballah's military prowess came to light again just a few days after this conversation, when Dbouk told his wife that he and Amhaz had visited a military supply warehouse in Vancouver, where they looked at “military supplies and instruments,” and got some catalogues.¹⁶

In early June 1999, Dbouk prepared for his return to Lebanon. Days before he left Canada, Dbouk was still laying plans for procurement efforts, and instructed Harb to buy credit cards and secure false passports and driver's licenses. When he was arrested in July 2000, Said Harb was interviewed by the FBI. At one point in the interview, Harb asked the interviewing agent to stop taking notes and said, “I know why you've done this to me and my family; you want Dbouk—you want Hizballah.”¹⁷

Indeed, while in Lebanon, Dbouk continued to oversee Hizballah procurement efforts in Canada. Back in Canada, three members of the Hizballah procurement network, now being run by Dbouk's brother-in-law Ali Amhaz, had a long discussion on October 31, 1999. One participant, Adnan Nouredine, appeared concerned that the group was still procuring items for Hizballah at the behest of Dbouk in Lebanon. In an apparent reference to Canadian law enforcement or intelligence, Nouredine told Amhaz, “They

know that Dbouk was related to you.... They are not stupid, and when you take lenses to (Lebanon) you are helping Hizballah who would use them in operations.”¹⁸

Conclusion

Canada’s strong position in industry, trade and finance make the country an attractive place to do business. But, as a 2011 report from the Canadian Security Intelligence Service stresses, “From a Canadian perspective, it is also important to know which countries may be seeking to use Canada for the acquisition of materials and technologies.”¹⁹ Unfortunately, the same attributes that make Canada an attractive place to engage in business and trade make it an attractive place to procure weapons and dual-use materials. This, combined with Hizballah’s long history in the country, make the need to focus on Hizballah procurement efforts in the country a priority. According to a 2006 assessment written by Canada’s Integrated Threat Assessment Centre (ITAC), Hizballah “has had a presence in Canada [redacted]. Its activities in Canada include fundraising, [redacted] collection and the procurement of equipment [redacted].”²⁰ Alongside these fundraising and procurement activities, Hizballah members “may reside in Canada to undertake activities such as intelligence collection,” according to a 2008 ITAC assessment.²¹

In fact, evidence suggests that Hizballah operatives in Canada may be involved in more than just intelligence and espionage. In June 2008, reports emerged that Hizballah activated suspected “sleeper cells” in Canada for the purpose of carrying out an attack to avenge the death four months earlier of Imad Mughniyeh, the chief of Hizballah’s external operations. According to this report, Canadian intelligence and law enforcement had some twenty suspects under surveillance. Moreover, “a known Hizballah weapons expert was followed to Canada, where he was seen at a firing range south of Toronto, near the U.S. border.”²² Nothing came of this threat reporting, possibly due to Canadian counterterrorism measures, but the following year a Canadian citizen and Hizballah operative was reportedly involved in one of three Hizballah plots foiled in Turkey.²³ The good news is that Canadian authorities appear to be keenly aware of the Hizballah threat. In light of Hizballah’s long history in the country, that is a good thing indeed.

Iran's Canadian Outposts

Michael Petrou

The embassy of the Islamic Republic of Iran on Metcalfe Street in Ottawa is not an outwardly bustling place. It's a drab, four-story red brick building, surrounded by a high iron fence that also encloses underground parking. Pots of flowers flank the entrance to the consular section. There are at least four cameras on its walls but no other obvious security measures. Signage identifying the building is small and discrete, though there is a flag in the yard. Soccer Canada has an office next door. A gay-friendly housing co-op, flying rainbow flags above its doors, is a short walk down the road.

Canada's relations with Iran are governed by what it calls a "controlled engagement policy." What this means is that Canada avoids any contact with Iran, except where it concerns human rights; Iran's nuclear program; Iran's "role in the region"; and the case of Zahra Kazemi, an Iranian-Canadian photojournalist who was tortured and murdered in Iranian custody in 2003.¹ Neither country has exchanged ambassadors; representation is instead carried out at the charge level. This means there aren't a lot of Canadian officials traipsing to the Iranian embassy. Protesters—usually Iranian ex-pats—occasionally gather across the road, waving flags and denouncing the regime. It is otherwise a seemingly forgotten place.

Yet Iran's embassy in Ottawa is the Islamic Republic's only official outpost in North America, in a hostile country that is also a neighbor and close ally of Iran's enemy, the United States. Canada also has a large Iranian diaspora, including both longtime opponents of the Islamic Republic and regime-linked individuals who in recent years have established second homes here.

Canada, in other words, matters to Iran. And the actions of its embassy reflect that. Despite its apparent tranquility, the embassy is a busy hub from where Iran seeks—both covertly and overtly—to spy on anti-regime activists in Canada, shape public policy, and build relations with influential Iranian-Canadians, as well as politicians, students, academics, and police. Canada might officially avoid any contact with Iran, except within the narrow confines outlined above. But Iran has larger ambitions here. This chapter describes and evaluates them.

Akbar Manoussi

In October 2010, Royal Canadian Mounted Police Cpl. Wayne Russett, an “Aboriginal and Ethnic Liaison Officer” at the force, received an e-mail from an aspiring politician of Iranian descent named Akbar Manoussi who sat on the RCMP’s “Cultural Diversity Consultative Committee”—a committee set up to build bridges between ethnic communities and the national police force.²

“Hello Wayne,” Manoussi’s e-mail read. “Here is an International Peace Conference that I would like to invite you, your colleagues and members of our Cultural Diversity Consultative Committee. Please let me know how many people are attending. I can provide you with a complimentary table of six. I can provide the complementary tickets to our group as well.”

Manoussi, who had previously run in at least one federal and provincial election as candidate for the Green Party, possesses a healthy sense of self-regard and affection for grandiose titles. His Green Party online profile for the 2007 provincial election said he is the “secretary general” of the “Iranian Scholars Association of Canada,” an organization that appears to operate only in Manoussi’s fertile imagination. The claim prompted nine Iranian-Canadian journalists and academics to write Green Party leader Elizabeth May and inform her that they had never heard of the association.³ (May didn’t respond to the letter, and the Green Party didn’t correct Manoussi’s profile. He remained CEO of the party’s Ottawa-Vanier riding association.) Manoussi also identified himself in an e-mail to me as president of the “Canada-Iran Friendship Council,” which received a letters patent from Canada’s Department of Industry in 2007.⁴ One of the four directors listed with the department was Fazel Ardeshir Larijani, then Iran’s cultural attaché in Ottawa. Larijani is also the brother of Ali Larijani, speaker of the Iranian parliament, and Ayatollah Sadeq Larijani, head of the judiciary.⁵ The address given for the council was a residential one that is identified in phonebooks as the home of “A. Manoussi.” There is no evidence the council otherwise exists.

Manoussi attended at least one conference in Tehran hosted by Iranian President Mahmoud Ahmadinejad aimed at burnishing the country’s image abroad. Delegates had their airfare paid by the Iranian government. He has also identified himself as the “director general” of the “Iranian Cultural Centre,” which, using a slightly different name, is run out of the Iranian embassy.⁶

All this should have raised warning flags for the RCMP, or at least it should have if we assume the police research the background of those they rely on to help them connect with ethnic communities in Canada. If Russett was aware of Manoussi’s ties to the Iranian government, he didn’t appear to have been concerned. He forwarded Manoussi’s e-mail to his RCMP colleagues and included a personal message: “Here is an invite to an important conference from Akbar Manoussi. I am already attending this event as a guest of another Community member. Hope to see some of you there.”

The conference was organized by four Canadians, including Manoussi, who called themselves the “Ottawa Group of Four.” The other members were Paul Maillet, a retired air force colonel; Sylvie Lemieux, who retired from the Canadian Forces and then worked in the Department of Foreign Affairs and International Trade; and Qais Ghanem, an Ottawa doctor who believes the 9/11 terrorist attacks were “an inside job, or that it was at the very least done with inside help.” Maillet said the organizers hoped to eliminate the cost of renting the government conference center in downtown Ottawa by enlisting the help of a senator or Member of Parliament. He said one MP was on board, but canceled because of a scheduling conflict.

As might be expected, panelists at the conference had a rather unique view on building a just and sustainable peace. They included three academics flown in from Iran for the event. One, Elham Aminzadeh, reportedly of Tehran University’s faculty of law, has praised Iranian efforts to protect women’s rights since the Islamic Revolution of 1979. Manoussi chose and invited the Iranian academics, according to Maillet. Another participant was Davood Ameri, director general of the Iran-based “Islamic World Peace Forum,” whose website depicted cartoons of Israeli soldiers killing babies and a hook-nosed Jew with a top hat full of tiny skulls. We can safely assume Iran picked up the tabs for their flights.

When I reported details of the conference on my *Maclean’s* magazine blog in October 2010, Vic Toews, Canada’s minister of public safety, ordered the RCMP to cease its involvement. Elizabeth May, leader of the Green Party, also condemned the conference, and said she hoped organizers would cancel.⁷ They didn’t. The conference went ahead, though now with a cloud of bad press surrounding it. Akbar Manoussi did not run for the Green Party in either the 2011 federal or Ontario elections.

So the end result wasn’t a public relations triumph for Iran. But the fact remains that Manoussi, a man with intimate ties to the Iranian embassy, had managed to ingratiate himself with Canada’s national police force, to the point that he was viewed as some sort of emissary of the Iranian-Canadian community. And the RCMP was also duped—or blundered unwittingly—into nearly legitimizing a conference showcasing anti-Semites, at least one 9/11 conspiracy kook, and cheerleaders for the Islamic Republic. Iran has made similar outreach efforts elsewhere in the country.

The Center for Iranian Studies

The “Center for Iranian Studies” was physically located in a modest bungalow in north Toronto, but had the sort of professional-looking website one might expect from the Middle East studies department of a small university. It claimed to be a NGO dedicated to research and study, helping universities

organize seminars and workshops. Its website at one time had a section called “Who is who?” that contained biographies of Canadian academics studying Iran, and a prominent Iranian-Canadian director and actor—the implication being that they were affiliated with the center.

Nowhere on the website was there any indication that the center is linked in any way to the Iranian government or its embassy in Canada, but it was an Islamic Republic front. The center was incorporated in 2008.⁸ One of its three directors at the time was Fazel Larijani, the same cultural attaché at the Iranian embassy who was listed as a director of Manoussi’s Canada-Iran Friendship Council. I spoke with a man named Mahdi Shahrokhi who was working at the center, and who admitted it receives money from the Iranian embassy.⁹ However, Shahrokhi claimed that the center wasn’t controlled by the embassy.

Several Iranian-Canadians have taken a public stand against the center. In April 2010, eight academics in Toronto wrote an open letter about the center, its ties to Iran, and its goals in Canada:

It is a while that an entity calling itself the “Centre for Iranian Studies” operating from a house on Sheppard Avenue with the website Iranology.ca has been active in Toronto. This Centre, with a deceptive name alluding to academic research and teaching is not known to any of the undersigned Toronto-based Iranian/Canadian academics from the city’s universities. We are not aware of any of our colleagues who are engaged in this Centre’s activities. However, functionaries of the Centre regularly contact Iranian student groups with promises of assistance, and fund Farsi classes and/or cultural events.

As academics with expertise in various fields of scholarship on Iran we have serious concerns about the mission and the mandate of this Centre. We demand that the Centre reveal its real mandate, post the names of the founding members as appears on the website of Industry Canada, name its officers and advisors involved in its activities, and above all disclose the sources of its funding inside or outside Canada. The “centre” should also seriously consider changing its deceptive name, and stop deceptive postings on its website.¹⁰

Among the signatories was Ramin Jahanbegloo, a University of Toronto professor who was imprisoned in Iran in 2006, falsely accused of trying to foment opposition to the regime on behalf of Iran’s enemies. He spent 125 days in solitary confinement before he was released.

I spoke with three of the four people listed under the “Who is who?” section of the center’s website. None knew they had been linked to it, and two asked to have their names immediately deleted. “I have no idea who

these guys are, and have never heard of them before,” Mahdi Tourage, an assistant professor of religious studies and social justice and peace studies at the University of Western Ontario, wrote in an email to me. Tourage then sent a letter to the center asking that his name be removed from its website. “It is very irresponsible of you to use my name and academic background without my knowledge,” his letter said, “to give the impression that I am somehow affiliated with your organization or the fascist dictatorial government of Iran. I do support, however, any effort to expose the atrocities of the Iranian regime and the peaceful struggles of Iranian people for democracy.”

The center's existence in Toronto was a clear affront to Canada's stated policy on Iran, which expressly forbids “the opening of Iranian consulates and cultural centres” outside Ottawa.¹¹ It was officially closed less than a year after its ties to Iran were first publicly exposed in *Maclean's*, dissolving, according to Industry Canada, in June 2011. A website with the same address still exists, offering generic information on Iran, though it's unclear if the current site is in any way linked to the center. When I visited on a Sunday in November 2011, a sign identifying the building as the Center for Iranian Studies still stood on the front lawn at 290 Sheppard Avenue West. No one answered the door, and the windows all had their blinds drawn. A poster visible inside from the front door depicts Persepolis, the ancient Persian capital, and describes Iran as a “Land of Passion and Glory.” Anti-regime Iranians monitoring the building report that there is still foot traffic in and out of it.

Using these sorts of front organizations is a common strategy employed by Iran in Canada. The Cultural Centre of the Islamic Republic of Iran, the outfit Akbar Manoussi claimed to run, is based at the Iranian embassy in Ottawa. Its website contains links to Press TV (an English-language television station and propaganda arm of the Iranian foreign ministry), and to the office of Iran's supreme leader, Ali Khamenei. Yet when I contacted the center, a woman who answered the phone refused to say where it is located.

“I have no idea. I can't answer that question,” she said.

When pressed that she must have known where she was speaking from at the moment, she said, “What do you think? Yes, we're in the embassy.” She then claimed someone was at the door and hung up.

The website of the Cultural Centre of the Islamic Republic of Iran posted a news release in 2009 saying it had developed relations with Concordia University, citing a meeting between Iran's cultural counselor in Ottawa and several officials at the university. According to the website, the possibility of cooperation between Concordia and Iranian universities and other organizations and institutions was discussed. Liselyn Adams, associate vice-president, international, at Concordia, was at the meeting. She told me that Hamid Mohammadi, the Iranian cultural counselor, offered to help support Concordia's Iranian studies program, including by providing a professor to teach Farsi. These offers were declined.¹² In the spring of 2011, the center rented

space at the National Arts Centre, an Ottawa landmark, to put on a “cultural day” with the theme “Iran, Land of Glory.” Its website also claims it offers free presentations on Iranian culture to schoolchildren.

Evaluating Iran’s Efforts

Despite the substantial effort Iran has expended on publicity efforts aimed at Canadian society as a whole, its highest-value targets are Iranian-Canadians. This explains offers of funding for Farsi classes and cultural events put on by Iranian student associations at Canadian universities. Some Iranian students fear their campus groups are monitored, and the most ardent anti-regime activists report being followed regularly. Arash Azizi, a left-wing activist, journalist, and student in Toronto who recently emigrated from Iran, has received death threats.¹³ Two sides can play at the surveillance game, though. For a while anti-regime activists in Ottawa convinced someone with access to a building near the Iranian embassy to let them install a video camera to monitor who came and went.

Most Iranian immigrants in Canada came specifically to escape the Islamic Republic and the limits to freedom it imposes. Lately, however, there has been an influx of upper-class regime-linked Iranians setting up second homes in Canada—often in north Toronto—and acquiring citizenship. They typically spend much of their time in Iran, while their wives stay in Canada and their children study at Canadian colleges and universities.

The most noteworthy example of late is Mahmoud Reza Khavari, former head of Iran’s Melli and Sepah Banks, which are blacklisted by the United Nations and the U.S. government for supporting Iranian efforts to acquire nuclear and ballistic missile technology. The U.S. Department of the Treasury designated both banks as affiliates of the Iranian Revolutionary Guard Corps, which is responsible for much of the terrorism and assassinations the regime has carried out outside Iran. Despite having jobs that presumably required him to be in Iran, Khavari got Canadian citizenship in 2005. Following a \$2.6 billion dollar embezzlement scandal in Iran, Khavari fled to Canada, and a multimillion-dollar mansion in Toronto.¹⁴

Khavari is not a unique case. Arash Azizi, the journalist and activist, and one of his friends started hanging around mosques in Toronto, some of whose members—if not leadership—they understood to have ties to leading circles in Iran. Invitations to social get-togethers followed, one of which was attended by an Iranian deputy minister.

“It is ironic that while [Iranian President Mahmoud] Ahmadinejad condemns ‘Western imperialism,’ his inner circle has quietly established itself in Canada to enjoy ill-gotten fortunes with impunity,” Payam Akhavan, a professor of international law at McGill University and co-founder of the Iran Human Rights Documentation Center, wrote in a *Toronto Star* column.

He continued, “There are numerous ... accounts in the Iranian community of the Islamic Republic elite and their families making Canada their home and investing hundreds of millions of dollars in real estate projects in Toronto and elsewhere, spreading their illicit wealth, pernicious influence and menacing networks in our country. This may benefit the economy. But it is clearly a security threat. And it is a grave insult to the many Canadians of Iranian origin who are victims of this same elite, not to mention the millions of Iranians fighting for democracy.”¹⁵

Conclusion

So what should be done? There is nothing wrong with the RCMP trying to build bridges to various ethnic communities. But at the very least, it should do so with intelligence and careful research. It shouldn't take a magazine article to alert our national police force to the ties a member of its cultural diversity committee has to a hostile government, or to the nature of a conference the force is enthusiastically promoting. The same goes for the Center for Iranian Studies in Toronto. It violated Canada's policy regarding bilateral relations with Iran. Many prominent Iranian-Canadians were aware of its ties to Iran's embassy. But Canada's own government apparently did not know, or chose not to do anything about it.

I have no access to inside information from Canada's intelligence services, so cannot know to what extent Iranian agents monitor dissidents in Canada, and what Canada might be doing about it. At the very least Iranian activists—many of whom chose to come here precisely because they cherish democracy and basic freedoms—deserve to be protected.

As for regime-linked Iranians in Canada, this is an area where changes to our immigration policies can and should be made. Our current system heavily favors those with money to invest here. Some of the wealthiest citizens of the Islamic Republic today got that way because of ties to higher echelons of the government, military, and religious establishments. It's hard to see how Canada benefits from allowing such people to buy their way into Canada.

On the other hand, the Iranian regime's brutality, especially since the mass protests of 2009, has generated thousands of refugees. And these are just the ones who have the luck and the means to leave Iran; more are trapped inside. Many of these men and women have fought harder and suffered more for democracy and the values we cherish than have most Canadians. I met some of them in eastern Turkey in 2010. Their living conditions are typically poor. They struggle to find work, and do so for little money. The application process for obtaining refugee status through the United Nations is slow and not always successful. Canada doesn't gain anything by opening its doors to those running a tyrannical theocracy. But we are enriched by those who struggle to bring it down.

III. Problem Areas

Terrorist Financing: A Canadian Perspective

Angela Gendron

Money is the lifeblood of terrorist organizations. It enables these groups to propagate their extremist ideologies, train members, procure weapons and other materials, and carry out attacks. Just as the globalized financial system has provided a mechanism for the free flow of international trade and investment, it also has provided opportunities for terrorists to finance their operations and support infrastructure. Yet just as financial data provided investigators with critical early leads immediately following the attacks of September 11, 2001, the same held true for subsequent attacks, such as those in Madrid (March 11, 2004) and London (July 7, 2005).

Combating terrorist financing is a global challenge that requires a global as well as local response from governments, private sector financial institutions, and the international community. National security and the integrity of financial systems depend on a collaborative effort against terrorist networks, which are demonstrably adept and innovative at exploiting new technologies and new vehicles of monetary exchange to evade detection. To meet these challenges, the Financial Action Task Force (FATF), an intergovernmental policymaking body that was established by the G-7 in 1989, has the lead role in setting standards, and encouraging and holding to account those countries whose inadequate money laundering and terrorist financing controls undermine international efforts.

Terrorists require funds for both operational and organizational purposes. The FATF found that while financing any single attack may be relatively inexpensive compared to the damage incurred, “maintaining a terrorist network, or specific cell, to provide for recruitment, planning, and procurement between attacks, represents a considerable drain on resources. A significant infrastructure is required to sustain international terrorist networks and promote their goals over time.”¹

Before the attacks of 9/11, terrorist financing was not a priority for intelligence collectors or academic researchers, including those in Canada. The degree of international cooperation and consensus on anti-money laundering (AML) and terrorist financing (TF) measures is still evolving, but Canada, the U.S., and the U.K. share a similar security culture, and are largely in accord as to what is required to arrest the flow of funds to terrorists. Financial intelligence is also a useful component of the counterterrorism effort more generally, in

that by helping to identify criminal and terrorist networks, relationships and resources, it assists in understanding the threat and proactively anticipating the consequences.

Canada's anti-terrorist financing efforts and compliance with its international obligations in this regard are primarily the responsibility of the Department of Finance and its financial intelligence unit, the Financial Transactions and Reports Analysis Centre (FINTRAC). Financial institutions in Canada face civil or criminal penalties and loss of reputation if they fail to comply with their legal obligations under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) and the criminal law of Canada. In complying with its obligations in this respect, Canada seeks to protect both its own interests and the integrity of its financial system, as well as its international reputation as a nation firmly committed to the global effort to combat terrorism and terrorist financing.

This chapter begins with a broad background to the problem of terrorist financing, before describing and assessing the development of Canada's AML/TF regime since the 9/11 attacks. It examines Canada's policy responses, and the mechanisms it has established to comply with its domestic and international obligations to arrest the flow of funds to terrorists and prevent them from laundering, moving, spending, or investing money.

Background

Before the 9/11 attacks, al Qaeda directly funded and controlled operations from its base in Afghanistan. Its annual budget at this time was estimated at \$30 million.² However, given that the direct costs of the 9/11 attacks are thought to have been only \$400,000 to \$500,000, the bulk of al Qaeda's budget was used to fund its organizational requirements, including propaganda and communications, maintaining its training apparatus, fundraising, and other general activities.

Since 9/11, counterterrorism measures have led to the decentralization and localization of international terrorist networks. Today al Qaeda has no national boundaries, but has metamorphosed into franchised networks of salafist militant cells, homegrown extremists, and supporters. These are financed by a variety of local and regional means, but are increasingly self-funded through the proceeds of criminal activity, use of personal funds, or, in the case of homegrown extremists, government welfare benefits.³ Significant attacks in the post-9/11 period continue to be perpetrated without huge expense. The direct operational cost of the Madrid train bombings has been estimated at around \$25,000, and the cost of the 7/7 bombings in London at less than a tenth of that.⁴ Al Qaeda in the Arabian Peninsula (AQAP) has itself identified the total cost of preparing and mailing two printer cartridge bombs from Yemen in October 2010 as \$4,200.⁵

However, while the *operational costs* to al Qaeda of maintaining a presence in the West have been reduced by this process of “decentralization,” its *organizational needs* in terms of financing its support functions continue: The al Qaeda leadership in the Afghanistan-Pakistan border area, for example, must pay for food, living quarters, and security, both in terms of hiring guards and in buying the silence of their neighbors. This is in addition to the money needed by its leaders to train operatives and to mount operations.

There is evidence that terrorist financing countermeasures have had an effect. For example, Mustafa Abu al Yazid, described as al Qaeda’s chief financier and head of al Qaeda operations in Afghanistan, often made direct appeals for donations.⁶ In an interview in mid-2008, he stated that al Qaeda had many potential suicide bombers, but lacked the resources to equip them all.⁷

The relatively low cost of homegrown attacks compared to the damage caused has been much discussed in the context of the efficacy of terrorist financing countermeasures because “following the money trail” in international terrorism, as opposed to transnational crime, often involves small sums. In the case of the 7/7 cell, investigators found “no evidence of external sources of income,” and stressed that the group raised the necessary funds “by methods that would be very difficult to identify as related to terrorism or other serious criminality.”⁸ That being so, relying solely on financial tracking measures originally developed to detect significant money-laundering movements is unlikely to be effective in denying funds to terrorists for operational purposes.

The situation requires fully functioning financial intelligence units empowered to identify suspicious individuals and analyze their transactions, however small. Moreover, multilateral cooperation at the international level is needed to confine regional networks to their points of origin, and track the flow of funds on which their operations depend.

Terrorist Financing: The Threat Facilitator

The financial costs of mounting terrorist operations and funding organizational needs are met by various means that range from the legitimate to the patently illegal. Every group involved in violent conflict is bound to employ whatever means and resources are available to it. These groups operate in diverse contexts, have varying degrees of popular or state support, and have different goals, motivations, and ideologies that shape their actions. A few of these revenue-generating activities are described here.

Essentially, al Qaeda and its affiliates have developed complex and multilayered processes for generating and moving money as a means to finance transnational activities that promote their agenda. Funds are raised through criminal activities, the solicitation of private donations, diversion of revenues from quasi-legitimate businesses or charities, and the establishment of front groups.

Criminal activity. Criminal activity is a significant source of funding for terrorist groups, particularly for self-financed cells. Of considerable concern to anti-money laundering and terrorist financing authorities is the growing nexus between transnational organized crime and terrorist networks, particularly with respect to narcotics trafficking.

In addition to the involvement of al Qaeda franchises and affiliates in kidnapping and extortion, smuggling and identity theft are lucrative sources of revenue. An undercover Australian law enforcement operation recently disrupted an organized crime syndicate's card-skimming scheme that had allegedly been funding Liberation Tigers of Tamil Eelam (LTTE) activities since 2007. Skimming is the theft of credit card information used in an otherwise legitimate transaction. Similar schemes have also been disrupted in Britain and Canada. According to the Australian Crime Commission, 63,000 fake debit card transactions worth AUD \$24.5 million (USD \$25.6 million) were recorded in Australia in 2009, an increase of 50 percent over three years.⁹ There is a concern that international terrorists might directly engage in such activities, or indirectly benefit through a cooperative arrangement with criminal gangs.

Charities. The single largest source of revenue for militant Islamist groups may well be *zakat*, the obligatory charitable donation that is one of the five pillars of faith for observant Muslims. Militant groups have exploited this potential source of funding by penetrating certain charities and redirecting monies sent abroad. The veil of legitimacy conferred by charitable status is useful both for deceiving regulatory authorities, and also for hijacking contributions intended for humanitarian purposes and diverting them to promote terrorism or extreme ideologies. In this way, terrorists have long exploited certain charities as useful fronts for fundraising for militant activities and engendering grassroots support. Terrorists "systematically conceal their activities behind charitable, social and political fronts ... to pursue their objectives through a dual track of violent crime and non-violent public maneuvering."¹⁰ For example, the U.S. Department of Justice has estimated that in the year 2000 alone, the Holy Land Foundation (HLF) raised \$13 million for Hamas.¹¹

According to the Financial Action Task Force, "the misuse of nonprofit organizations for the financing of terrorism is coming to be recognized as a crucial weak point in the global struggle to stop such funding at its source."¹² Some charities are founded with the express purpose of financing terrorism, while others are infiltrated by terrorist operatives and supporters, or co-opted from within.

Regulating the diversion of funds from Islamic charities is difficult, in part because most provide legitimate assistance to needy populations by establishing and operating schools, religious institutions, and hospitals. The difficulty is compounded by the fact that much of the funding for global jihadi organizations comes from Saudi Arabia and other countries in the Persian Gulf region.¹³

Jihadi groups also obtain donations directly from wealthy benefactors and sympathizers, especially those in Saudi Arabia.¹⁴ The head of the U.S. Treasury Department's Office of Terrorism and Financial Intelligence has stated that major donors from the Gulf states remain the key sources of funding for al Qaeda core's.¹⁵ Benefactors may finance the travel, training, or procurement needs of jihadis. One way is to provide prepaid credit cards that are available from offshore jurisdictions and leave a minimal paper trail between donor and recipient. In addition to financing the terrorists themselves, private funding from Saudi donors supports the establishment of Wahhabi-oriented mosques and schools in various parts of the world, and the employment of firebrand preachers in Europe, North America, Australia, and elsewhere. Some of these Saudi-funded mosques, schools, and preachers have been linked to terrorist recruitment and incitement.

There is compelling evidence that Saudi money continues to fund recruitment for jihad, and its charitable foundations support leading Islamist politicians and activists overseas. One such charity, the International Islamic Relief Office, was designated as a terrorist entity by the U.S. Treasury Department in 2006 along with its director Abd al Hamid al Mujil, but there are many other Saudi financial backers supporting al Qaeda.

Historically, Saudi authorities have failed to prosecute Saudi citizens who have been publicly named as terrorist financiers by U.S. Treasury officials. However, in the words of a former U.S. Treasury official, "It is important for the Saudis to hold people publicly accountable. Key financiers have built up considerable personal wealth and are loathe to put that at risk."¹⁶

While efforts by Saudi authorities to block terrorist financing were until recently lackluster, the kingdom's efforts became more vigorous after jihadis turned on Saudi targets. With encouragement and support from the United States and others, Saudi authorities are now beginning to take positive steps to identify and suppress sources of funding for Islamic terror groups. In 2010, Saudi Arabia's highest religious authority issued a *fatwa* against financing terrorism. In September 2011, Saudi authorities held a three-day conference on disrupting terrorist financing that brought together regional officials and provided training in financial investigative techniques. And for the first time, Saudi authorities have publicly tried detainees suspected of raising funds for terrorists.¹⁷ Kuwait and Qatar have been slower to cooperate in counter-terrorist financing measures. Both remain "permissive environments for extremist fundraising," and Kuwait is the only country in the Gulf region not to have criminalized terrorist financing.¹⁸

Financial intelligence gathered during U.S. raids on bin Laden's compound in Abbottabad in May 2011 will enable U.S. authorities to publicly expose some donors, and thereby increase financial strain on al Qaeda's core. However, its franchises and homegrown extremists who also threaten Western allies are less likely to be affected.

State sponsorship. State sponsorship of terrorist groups may be less obvious than it once was, but it is still a potential source of financing and other support. Al Qaeda has benefited from relationships with governments such as Iran and Syria, which have either facilitated or financed its travel and logistical needs. Iran is particularly active in its support for Hizballah in Lebanon, and Hamas in the West Bank and Gaza.

Financial transfers. Terrorist financing relates not only to raising funds for militant groups, but also to the transfer of financial resources to the networks, groups, cells, and individuals actually engaged in terrorist activities. Funds are moved through the financial system to promote militant ideologies, train new members, pay operatives, acquire weapons, stage attacks, and sometimes carry out ostensibly legitimate activities to either cement a violent group's influence or provide a veneer of legitimacy for terrorist fundraising. Since financing terrorism is outlawed in most jurisdictions, terrorist organizations have become adept at finding surreptitious means of transferring funds.

Funds moved through familiar channels such as wire transfers, large deposits of assets, and even credit card expenditures are traceable. "Proceeds of crime" laws enacted in Canada, the U.K., and the U.S. serve to regulate the financial sector by ensuring that private institutions such as banks comply with legal directives that require them to flag and report suspicious transactions to regulatory authorities. Failure to comply can lead to monetary penalties and loss of reputation. These attempts to encourage the banking and financial services sector to strengthen its anti-money laundering systems have come up against a reluctance by some institutions to turn away profitable business even when the risk is high that the proceeds of crime are involved. The Financial Services Authority in Britain, for example, has referred two major banks to its enforcement division for lax money-laundering controls; it is now considering what further regulatory action is required to deter banks from making decisions that do not take adequate account of the money laundering risk.¹⁹

Jihadi networks, however, often use informal systems to transfer money that bypass modern banking regulations. For example, the hawala is an informal association of individuals at either end of a transaction who accept or pay out the requested funds. The system is efficient, convenient, and an inexpensive method of transferring funds through a network of agents. Payment can be made within a very short timeframe if necessary. Because this traditional system is widespread among global Muslim communities, it is difficult to determine whether any particular exchange is in support of terrorist activities or for normal communal or personal reasons.

Apart from raising funds to support terrorism, charities can be ideal money-laundering mechanisms. Those used by terrorist groups tend to operate in conflict zones, where they can facilitate the movement of personnel, funds, and material under the cover of charity work. Funds typically move in one

direction only, from donors to recipients, so that relatively large transfers can take place without arousing undue suspicion.

Framework for Terrorist Financing Countermeasures

Criminal and terrorist threats have important characteristics in common. They both have a requirement to utilize and disguise money flows. Formulating a coordinated response to this common characteristic enables both phenomena to be tackled simultaneously using similar means. Most of the methods that terrorist groups use to “process” their funds (move them from the source to where they will be used) have long been used by non-terrorist criminal groups to launder funds.

The concept. U.S. initiatives to combat money laundering were created before 9/11 because criminal activities were generating significant amounts of cash that had to be “laundered” to avoid a link being drawn between the money and the crime that generated the wealth. After 9/11, American and international efforts adopted this money-laundering model for the purpose of countering the financing of terrorism because, as a strategy, following the money trail had the advantage of being able to draw upon existing legislative, regulatory, and policing mechanisms.²⁰

This approach may not have been the most appropriate since laws already in place to counter criminal money laundering focused on large amounts of money that are the proceeds of crime (“dirty money”); in contrast, terrorist financing may involve smaller sums that do not necessarily flow from crime. But in the climate immediately following the 9/11 attacks, a prompt and tangible indication that “something was being done about terrorism” was required.²¹ The new targets were not traditional money launderers, but the assumption was that without money terrorists could accomplish little, and therefore tracking down their money routes was a logical way of disrupting or putting an end to their activities.

As the international terrorist threat evolved, the means by which terrorist groups raised, stored, and moved funds also changed. Emerging homegrown cells were frugal in their use of money, required relatively little to carry out attacks, and were increasingly self-financed. International networks were often able to use untraceable means of moving money when it became possible to transfer and store funds electronically. Both the Internet and cell phone technology had a major impact on terrorist financing: Fast, cheap, efficient, and relatively secure means of communication were used to provide logistical and financial support for terrorist operations.²² Since terrorist organizations like al Qaeda readily shift between financial transaction options, regulatory authorities must be equally flexible in reviewing and assessing terrorist financing activities, and in being alert to the fundraising options available to individuals and groups.

International instruments. Terrorist financing (TF) is essentially the collection and/or use of funds to accomplish or support terrorist acts, or to support terrorist organizations. The Financial Action Task Force describes TF as follows:

The term terrorist financing includes the financing of terrorist acts, and of terrorists and terrorist organizations.... Terrorist financing offences should extend to any person who willfully provides or collects funds by any means, directly or indirectly, with the unlawful intention that they should be used or in the knowledge that they are to be used, in full or in part: a) to carry out a terrorist act(s); (b) by a terrorist organizations; or (c) by an individual terrorist.

U.N. member states are required and encouraged to enact laws against the funding of terrorism by the 1999 U.N. Convention for the Suppression of the Financing of Terrorism and the Financial Action Task Force Recommendations of 2001 and 2004. Three U.N. instruments relate to TF matters: the International Convention for the Suppression of the Financing of Terrorism, U.N. Security Council Resolution 1373, and U.N. Security Council Resolution 1267. The Convention requires parties to criminalize TF, and to provide for the freezing, seizure, and forfeiture of funds used for TF. Resolutions 1373 and 1267 require the listing of individuals and entities to which an asset freeze, travel ban, or arms embargo should be applied. These resolutions, passed under Chapter VII of the U.N. Charter, bind each U.N. member to implement the provisions into their domestic law.

In addition to these legal obligations, the Forty + 9 Recommendations published by FATF are intended to develop and promote national and international policies and provide guidance for countering money laundering and terrorist financing. Although they have been endorsed by more than 170 jurisdictions around the world, they are not legally binding. FATF aims to fulfill its mandate by establishing partnerships with regional bodies and international organizations in order to generate the political will to bring about legislative and regulatory reforms with respect to money laundering and TF in particular geographic locations. Regional bodies also conduct evaluations of member states' activities against money laundering and TF. The identification of, and appropriate responses to, countries with severe deficiencies in their responses are key elements of FATF's ongoing work. FATF operates a "carrot and stick" approach to encourage member jurisdictions to comply with its standards and recommendations, including guidance and help for the willing, and public exposure and possible "blacklisting" for the recalcitrant.

National legislation and regulation. "[T]here is no uniform legal approach to countering the financing of terrorism (CFT). Some jurisdictions mirror UN model laws, while others adopt their own methods or merely extend money

laundering provisions to cover CFT.”²³ When money flows internationally between different jurisdictions, countering TF becomes complicated because of the differences between national regimes. Disagreements regarding what conduct is illegal, and which organizations should be pursued, stem from the different definitions of terrorism adopted by the various countries.

National definitions of terrorism vary from the broad to the restrictive. Canada, the U.S., and the U.K. define terrorism broadly, in contrast to the more restrictive EU definition that reflects the disparate interests and lack of agreement among member states. Universally accepted international definitions of “terrorist” and “terrorism” are lacking because these terms have significant political implications that differ from country to country. Definitional differences often explain why some countries are less willing or able to act against certain organizations. For example, the Liberation Tigers of Tamil Eelam (LTTE) was designated by the U.K. and Australia in 2001, but Canada and the European Union only did so in 2006.

The criminal nature of terrorism means that it’s often easier for domestic authorities to pursue, apprehend, and hold accountable terrorist suspects for their activities under routine criminal law rather than counterterrorism legislation. After all, this approach allows countries to utilize their existing criminal laws rather than become enmeshed in constitutional or charter appeals that may require new legislation or regulatory authority. Matthew Levitt illustrates this point with respect to Hizballah, which many countries do not list as a terrorist organization. These jurisdictions can therefore take no action against it unless they are able to bring a prosecution on the grounds that the group has perpetrated crimes to fund its activities.²⁴

But, as previously mentioned, the United States and several other countries define terrorism more broadly. Thus, the assets and accounts of the Holy Land Foundation (HLF) in Richardson, Texas, were frozen by the United States in 2001 because its money was being used to support Hamas. At that time HLF was the largest Islamic charity in the United States. The U.S. has similarly designated, and frozen the assets of, a number of other charities with ties to terrorism. These include the Benevolence International Foundation, the Islamic African Relief Agency, and the Al Haramain Islamic Foundation. The following have been listed as terrorist entities under Canada’s criminal code: Hezb-e Islami Gulbuddin (2006), Liberation Tigers of Tamil Eelam (2006), World Tamil Movement (2008), Al Shabaab (2010), Al Qaeda in the Islamic Maghreb (2010), and Al Qaeda in the Arabian Peninsula (2010).

Legislative amendments to the U.S.’s Anti-Terrorism Act made in 1996 criminalized the provision of “material support or resources” to foreign terrorist organizations.²⁵ The material support statute has been used not just to restrict terrorist fundraising, but also to combat all kinds of support to terrorist organizations. By criminalizing the provision of “material support or resources” to foreign terrorist organizations, the statutes recognize that

humanitarian aid, just as much as armaments, can constitute material support. Indeed, some of the funds Hamas receives may be used for legitimate charitable or humanitarian purposes, but a portion is siphoned off to pay for weapons and military equipment, and to support the families of militants. Further, money that bolsters Hamas's humanitarian aid can make its militant activities stronger by enhancing its perceived legitimacy.²⁶

Ideally, terrorist financing laws should allow for prophylactic and preemptive measures against terrorists, such as proscription of terrorist organizations, offenses covering membership and raising funds for these organizations, the duty to disclose information and cooperate with police, and the seizure and forfeiture of terrorist money. The purpose of proscription, whether in relation to international or domestic terrorist groups, is to deter them from operating in the proscribing country, to disrupt their ability to do so, and to send a strong signal that such organizations and their claims to legitimacy are rejected.

The Financial Action Task Force. The FATF, an intergovernmental body, was established by the G7 countries in 1989 with a mandate to provide guidance and a practical framework for combating money laundering. Its mandate was expanded to include TF activities in 2001. It is now the principal group at the international level setting standards and recommending measures to combat money laundering and TF.

FATF's responsibilities include examining money laundering and TF techniques and trends, and reviewing actions taken at the national and international levels. A key element of its work is the identification of, and response to, countries with severe deficiencies in their money laundering and TF programs. To this end, FATF operates a mutual evaluation program in which experts examine the measures adopted by member states to counter money laundering and TF. By the time FATF issued its 2007-08 annual report, seventy-five countries had been evaluated, including Canada. A 2008 mutual evaluation of Canada's anti-money laundering/anti-TF program found that its legal measures framework (money laundering and TF offenses, confiscation, freezing mechanisms) was generally in line with FATF standards, but further steps were needed to enhance effective implementation.²⁷

When the FATF mandate was reviewed in 2008, FATF stated that it would make efforts to respond to emerging threats created by globalization, such as "proliferation financing and vulnerabilities in new technologies which could destabilize the international financial system."²⁸ Also in 2008, it published a paper, "Terrorist Financing," which describes various TF typologies—that is, the methods and trends associated with TF.²⁹ Subsequent papers have examined precious metals/stones dealers, commercial websites, and new payment methods in the context of this problem set. A study of TF risks in the securities sector is also anticipated, which will be helpful to financial entities in Canada required to report financial transactions to Canada's financial intelligence unit, FINTRAC.

The World Bank and International Monetary Fund also have important roles in countering TF; both normally deal with the financial sectors of various countries, regulate financial institutions, and provide assistance on TF matters. Other groups, such as the Basel Committee on Banking Supervision, the Wolfsberg Group of Banks, the International Association of Insurance Supervisors, and the Egmont Group of Financial Intelligence Units, also contribute.

An effective counter-terrorist financing (CTF) regime. Terrorist fundraising sources and methods are often particular to specific groups or contexts. An understanding of the structure, objectives and organizational methods of target groups will produce a more effective CTF regime. Measures that target the funds of large, international, hierarchical organizations and networked groups may not be as successful against groups that are smaller and more isolated.

Underpinning the legal measures designed to cut off sources of terrorist finance—such as proscription, asset freezing, arms embargoes, and travel bans—are the investigative processes that produce evidence for implementing legal countermeasures. It has been said that modern methods of forensic accounting are required to be “as imaginative and as path-breaking in our times as the work of the enigma codebreakers.”³⁰

The metrics most often used to assess efforts against terrorist financing—the total amount of money seized, and the overall number of proscriptions—can be misleading. According to Matthew Levitt and Michael Jacobson, “The Achilles’ heel of terrorism financiers is not at the fundraising end, but rather at the choke points critical to laundering and transferring funds. It is impossible to ‘dry the swamp’ of funds available for illicit purposes, but by targeting key nodes in the financing network, we can constrict the operating environment to the point that terrorists will not be able to obtain funds where and when they need them.”³¹ In other words, terrorist activity can be disrupted by creating short-term *bottlenecks* in the supply of financing while addressing in the longer term the fundamental issues that generate supply. Such a strategy requires a close partnership with the financial sector to identify and provide clear guidance on suspicious transactions, and alert them to new trends and typologies so that prompt and effective action can be taken.

A particularly vital element of an effective CTF regime is the willingness and ability to share information across the entire domestic intelligence and security community, and with international partners. New multilateral arrangements should bring together law enforcement authorities and encourage information sharing, strengthen pre-emptive asset-freezing initiatives, and help disrupt terrorist activities. However, the privacy implications of information sharing continue to be an impediment to an effective Canadian CTF regime; these implications also cause concerns for European lawmakers about the possible violation of citizens’ rights when bulk bank transfer data is shared with investigators outside Europe.³²

Canada's Approach to Countering Terrorist Financing

Until the turn of the millennium, Canada had not perceived itself either as a target of terrorist attacks, or as a country from which terrorist attacks might be launched, despite the enormous tragedy of the Air India bombing in 1985. Terrorist incidents that occurred before 2001 were dealt with under existing criminal law. Once the possibility was acknowledged that international terrorist cells and groups might operate in Canada, the government could no longer consider the country immune, nor ignore its international counterterrorism responsibilities.³³ The groundwork for Canadian TF legislation was laid before the September 11 terrorist attacks, but that event provided a significant impetus.

Anti-terrorism legislation in 2000 marked the change in outlook, but enacting appropriate legislation to deal with terrorist financing took longer, not least because of opposition from financial institutions and the Canadian Bar Association. Canada's current anti-terrorist financing program aims to protect Canadians and the integrity of Canada's financial system. The government's stated objectives are "to create a 'hostile environment' towards TF, to respect international obligations, and to be vigilant in dealing with TF."³⁴

It is the responsibility of Finance Canada, the lead department in the federal government's initiative to combat money laundering and TF, to work with partner agencies to develop policy on legislation and regulation. It also assesses financial sectors to determine whether there is sufficient vulnerability to warrant the application of anti-TF laws. FINTRAC, Canada's financial intelligence unit, is a key partner in this endeavor. The minister of finance, who is accountable to Parliament, has the lead responsibility for conducting relations with other governments and organizations in order to fulfill Canada's obligations relating to money laundering and TF under international law. To date, Canada has signed a total of sixty-two information-sharing memoranda of understanding agreements with other countries.

International engagement. Canada is bound by U.N. Security Council Resolutions 1373 and 1267, and by the International Convention for the Suppression of the Financing of Terrorism. As a founding member of FATF, it is also under strong pressure to implement FATF Recommendations. Special Recommendations I and II require member states to ratify and implement the Convention and criminalize TF, while Recommendation 26 requires that they have a functioning financial intelligence unit (FIU).

Apart from being a founding member of FATF, Canada is an active member of a core group of countries and groups that have been proactive on TF matters. These include the Asia/Pacific Group, the Caribbean Financial Action Task Force, the Egmont Group of Financial Intelligence Units, the Five Eyes Group, the World Bank and IMF, the United Nations, the Commonwealth Secretariat, and the Organization of American States.

As a demonstration of its proactive support for the global fight against money laundering and terrorist financing, Canada pledged \$5 million in 2007 to establish the Egmont Group's permanent secretariat in Toronto. The Egmont Group is the coordinating body for the international group of financial intelligence units. It was formed in 1995 to promote and enhance international cooperation in anti-money laundering and counter-terrorist financing.

Canada's legislative framework. It is the responsibility of Finance Canada, together with its partner agencies, to develop policy on money laundering and terrorist financing relating to legislation and regulation. The Proceeds of Crime (Money Laundering) Act, 2000, was amended in December 2001 to become the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA). Together with the Criminal Code, it is today used in Canada to combat terrorist financing. While the Criminal Code addresses a variety of TF-related activities and criminalizes them, the PCMLTFA deals with reporting requirements, cross-border movements of currency, and the creation of an agency to administer the act.

Canada's laws impose requirements on financial institutions and other entities to help detect, deter, and prevent terrorist financing.³⁵ Although the compulsory reporting of transactions by financial institutions was introduced by the Money Laundering Act, 2000, terrorism-related incidents before 2001 were dealt with under a criminal law that contained no specific TF offenses. As one witness at the Air India Inquiry pointed out, it was significant that legislation came about as a consequence of the attacks on the United States in September 2001, and not the 1985 Air India tragedy in which so many Canadians died.³⁶

Although the Anti-Terrorism Act was amended in December 2001 to include TF, and the Royal Canadian Mounted Police (RCMP) promptly created a task force on terrorist-related financial matters, it was 2006 before the PCMLTFA, the main legislative tool to combat terrorist financing, was amended further to bring TF legislation into line with international standards. Furthermore, these additional regulatory measures were not fully in force until 2008.

The 2006 amendments to the PCMLTFA strengthened Canada's anti-money laundering and anti-terrorist financing regime by broadening the type of institutions that had to report, strengthening the deterrence provisions, and increasing the range of information that FINTRAC was permitted to disclose to law enforcement and other authorities, including the RCMP and the Canadian Security and Intelligence Service (CSIS). A monetary penalty regime for use against noncompliant reporting entities was introduced, as well as a registration regime for money services businesses.

The RCMP expressed concerns in 2006 about the repercussions of failing to deal appropriately with TF issues: "If the RCMP is unable to address terrorist financing issues in an appropriate manner, Canadians and our allies would be in an environment of elevated risk. Terrorist financiers could focus on Canada as an operating base which could undermine the integrity of Canada's

financial system and its reputation, quite apart from putting some members of its communities at greater risk of being exploited.”³⁷ The fundraising activities of the LTTE were a particular source of concern.

The charities sector. The Canada Revenue Agency (CRA) has federal responsibility for overseeing charities in Canada as part of its mandate to implement Canada’s taxation system. Its Charities Directorate was created to deal with the benefits and tax treatment charities receive. Through this directorate, the CRA registers qualifying organizations and provides technical advice on their operation. It also undertakes audit and compliance activities.³⁸

Charities in Canada can be monitored or investigated in at least three ways: direct monitoring by law enforcement and security intelligence agencies of individuals and groups; information received by FINTRAC that it discloses to law enforcement and security intelligence agencies or to the CRA, which may then lead to (further) monitoring or investigation; or a decision by the CRA that a registered charity or applicant for charitable status could have ties to terrorism.

The 2008 FATF Mutual Evaluation of Canada’s AML/TF regime criticized its regulation of the charitable sector on the grounds that the Charities Directorate compliance program was largely based on annual self-reporting by the charities themselves, CRA analysis of trends in the charitable sector, and complaints and tip-offs from the public. Further, the evaluation identified Canada’s treatment of nonprofit organizations (NPOs) “as a potential gap, in that a large segment of the NPO population is not covered by the current measures using Canada’s risk-based approach.”³⁹ FATF recommends that entities in any area of activity must be covered *unless* there is “a proven low risk” of money laundering or TF. This is distinct from Canada’s current approach, which subjects sectors considered to be at a higher risk of noncompliance to a greater degree of enforcement activities, such as a compliance examination.

FATF’s reservations about Canada’s AML/TF regime also concerned information-sharing and coordination mechanisms between competent authorities, especially between the parties responsible for listing and freezing applications. It recommended that “Canada should review the capacity of CRA and FINTRAC to share information with law enforcement authorities related to the non-profit sector.”⁴⁰

Similar concerns have been expressed by Canada’s auditor general, who has noted that FINTRAC, along with other government departments and agencies, have not been sufficiently proactive in sharing information. She noted that while the parties attributed a reluctance to share information to anxieties regarding violation of the provisions of the Privacy Act or the Charter of Rights and Freedoms, in her opinion the act appeared to accommodate the sharing of information for national security reasons.

In sum, the FATF Mutual Evaluation of Canada in 2008 criticized Canada for its risk assessment of financial activity sectors, and stated that Canada

did not have a consistent methodology for evaluating the risk of TF through financial activity sectors.⁴¹ While it found that Canada's legal standards were generally in line with FATF standards, it concluded that further steps could be taken to enhance effective implementation.

FINTRAC. In addition to introducing the compulsory reporting of transactions by financial institutions, The Money Laundering Act, 2000, also established FINTRAC, Canada's financial intelligence unit. A 2001 amendment to the Anti-Terrorism Act later gave FINTRAC a mandate to include TF. As the main collector of reports on financial transactions, its activities are subject to review by government bodies and the Privacy Commissioner.

FIUs have three main functions: to serve as a central repository for financial information, to analyze that information, and to facilitate dissemination of the results. FIUs can also monitor compliance with FATF Recommendations, block transactions, freeze bank accounts, and engage in financial sector training, research, and public education.

FINTRAC operates at arm's length from law enforcement and intelligence agencies, and other bodies to which it is authorized to disclose information. As such, it can be described as an "administrative" FIU, which is the most common FIU model internationally. This means it is a stand-alone administrative and regulatory agency responsible both for ensuring that reporting entities comply with the PCMLTFA and for analyzing the information received from them. In contrast, "law enforcement" and "prosecutorial" models are those that reside within law enforcement and justice departments. They are less common among FATF members than the administrative model.

FINTRAC's mandate is to facilitate the detection, prevention, and deterrence of money laundering, terrorist activity financing, and other threats to the security of Canada. The center fulfills its mandate through the following activities, as listed on its website:

- gathering and analyzing information on suspect financial activities;
- ensuring those subject to the PCMLTFA comply with reporting, record keeping, and other obligations;
- making case disclosures of financial intelligence to the appropriate law enforcement agency, CSIS, or other agencies designated by legislation in support of investigations and prosecutions; and
- enhancing public awareness and understanding of matters related to money laundering.

In essence, FINTRAC produces and shares financial intelligence based on an analysis of the financial information it receives from private sector reporting entities, international and domestic partners, and from the general public. It provides this financial intelligence to domestic police forces, CSIS, federal partners, and other FIUs with which it has agreed to exchange intelligence.

These entities receive information that FINTRAC suspects would be relevant to the investigation or prosecution of money laundering and TF offenses, or to the overall security of Canada. In addition, FINTRAC is required to provide information to the Canada Revenue Agency on suspected cases of terrorist financing involving charities.

One of FINTRAC's recent priorities has been the production of strategic intelligence on money laundering and terrorist financing. A series of published reports on trends and typologies in the banking (May 2009) and casino sectors (November 2009), along with another on the money services business sector, are intended to help reporting entities, as well as other partners, to recognize new criminal methods and techniques. In addition, FINTRAC has started to play an increased role in contributing to various security and intelligence community papers designed to inform national security and law enforcement decisions.⁴²

Assessing Canada's AML/TF Regime

Canadian officials who gave evidence to the Air India Commission of Inquiry referred to Canada's regime for countering terrorist financing as immature, in that it had not long been established and authorities were still questioning whether they had the right approach and measures in place for it to be effective. The lengthy "staged" implementation process, whereby the provisions of the PCMLTFA were introduced over a two-year period, was in part dictated by the need to enact enabling legislation, recruit staff with the requisite skills, and consult with relevant federal, provincial and international partners.

Although the 2008 FATF Mutual Evaluation was critical of some aspects of Canada's AML/TF program, it found that the framework governing its legal measures was generally in line with FATF standards even though more needed to be done to enhance its implementation. Specifically, FINTRAC received a failing grade in relation to FATF Recommendation 26 on the role of FIUs:

- FINTRAC did not have sufficient access to intelligence information, particularly from CRA, CSIS, and Customs.
- The PCMLTFA did not allow FINTRAC to gather additional financial information from reporting entities.
- FATF also criticized FINTRAC on effectiveness grounds. It was particularly concerned about staff issues, and the value and timeliness of FINTRAC disclosures to law enforcement investigations. It also questioned FINTRAC's ability to generate new ML/TF cases, given its excessive reliance on voluntary information reports for its TF work.

The process of transforming FINTRAC into a more effective unit began in 2006, when amendments were made to the PCMLTFA. However, since

these changes did not come into full force until 2008 and the FATF evaluation was mostly conducted in 2007, its critical assessment of Canada's compliance with FATF Recommendations came before FINTRAC's transformation was completed. Canada requested a year to demonstrate that it would, in fact, comply with many of the obligations highlighted by FATF once the legislative provisions enacted in 2007 came fully into force.

While the FATF ratings could not be changed, the deficiencies catalogued in the report have now largely been addressed. Under its new director, appointed in 2008, the center has been proactive in initiating new programs as well as implementing necessary changes to bring it into line with FATF requirements and standards. A Legislation and Regulation Task Force has been created to consider what further legislative amendments are required to improve the detection and deterrence of money laundering and terrorist financing threats emanating from foreign jurisdictions and entities of concern.

FATF comments about the registration and monitoring of Canadian charities have also received attention. But while it is now more difficult for charities to obtain registration due to requirements imposed by the CRA, the federal/provincial issue remains: that is, although the CRA may revoke charitable status of an organization, the organization, as a *provincial* nonprofit group, can still call itself a charity even though it cannot issue tax receipts. Joint federal/provincial initiatives or greater cooperation with respect to the monitoring of charities and other nonprofit and voluntary organizations, especially those that do not seek or obtain registered status, would result in a more comprehensive financial tracking regime.⁴³

Effective regulation of charities in Canada requires that the constitutionally embedded jurisdictional divides among the federal government, provinces, and territories be overcome. According to witnesses who testified before the Air India Commission of Inquiry, reform of the Canadian regulatory framework for charities and nonprofit sectors could be achieved if the existing jurisdictional authorities delegated their powers to a regulatory agency to avoid the current division of responsibility. This would provide a new charities regulator with the jurisdiction, structure, powers, and modus operandi of the Charity Commission of England and Wales.⁴⁴

New measures were announced in the 2010 federal budget that will allow the minister of finance to take targeted financial counter-measures against jurisdictions and foreign entities that lack sufficient measures to combat money laundering and terrorist financing. These include the establishment of a new forum to identify illicit financing threats from outside Canada, and to limit or prohibit transactions as a means of safeguarding the Canadian financial system. The government also expressed its commitment to an enhanced exchange of intelligence about possible threats to the security of Canada between FINTRAC and its federal partners.⁴⁵

Canada chose a financial intelligence unit model that is most likely to generate trust with the private sector. Alternatives, i.e. law enforcement or judicial models, would not provide the same degree of independence nor allow FINTRAC to act as a buffer between the reporting entities and law enforcers. Such a model is also better suited to the exchange of information with foreign FIUs. Nevertheless, developing seamless, two-way sharing of timely and relevant information between FINTRAC and its federal partners will be a critical determinant of its future effectiveness.

Privacy issues lie at the heart of an effective information-sharing regime. As FINTRAC gains experience with the powers it can properly exercise under its enabling legislation, and as it develops relationships of trust with partner agencies, perceived obstacles to information sharing are diminishing. The 2006 amendments to the PCMLTFA required the Office of the Privacy Commissioner (OPC) to review FINTRAC's measures every two years. FINTRAC is now implementing improvements recommended in the OPC's first report in 2009, including the appointment of a chief privacy officer. This confidence-building measure will assist FINTRAC in identifying and managing the possible privacy risks associated with any new programs or initiatives. FINTRAC and other partners have been too fearful of privacy issues when exercising their legitimate powers and trying to find the correct balance between privacy and national security.

A reading of the 2010 FINTRAC Annual Report is encouraging, as it is meant to be, but while the range of information FINTRAC can now gather from reporting entities has expanded, the key test will be what is done with it. Skilled analysis is the "value added" that converts gathered information into an intelligence product that has the potential to lead to prosecutions and convictions. Holding offenders publicly to account is vital if others are to be deterred.

Canada's track record in prosecuting TF offenders has been limited, yet like other U.N. member states, it is required under Resolution 1373 to prevent and suppress TF, criminalize TF, and freeze funds used to support terrorism. Canada's proscription of the World Tamil Movement in 2006 was followed by an investigation that laid the groundwork for Canada's first conviction for the offense of financing a banned terrorist organization. However, despite the seizure by the RCMP of what was described at the time as "a mountain of evidence,"⁴⁶ and the scale and sophistication of LTTE fundraising in Canada, only a single prosecution ensued. In the spring of 2010, the defendant pleaded guilty.

Conclusion

In our fast-moving global economy, patterns of money laundering and terrorist financing are constantly shifting. The elements involved in these activities are quick to exploit new technologies, and to take advantage of

new vehicles of monetary exchange in order to elude detection. This requires FINTRAC to continuously work with its partners to monitor, assess, and enhance the sophistication and effectiveness of its anti-TF policies and its governing legislation.

Honing an effective Canadian AML/TF regime is a work in progress, and further obstacles remain. Although the early development and implementation of Canada's roles and responsibilities, both legal and operational, has occurred in overly protracted stages, Canadian authorities have shown a willingness to respond to criticisms and effect necessary changes. The value Canada places on its international role in this area provides a strong incentive to maintain the momentum toward making Canada inhospitable to criminal AML/TF financial activity.

Is the U.S.-Canadian Border a Security Threat?

James Bissett

President John F. Kennedy visited Ottawa on May 17, 1961. It was his first trip outside the United States following his inauguration, and in his address before the Canadian Parliament, the president explained why Canada had been chosen for his first foreign visit. “It is just and fitting, and appropriate and traditional, that I should come here to Canada—across a border that knows neither guns nor guerrillas,” Kennedy said. “Geography has made us neighbors. History has made us friends. Economics has made us partners. And necessity has made us allies. Thus whom nature hath so joined together, let no man put asunder.”¹

President Kennedy’s words reflected a reality that has been reiterated by countless politicians on both sides of the border. The longest undefended border in the world has been cited many times as a model of how other nations might relate to one another in the spirit of good neighborliness. This border has been a symbol of pride and esteem for the people of Canada and the United States.

Unfortunately, due to the tragic events of 9/11 the U.S.-Canada border now has more in common with the foreboding boundaries that once separated the countries of Western Europe from their Iron Curtain neighbors in the east. The border guards of both Canada and the United States are now armed. Citizens of both countries are required to possess valid passports when crossing the border. Border patrols have been stepped up, and a variety of electronic, mechanical, and airborne surveillance devices have been installed in an attempt to prevent illegal entry of potential terrorists from either country.

Such a drastic transformation in such a short time can be explained only by understanding the devastating psychological trauma caused by the September 11 attacks. The possibility of the United States becoming a war zone, its citizens vulnerable to violence and death by a foreign enemy, had been unthinkable to most observers before that unforgettable day. The brutal reality that terrorists could strike at the heart of the nation created a climate of fear and alarm, and a determination to prevent something like that from ever again happening.

The U.S. reaction was fast and comprehensive. President George W. Bush and the U.S. Congress immediately declared war on “terrorism,” and identified Osama bin Laden and his al Qaeda organization as the primary adversaries in this conflict. This led to the invasion of Afghanistan, which temporarily dislodged the fundamentalist Taliban group that had been sheltering al Qaeda.

At home, the U.S. government enacted a series of tough security measures designed to disrupt further attacks.

In October 2001, the U.S. Congress passed the Patriot Act. Among other things, this legislation gave law enforcement agencies extraordinary powers of search, surveillance, and investigation, and broadened their ability to apprehend suspected terrorists. The Department of Homeland Security (DHS) was formed in November 2002, bringing together a number of agencies charged with safeguarding U.S. security, extensive restructuring that was intended to ensure more effective sharing of intelligence and better coordination of operations. The Patriot Act and DHS placed U.S. security and law enforcement agencies on war footing. To some it appeared that the “land of the free” had suddenly become “Fortress America.” These new measures had an immediate impact on the northern border with Canada, and every effort was made to rapidly strengthen border control along the 5,000-mile boundary.

Concern about the hitherto undefended border was magnified by rumors circulating in the United States that the 9/11 hijackers had entered from Canada. Despite almost desperate attempts by Canadian politicians and diplomats to quash these rumors, and evidence produced later that none of the bombers had entered from Canada, the rumors persisted. Senator John McCain and then-Senators Hillary Clinton and Conrad Burns at one time or another supported this claim. As recently as 2009, Janet Napolitano, the U.S. homeland security secretary, claimed that some of the 9/11 terrorists had entered from Canada.²

Notwithstanding that such rumors are demonstrably false, many in the United States have maintained the impression that the Canadian border remains a serious security threat. Perception often trumps reality, and therefore it is important to take a hard look at what steps Canada has taken to strengthen border security with its southern neighbor.

For the most part, the measures taken demonstrate that Canada responded quickly to the events of 9/11, and as well, to U.S. concerns about the security of its northern border. However, a number of the measures introduced have encountered stiff opposition from those concerned that the actions taken jeopardize human rights, privacy, and individual freedoms. Some of Canada’s anti-terrorist legislation has met with legal challenge. Moreover, what may prove to be the most serious security threat to North America—Canada’s wide-open immigration and refugee system—has not been addressed. This omission, and the reasons why these policies need to be reformed, will also be examined.

Canadian Security Measures

Canadians reacted to the 9/11 attacks with the same feelings of horror and anger experienced by their southern neighbors. On September 14, 2001, Prime Minister Jean Chrétien held a memorial service in Ottawa for the victims who perished in the World Trade Center, including twenty-four Canadians. Addressing

U.S. Ambassador Paul Cellucci, he said, “Mr. Ambassador, you have assembled before you, here on Parliament Hill, and across Canada, a people united in outrage, in grief, in compassion, and in resolve . . . a people, who as a result of the atrocity committed against the United States on September 11, 2001, feel not only as neighbors but as family.”³ The prime minister concluded his address by assuring Ambassador Cellucci that the terrorist threat would be defied and defeated, and that Canada would be with the United States every step of the way.

Less than a week later, on September 20, Canadians were disappointed when during President George W. Bush’s address to a joint session of Congress about the attacks, he singled out a number of countries that had also lost citizens to the terrorists—but failed to mention Canada. Among those mentioned were Pakistan, Israel, India, El Salvador, South Korea, Germany, Mexico, Japan, Egypt, Iran, Australia, Latin America, and Africa. Compounding this slight, Bush specifically singled out Britain for praise, stating that “America has no truer friend than Great Britain.”⁴ There was no mention of Canada and its pledges to the U.S.

Many Canadians interpreted this as emblematic of America’s usual habit of taking its neighbor to the north for granted, and neither knowing nor caring about what is said or done in Canada. Whatever sensibilities may have been ruffled by the absence of any reference to Canada in the president’s speech, however, did not prevent Canada from reacting swiftly to the events of 9/11. The Canadian government was fully aware that North America was vulnerable to terrorist attack. As early as 1998, the head of the Canadian Security Intelligence Service had told a special committee of the Canadian Senate that his service was investigating more than fifty organizations suspected of being involved in terrorist activities, and he predicted that a terrorist attack in North America was a matter only of time.⁵

When the war on terrorism was declared, Canada rapidly offered to send troops to Afghanistan to help overthrow the Taliban. Since arriving there, Canadians have been in some of the heaviest fighting; as of this writing, 158 Canadian soldiers have been killed in action. In addition, Canada took measures to combat terrorism on its own soil. Only three months after 9/11, an omnibus anti-terrorism act was sped through the Canadian Parliament. The new legislation closely resembled the U.S.’s Patriot Act, providing the Canadian government with expansive powers to combat terrorist activities.

Despite criticism by some members of Parliament, civil rights groups, and media that the act violated the Canadian Charter of Rights and Freedoms, and gave the police and security agencies powers usually reserved for use only in times of war, the legislation passed through Parliament with little debate. In 2001, planning began for the formation of a new Department of Public Safety and Emergency Preparedness, later renamed the Department of Public Safety. This department came into effect in December 2003 with the various agencies involved operating under their original legislative mandate until the new title was legally constituted in April 2005 with the passage of legislation by Parliament.

This new Canadian organization was similar in design to the U.S. Department of Homeland Security, aiming for faster and more effective coordination of intelligence and security operations by combining several agencies.

Canada also developed a National Security Plan to provide a strategic framework to address Canada's national security interests. The plan contained a number of measures, the three most important of which established the Integrated Threat Assessment Center, a National Security Advisory Council, and a Cross-Cultural Round Table on Security. Four Integrated National Security Enforcement Teams were set up with the purpose of identifying and disrupting terrorist activities. In addition to the measures taken on its own initiative, Canada also has cooperated with the United States in joint operations to secure the border and combat terrorist activities. I will now examine some of the major efforts in this regard.

The Smart Border Action Plan. In December 2001, Canada signed a Smart Border Declaration with the United States. The declaration was designed to build stronger border cooperation between Canada and the United States, and to develop a twenty-first century border concept that would enhance the movement of goods and people while at the same time ensuring adequate security. The thirty-point Smart Border Action Plan that flowed from the declaration was intended to serve as an international model for successful border management. The Action Plan was founded on four pillars:

1. The secure flow of people. The Action Plan was designed to separate low-risk from high-risk traffic (or traffic of an unknown risk) crossing the border. This pillar included a voluntary program called NEXUS for pre-examined low-risk people who crossed the border regularly. Under NEXUS, a security and background check is carried out, and a special card is issued to those who qualify; when presented to authorities at the border or at air and sea points of entry, the card enables the bearer to receive expedited processing.
2. The secure flow of goods. This pillar is similar to the first, but relates to low-risk goods that were pre-screened from reliable shippers and truckers.
3. Secure infrastructure. This pillar focused on the expansion and improvement of marine and highway gateways. Two of the largest projects involve expansion of the Ambassador Bridge and facilities at the Pacific Highway.
4. Coordination and sharing of enforcement responsibilities. This pillar was designed to improve the sharing of intelligence between Canadian and U.S. border services. Integrated Border Enforcement Teams (IBETs) were established to investigate criminal activities and activities with national security implications. There are currently two IBETs operating in thirteen regions across the 4,000-mile border.

On December 6, 2002, Canada's then-Deputy Prime Minister John Manley and then-U.S. Homeland Security Advisor (and later DHS Secretary) Tom Ridge issued a one-year status report on the Smart Border Action Plan. They hailed it as proof that close cooperation between the two countries had been a success, and noted that the plan demonstrated that the important trade relationship between the United States and Canada need not be jeopardized by security measures taken by the two countries. A further status report was issued in December 2004 outlining progress made on all of the Smart Border Action Plan's thirty points, but since that time there does not seem to have been further official evaluations published. Nevertheless, the 2004 report indicates that serious work has been ongoing in each of the areas of responsibility.

Although not part of the Smart Border Action Plan, Canada has had a program operating abroad aimed at interdicting improperly documented passengers attempting to board aircraft bound for Canada. Mission Integrity Officers (MIOs) are posted in thirty-nine key posts overseas to train airline staff and foreign officials to identify suspicious travelers. Once suspicious travelers are identified, the MIOs then conduct further questioning of the suspect; this may lead to the refusal of entry into Canada. The program has been in operation since the mid-1980s, and has served as a first line of defense against illegal entry. The program is considered by Canadian authorities to be highly successful, and in July 2011 Canada announced that it intended to double the number of these officers.

The Safe Third Country Agreement. As part of the Smart Border Action Plan, in December 2002 Canada and the United States signed a Safe Third Country Agreement designed to help both nations better manage access to their asylum systems by people crossing the land boundary between the two countries.

A person who is fleeing persecution in his country of origin is expected to apply for protection in the first "safe" country of arrival. However, many asylum seekers prefer to move on to other "safe" countries that they consider to be more advantageous for a variety of reasons: better chance of acceptance of their asylum claim, better living conditions, opportunity to join others of their own ethnic group, and other motives not related to the urgency of finding protection. The practice of choosing their country of asylum is regarded as "asylum-shopping," a perversion of the concept of granting refuge, and a hindrance to effective management of asylum movements.

In an effort to stop this abuse, many countries, including all of the European Union states, refuse to accept asylum claims from individuals who could have, and should have, sought asylum in the country where they first had an opportunity to do so. The means of doing this is to enforce a "safe third country" provision in their refugee determination process. In refugee terminology, a safe third country is defined as a country where a person passing through could have made a claim for refugee protection. Thus, if the person

tries to make an asylum claim in another country, that country is justified in refusing entry and returning the individual to the safe third country.⁶

In the mid-1980s, with the passage of a generous asylum law in Canada, many thousands of non-U.S. citizens began entering Canada from the United States and claiming refugee status. In an effort to stop this flow, Canada was eager to enter an agreement with the United States that would declare the United States to be a safe third country for refugees. Doing so would allow refugee claimants from the United States who were not U.S. citizens or legal residents to be refused entry. For example, if a Sudanese citizen visiting the United States applied at the border for asylum in Canada, he or she would be refused entry to Canada on the grounds that the United States is a safe country for refugees, and therefore the refugee claim should have been made there.

A Safe Third Country Agreement was not a priority for the U.S., which during negotiations insisted on a number of exemptions that considerably diminished the agreement's effectiveness. For example, the agreement was to apply only at the land border, so that people arriving in Canada from the United States by air or sea remain eligible to claim asylum. There has been no explanation for this anomaly, which seems to imply that a distinction can be made between refugee claimants because of their travel arrangements. Additionally, even at the land border any refugee claimant who has a family member in Canada who is a citizen or legal resident, or who possesses a work or study permit, can claim refugee protection. The definition of family member goes far beyond the immediate family to include uncles, aunts, nephews, nieces, common-law partners, and even same-sex spouses. Thus, the definition of family members for refugee claimants is much broader than the category of relatives eligible to be sponsored as immigrants under Canadian law. Again, the discrepancy is not explained.

A possible motive for U.S. negotiators to press for these amendments might have been the knowledge that many of the asylum seekers from the U.S. had relatives in Canada and were simply using the United States as a means of avoiding Canadian immigration requirements or a long wait in the immigration queue.

After negotiating the agreement with U.S. officials, Canada added another curious category of claimants who were to be exempted should they apply at the land border. This exception applies to anyone who had been charged with or convicted of an offense that could subject them to the death penalty in the United States or another country. This exemption was added by a decision of the Canadian Cabinet; it was not discussed in Parliament, and was given no media coverage. The Department of Citizenship and Immigration's website describes this exemption as a "public interest exception." However, the website fails to explain how allowing a convicted murderer or terrorist into Canada could possibly be in the public interest.

The Safe Third Country Agreement is perhaps more notable for its many exceptions than for its alleged effectiveness in the better management of cross-border refugee claimants. Nonetheless, Canada's willingness to enter into any kind of agreement that might jeopardize the possibility of anyone applying for asylum is in itself noteworthy. So far the United States is the only country that Canada has designated as a safe third country.

Security and Prosperity Partnership of North America (SPP). In June 2005, the Smart Border Plan was enhanced by the Security and Prosperity Partnership of North America (SPP), which was announced by the United States, Mexico, and Canada. SPP was not an agreement or a treaty, and therefore there was no legal obligation to honor its announced aims. However, it signaled an increasing awareness that the three countries of North America could profit from examining more closely the possibilities of closer cooperation in a variety of fields, including security.

On the security side ten goals were identified, including border facilitation, aviation and maritime security, law enforcement, intelligence coordination, bio-protection, emergency management, and science and technology. All these goals are subject to ongoing attention by ten working groups, with various degrees of implementation.

Shared Vision for Perimeter Security and Economic Competitiveness. The efforts both Canada and the United States have taken since 9/11 to strengthen border security have had a serious impact on the economic interests of both countries. Apart from the huge operational costs of increased border security, there has been a dramatic drop in cross-border tourism and an increasing awareness that the thickened border is adversely affecting the free flow of goods and services.

A major cause of this concern has been the Western Hemisphere Travel Initiative (WHTI), whose rules came into effect in June 2009. One of the new rules requires all travelers, including U.S. citizens, to possess machine-readable passports or other approved documents to enter the United States. Canadian diplomats lobbied strenuously against this initiative, warning that anything that might slow or hinder the \$365 billion annual bilateral trade between the two countries would be excessively harmful. This lobbying was unsuccessful.

But it soon became evident that the stepped-up security along the border was in fact adversely affecting tourism and hampering trade. Canada had lost 21 million U.S. same-day visitors since 9/11, and in 2009 overnight travel from the United States to Canada fell to 24-year low as a direct result of the WHTI. The United States also experienced large declines in Canadian same-day visitors despite the much improved value of the Canadian dollar.⁷ In an effort to address these growing concerns, President Barack Obama and Prime Minister Stephen Harper met in Washington in February 2011. The meeting resulted in a joint declaration on a Shared Vision for Perimeter Security and Economic

Competitiveness. The declaration committed both countries to ensuring common security, and expressed full support for economic competitiveness, job creation, and prosperity. It aimed to keep the borders open to legitimate trade and travelers, while closed to criminal and terrorist elements. A joint action plan on perimeter security and economic competitiveness was to be developed. To implement and oversee the progress of the action plan, a Beyond the Border Working Group was established consisting of representatives from both countries. Obama and Harper also announced the creation of a U.S.-Canada Regulatory Council tasked with reducing red tape and making regulations that are both less burdensome to business and also better able to facilitate the movement of goods and services across the border.

While the Shared Vision for Perimeter Security and Economic Competitiveness contained much of what had already been expressed in previous announcements and programs, it confirmed there had been a clear turning point in thinking about the U.S.-Canada border. It signaled that security interests no longer automatically trumped trade. The declaration embraced closer cooperation on security matters, and seemed to suggest that earlier concerns from the American side about Canada's seriousness in combating terrorism had been put to rest.

However, the real question is whether this newfound confidence is justified. There remain a number of areas where such confidence in Canada's commitment to North American security concerns might in fact be overly optimistic, or at best premature. These areas relate to Canada's immigration and refugee policies, and Canadian laws governing human rights and the courts.

Immigration Security Concerns

Canada accepts more immigrants on a per capita basis than any other country. More than five million immigrants have arrived in Canada since 1990. In 2010, just over 280,000 immigrants were accepted, in addition to 283,000 temporary foreign workers and 210,000 foreign students in the country. The foreign temporary workers and students are not screened for security purposes. There is no system in place to keep track of their whereabouts, nor are they required to keep immigration authorities advised of their movements.

Legal immigrants are theoretically supposed to be screened for health, criminality, and security concerns. However, in practice only about 10 percent are actually subjected to a security check. This is true even for those coming from countries known to produce terrorists. In the majority of cases, background inquiries are waived in the interest of speedy visa issuance.

It can of course be argued that security screening in many countries is unreliable. After all, most potential terrorists remain anonymous, and few have criminal backgrounds or previous records of terrorist activity. Furthermore, it's always possible to bribe underpaid local authorities to give a clean record.

These objections aside, if the real value of security screening is that it acts as a deterrent, it seems prudent to insist that the procedure be carried out—particularly in countries known to produce terrorists.

According to Citizenship and Immigration Canada, approximately 530,000 Muslim immigrants came to Canada in the ten-year period from 2000 to 2009. Realistically, that figure is probably too low; it includes only those coming from Muslim-majority countries, whereas many Muslims came to Canada from Britain, France, and other non-Muslim countries. Among the more than half a million Muslims who have arrived since 2000, 118,586 came from Pakistan, 62,278 from Iran, 40,586 from Morocco, 33,392 from Algeria, and 22,906 from Saudi Arabia. These countries are known to produce significant numbers of terrorists.

Obviously it would be foolish to suggest that the majority of Muslim immigrants or their families constitute a security threat to Canada. But it would be equally naïve to assume that there might not be among them adherents to extreme forms of Islam who are therefore susceptible to supporting or engaging in terrorist activities. Some Muslims who might not condone terrorist bombing nonetheless are fully supportive of living under sharia (Islamic religious) law and find acceptable the extreme forms of punishment sharia mandates for theft, homosexuality, or apostasy. Other customs such as polygamy and gender inequality call into question whether such practices are compatible with a free and democratic society.

Indeed, the experience of other countries where there has been a high volume of Muslim immigrants has shown that significant numbers of these immigrants or their children have been attracted to the Islamist cause. The bombings in London and Madrid and the ritualistic murder in the Amsterdam of Theo Van Gogh have demonstrated graphically that there is a clear connection between Muslim immigration and Muslim terrorism. In November 2006, Dame Eliza Manningham-Buller, the director general of Britain's MI-5, warned in a speech at Queen Mary's College that Britain had "some 200 groupings or networks, totaling over 1,600 identified individuals (and there will be many we don't know) who are actively engaged in plotting, or facilitating, terrorist acts here and overseas."⁸ She went on to warn that many more young Muslims in Britain were "moving from passive sympathy towards active terrorism through being radicalized or indoctrinated by friends, families, in organized training events here and overseas, by images on television, through chat rooms and websites on the Internet."

In almost all of the European countries where there are large Muslim populations, there have been serious problems either of violence or of increasing pressure from the Muslim population to be allowed to practice sharia law. There has also been a growing tendency to reject Western cultural traditions. For example, in the Swedish city of Malmö, Jews—many of whom arrived as refugees after World War II—are being forced to leave because of the rising number of

hate crimes committed by Muslim neighbors. There seems to be a conspiracy of silence by most politicians in the West about this impending danger.

Canada has not been immune from the threat of Islamic extremism. The most striking example of attempted Islamist terror on Canadian soil occurred in June 2006, when members of a group (both Canadian-born Muslims and immigrants) that became known as the “Toronto 18” were charged with planning a series of terrorist attacks against selected targets. Among other things, they plotted to blow up the Canadian Parliament and behead the prime minister.⁹ This is not the only Islamist terrorist attack planned for Canadian soil, nor is Canada the only country where Canadian Muslims have attempted to carry out acts of terror. In October 2008, for example, a Canadian Muslim was convicted of conspiring to carry out a bomb attack in England.

In April 2007, an Environics Poll showed that over 80 percent of the estimated 700,000 Muslims living in Canada were satisfied with their lives here. However, the poll also contained a dark statistic that the Canadian media largely shied away from discussing: Twelve percent of those polled thought the terrorist plot by the Toronto 18 was justified. In other words, roughly 84,000 Canadian Muslims believed that blowing up their Parliament and beheading their prime minister was fully justified.¹⁰ The extent to which the media downplayed this alarming statistic can be glimpsed in an interview that sociology professor Haideh Moghissi gave to the state-supported Canadian Broadcasting Corporation (CBC). Professor Moghissi dismissed the 12 percent figure as insignificant, saying, “I don’t think it even warrants attention.”¹¹

There is overwhelming evidence that large-scale Muslim immigration into Western countries presents a challenge to the security of the state, and to some of the fundamental principles of our democratic way of life. Thus, it is important to discuss how Muslim immigrants can be carefully screened before being allowed entry. In Canada, this is not being done currently. Indeed, there is pressure on visa officers abroad to ensure that the high immigration levels set by the government are met. Since the end of the 1990s, both the Liberal and Conservative governments have set immigration levels at a figure of 200,000 or higher. In 2010, 283,000 immigrants were admitted to Canada. Although these levels are not mandatory, they serve as an estimate of the annual number the government considers to be desirable; thus, in effect they become targets to be achieved by visa offices abroad. Pressure to meet the high levels has meant that few immigrants are even interviewed before obtaining visas to enter Canada. Furthermore, even those immigrants who are interviewed are not asked questions that might reveal whether they would find it difficult to live in a free and democratic country. As a result, many of those admitted could very well experience alienation and disappointment in their adopted country, leading to difficulties in becoming successfully established.

Muslim applicants are not asked whether they can accept the principle of legal equality between men and women. Nor are they asked about their views

on homosexuality, female genital mutilation, apostasy, honor killings, toleration of other faiths, and belief in free speech and the rule of law. These questions are considered politically incorrect. There is an insistence that Muslim applicants for permanent residence should be treated no differently from other applicants because of dubious concerns about “profiling.”

Many Western politicians still refuse to acknowledge that they are at war with extreme Islam, and not some nebulous concept named “terrorism.”¹² There are of course terrorist attacks perpetrated by non-Muslims, such as the Oklahoma City bombing in 1995 and the horrific July 2011 events in Norway. Yet it would be foolish to lessen our concern about Islamist militancy simply because non-Muslims have also committed acts of terrorism.

Muslims who have chosen Canada as their new homeland are a diverse group, come from a variety of countries, and follow different interpretations of the Islamic faith. Nonetheless, it seems prudent to recognize that Muslim applicants for admission should be carefully selected with the objective of screening out those who follow an extreme version of their faith, and who would therefore be more inclined to violence, or to have greater difficulty in integrating into Canadian society.

Britain, France, the Netherlands, and other European countries have now generally accepted that immigration is a legitimate topic for public debate by mainline political parties. They have accepted the reality that a high volume of Muslim immigrants can in a very short time not only change the demographic landscape of the host country, but also present a threat to some of its core beliefs and values—and perhaps also to its security. In Canada the connection between Muslim immigration and security has so far been avoided as a matter for public discussion. Perhaps nothing illustrates this more than Canada’s refusal to reform its asylum system.

Canada’s Asylum System

Few Canadians distinguish between a “refugee” and an “asylum seeker.” This causes confusion and misunderstanding. Frequently the media will describe an asylum-seeker as a refugee. This description elicits, by design or not, sympathy and compassion for the individual. But it is vital to understand that people arriving in Canada *claiming* to be persecuted in their own countries are more appropriately termed “asylum seekers.” They are not refugees.

A “refugee” is someone who has been found by an authorized body to have met the definition of refugee outlined in the United Nations Convention and Protocol Relating to the Status of Refugees.¹³ In Canada that body is the Immigration and Refugee Board (IRB). Those who have been found to meet the applicable definition by the IRB are then afforded protection, and won’t be sent back to the country where they fear persecution. In contrast to a refugee, an

asylum seeker only *claims* to be a refugee; many of those who make the claim are found by the IRB to not satisfy the definition.

Canada has a wide-open refugee determination system. It permits almost everyone who makes an asylum claim to have access to the IRB for a formal hearing. The numbers are large; in 2008, 37,000 asylum seekers arrived in Canada seeking refugee status. They included citizens of 188 different countries, including 22 of the 27 European Union member states, and 2,305 citizens of the United States. Many of those who seek asylum are from Muslim-majority countries such as Algeria, Pakistan, Morocco, Iran, Iraq, and Somalia.¹⁴

Most people traveling to Canada, apart from U.S. and Western European citizens, require visas. To avoid this screening process, people who wish to apply for asylum as a means of gaining entry often use the services of human smugglers. The smugglers, for a price, provide them with bogus documents that enable them to board an aircraft or arrange for them to travel in larger numbers by boat destined for Canada.

Upon arrival in Canada, the smuggled passengers apply for asylum. After being fingerprinted and photographed, they are normally released and asked to show up for a formal IRB hearing. This hearing may not take place for a year or more. Even though little or nothing is known about the newly arrived asylum seekers, few are detained. None of them has been subjected to a health, criminal, or security check prior to arrival. There is no tracking system, and they are free to go anywhere they wish throughout Canada.

Asylum seekers are permitted to work—or, failing that, to receive welfare and social assistance. This includes free housing, and free medical and dental care.¹⁵ They are also in most cases provided with free legal representation when and if they appear before the IRB for their hearing. These perks are only part of the reason why Canada has become the country of choice for human smuggling. In fact, the primary reason is that smugglers can give an almost ironclad guarantee that even if the IRB refuses the refugee claim, there is little likelihood that the failed claimant will be removed from Canada.

Because of the high volume of asylum seekers (37,000 in 2008; 33,000 in 2009; 25,000 in 2010) the IRB is faced with a large backlog of claims. In mid-2011, 51,000 claims were awaiting hearings.¹⁶ As a result, it may take up to two years for a new claimant to appear before the board. Should the claimant be found not to be a genuine refugee, he or she already has been in the country for a year or two, and has often found a job and made good contacts; the claimant may even have married. Thus, there may be humane or compassionate reasons not to force the individual to leave.

In addition, again because of the high volume, there is little serious effort made by authorities to enforce deportation. The Auditor General found that in 2007, there were 63,000 enforceable removal orders outstanding for failed asylum seekers. Of these, 41,000 were listed as “whereabouts unknown.” The

remaining 22,000 had listed addresses, but enforcement officers lacked the necessary resources or time to check on them. There is little indication that anyone in government beside the Auditor General is concerned about the serious security implications of this astonishing neglect to enforce the law.¹⁷

A number of the known or alleged terrorists who have been apprehended in Canada have entered as asylum seekers. In 2006, the Fraser Institute, a Canadian think tank, reported that of 25 terrorists and suspects who entered Canada as adults, 16 came as asylum seekers and four entered as immigrants. It was not known how the other five entered.¹⁸

Among the terrorists who entered Canada as asylum seekers is the notorious Ahmed Ressam. He didn't even bother to show up for his refugee hearing—but did manage to travel to Afghanistan for training in al Qaeda camps. He also acquired a number of Canadian passports. On the eve of the new millennium, in December 1999, Ressam entered the United States from Canada, planning a terrorist strike against the Los Angeles International Airport. The trunk of his car was loaded with more than 100 pounds of explosives, but fortunately he was apprehended at the border. He is now serving a life sentence in U.S. prison.¹⁹

Regardless of the evidence that Canada's security is threatened by its wide-open asylum system, fundamental reform of the process has met with fierce resistance by special interest groups. A powerful refugee lobby exists in Canada consisting of immigration lawyers, consultants, religious denominations, academics, political activists, and a multitude of NGOs that receive substantial funding from all levels of government—federal, provincial, and municipal—to provide services to the thousands of asylum seekers who enter Canada each month. Essentially, the refugee process in Canada is a multimillion dollar industry, and the organizations and groups that profit from it are influential. They are supported by a compliant and sympathetic media that accept without question the generalized narrative of asylum seekers as poor refugees deserving of help. The bureaucracy does not look upon these special interests as the hardcore lobbyists they are, but rather describes them as “stakeholders.”

The asylum system in Canada is frankly a mess. It is a clear threat to North American security. It undermines every other measure that has been taken by Canada and the United States to bolster our defenses against a terrorist strike by al Qaeda and the other Islamist extremists. When a nation gives up its right to decide who may enter its territory, and compounds this folly by forfeiting its right to remove dangerous criminals and terrorists, it has in fact abandoned its sovereignty. Unless Canada's asylum system is radically transformed to take into account its vulnerability to exploitation by terrorists using it as an easy means of entry into North America, the northern border cannot claim to be secure.²⁰

The Charter, Human Rights, and the Courts

Ironically, one of the most formidable obstacles impeding Canada's effort to combat terrorism is the Canadian Charter of Rights and Freedoms, which came into effect in March 1982. Curiously, the Canadian Charter of Rights and Freedoms applies to *everyone* physically in Canada: citizens, legal permanent residents, visitors, or someone in the country without legal status. One of the consequences of this anomaly has been that the immigration and refugee bureaucracy has become overburdened by litigation. Even alleged or convicted terrorists can get the courts involved in their attempts to remain in Canada and to avoid or, at a minimum, delay for years their removal.

Section 7 of the Charter reads, "Everyone has the right to life, liberty, and the security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice." This section is not limited to citizens and legal permanent residents, but rather applies to "everyone." Thus, anyone physically in Canada receives Charter protection. The implications have been serious. It has been extremely difficult to quickly remove someone who has entered the country illegally, because that person can gain access to the courts to challenge the decision. Long delays and a multiplicity of appeals are common. The administration of immigration law has thus become bogged down with costly litigation and procedural wrangling. There are many examples of serious criminals and suspected terrorists who have delayed their removal for years in this manner.

One of the most glaring cases involves a convicted terrorist, Mahmoud Mohammad Issa Mohammad. In 1968, Mohammad and a fellow terrorist from the Popular Front for the Liberation of Palestine (PFLP) attacked an El Al airliner on the runway of the Athens airport. Armed with machine guns and hand grenades, they wounded a flight attendant and killed a fifty-year-old Israeli citizen before being overpowered. Both men were sentenced to life imprisonment, but were released a month later when other PFLP gunmen hijacked a Greek plane and exchanged their hostages for Mohammad and his companion. After leaving prison, Mohammed assumed a new identity, and in 1987 arrived in Canada. He was quickly apprehended and ordered deported. However, Mohammad appealed this decision. Since that time he has submitted a number of judicial appeals. His case is still before the Canadian courts today, almost twenty-five years later, and at an estimated cost to the taxpayer of \$3 million. Mohammad is living quietly in Ontario, and it's not clear that he will ever be removed.²¹

The Charter also contributes to Canada's dysfunctional asylum system. In 1985, a Supreme Court decision found that when a serious question of credibility is involved, fundamental justice demands that asylum seekers are entitled to an oral hearing.²² At such a hearing, claimants are entitled to state their case, and to know the government's case against them. In addition, if

the decision is adverse, the claimant has the right to respond, and seek leave to appeal the decision. The implications of this ruling on Canada's ability to manage the continuing flow of asylum seekers are serious.

Charter challenges by human rights groups and immigration lawyers have also rendered ineffective one of Canada's foremost procedures for detaining and removing suspected terrorists. This procedure enabled the government to arrest, detain, and quickly remove a suspected terrorist who was not a Canadian citizen or legal permanent resident by issuing a security certificate signed by the minister of public safety and the minister of citizenship and immigration. The security certificate has been used only in exceptional circumstances, based on confidential information about the subject that is usually obtained from foreign governments on the condition that the information could not be made public.

When both ministers agreed that the relevant confidential information was trustworthy, the security certificate would be referred to a federal court judge. If the judge agreed with the information in the certificate, it became a deportation order, and the subject could be removed. In the 1990s, the security certificate process was used to successfully remove sixteen suspected terrorists from Canada.

Despite—or perhaps because of—its effectiveness, the process came under increasing attack by the Canadian Bar Association, Amnesty International, Human Rights Watch, the Canadian Council for Refugees, and no fewer than three United Nations committees. In February 2007, the Supreme Court declared the procedure to be in violation of the Canadian Charter of Rights and Freedoms, and gave the government one year to amend the process and bring it into line with the Charter. In response, the process was revised to include a special advocate whose role is to protect the interests of the person against whom the Security Certificate is issued. The special advocate can challenge the need to keep the information against the individual secret, cross-examine witnesses, and make submissions to the court. The judge can now also hear evidence and testimony from the individual named in the certificate. The new process came into effect in February 2008.

It remains to be seen if the new process will still allow Canada to remove foreigners suspected of terrorist activities. However, the first case heard under the new process has been promising. A federal court judge upheld the deportation order against Mohammed Harkat, an Algerian asylum seeker who arrived in Canada in 1995.²³ However, this decision is under appeal.

Harkat was arrested in 2002, and ordered deported under a security certificate. He is one of five Muslims who arrived in the mid-1990s asking for asylum, only to be arrested through the security certificate process due to suspected ties to al Qaeda. All of them, as a result of the Supreme Court's decision about the intersection of the Canadian Charter of Rights and Freedoms and the Security Certificate process, have been released from custody and are

awaiting the results of legal appeals. In typical fashion, two of the five have launched suits against the government for unlawful arrest and detention.

Even if the Supreme Court decides that the new security certificate process complies with the Charter of Rights and Freedoms, it is doubtful that Canada will ever get rid of these suspected terrorists. Lawyers and human rights activists will continue to champion their cause, and since Canada is a signatory to the United Nations Convention Against Torture, it will be argued that we cannot return anyone to a country where there is a possibility of mistreatment.

Conclusion

Despite the positive steps that Canada has taken, there are many reasons why its seriousness in guarding against a terrorist presence on its soil can be called into question. These include Canada's acceptance of thousands of immigrants from countries known to have produced terrorists without bothering to interview the great majority of them, its wide-open asylum system, and the undermining of the security certificate procedure. These issues caused concern about the U.S.-Canada border, and genuine fears about the potential threat that terrorists on Canadian soil could pose to the United States.

There are a number of possible explanations for this apparent neglect of a critically important area of public policy, but two stand out as primary causes. First, Canada has not yet experienced a successful terrorist strike on its soil by Muslim extremists. There have been threats and thwarted attempts, there have been Canadians who have joined terrorist groups outside of Canada, but no Canadians have been killed by Islamist terrorists in Canada itself.²⁴ Consequently, Canada lacks the sense of urgency that it would have if there had been an actual terrorist outrage on our soil.

Second, for five years, between 2006 and 2011, Canada was governed by a minority Conservative Government. This made it difficult for the governing party to introduce or enact controversial legislation. For example, attempts by immigration minister Jason Kenny to pass even modest reform of the dysfunctional asylum system met with strong opposition; the minister was forced to accept amendments that in effect emasculated his bill.

In retrospect, it seems that Canada's rapid and enthusiastic initial response to the terrorist threat immediately following 9/11 has become bogged down by legal challenges to the measures taken, as well as growing opposition from human rights activists and immigration lawyers. Despite first-rate cooperation with U.S. authorities at the operational level, and Canadian authorities' apparent success in disrupting the homegrown Islamist threat, there is evident reluctance by many Canadians to give priority to security over the hypothetical risk of violating the rights of suspected terrorists—many of whom had entered the country fraudulently. This attitude was forcefully reflected in remarks made by Andrew Telegdi, a Liberal Member of Parliament, when voting against

continuation of Canada's first anti-terrorist act. Telegdi said, "It would be ironic if we win the war on terrorism at the expense of Canadian human rights and civil liberties."²⁵ Nobody asked him what would happen to those rights if we lose the war on terrorism.

But there has also been good news for Canadians concerned that their courts and laws are too soft on terrorism. On December 18, 2010, the Court of Appeal for Ontario came down with a surprisingly tough decision in overturning a lower court's ruling in the case of Momin Khawaja, a Canadian, originally from Pakistan, who had been found guilty of involvement in a plot to plant fertilizer bombs in the U.K. The appellate court found that the definition of a terrorist in Canada's original anti-terrorist act—as one motivated by political, religious, or ideological reasons—did *not* violate of the Canadian Charter of Rights and Freedoms. The court also increased Khawaja's original 15-year sentence to life imprisonment with no chance for parole for ten years.²⁶ This decision conveyed a strong message that Canada is not to be a safe haven for terrorists, and that the courts have an important role to play in ensuring that it does not become one. The court stressed in its judgment: "Terrorists ... may view Canada as an attractive place from which to pursue their heinous activities. It is up to the courts to shut the door on that way of thinking, swiftly and surely."

The decision came a week after the previously discussed federal court decision in which the deportation order against suspected Algerian terrorist Mohammed Harkat was upheld. Many have interpreted the combination of these cases as a turning point in Canada's approach to the Islamist terrorist threat. However, since both of these decisions have been appealed, it will be up to the Supreme Court to give the final answer.

In April 2010, the government introduced into Parliament the Combating Terrorism Act, which was intended to restore Canada's ability to undertake preventative arrests, and to compel individuals with information about terrorism to appear before a judge. With a Conservative minority in Parliament, there was no guarantee the bill would pass. However, in May 2011 Prime Minister Harper's Conservative Party won a majority of seats in the House of Commons and reintroduced the bill, which now seems certain to be passed into law.

There are early indications that Prime Minister Harper is determined to take security seriously. In the formation of his new Cabinet on May 18, 2011, the prime minister announced a new National Security Committee to be chaired by him. Its role will be to "provide broad strategic direction for security and foreign policy related to Canada's national interest," and to oversee "Canada's national security response activities." The prime minister has also ordered his ministers to carry out a major review of public safety policies that have been in operation since 9/11, including air transport, infrastructure protection, and cyber security. This is in keeping with the objectives of the Shared Vision for Perimeter Security and Economic Competitiveness Declaration that President Obama and Prime Minister Harper announced in February 2011.

The Beyond the Border working group referred to previously, which was established to carry out the objectives of the “Shared Vision” initiative, has been hailed by commercial and industry leaders from both countries as clearing the way for closer and more effective cooperation for ensuring that trade can flourish without the costly bureaucratic delays currently in place along the border. The initiative is also seen as a major step toward creating a better balance between the economic value of easy and fast cross-border traffic, and close cooperation in vital bilateral security issues.

The concept of a shared security agreement is not new. It refers to a formal arrangement between two or more territories to agree that goods or people entering the territory of one country are assumed to have legally entered the other country or countries. The goods or people may then cross the other borders without undergoing customs or immigration examination. The European Union countries have established a security perimeter so that a person entering France, for example, may then cross other EU borders without examination. An agreement to establish a security perimeter does not necessarily imply free movement across borders, but might imply closer cooperation in a variety of security matters affecting each country. The framework for closer security cooperation between Canada and the United States is already in place following the Smart Border Declaration signed in 2001. What has been missing on the Canadian side has been prime ministerial leadership and political will. This has now changed. The election of a majority Conservative government, and the emphasis that the prime minister has placed on security cooperation with the United States, indicates that Canada has chosen to view security as a matter of primary concern.

There will inevitably be concerns on both sides of the border that a common security policy is really the adoption of a security perimeter by any other name, and that such an arrangement would threaten each other’s sovereignty. These concerns should be put to rest. Sovereignty is the expression of a state’s power to decide on its own about matters affecting its national interest. Sovereignty can be expressed in a variety of ways; one such way is deciding to declare war, and another is signing a treaty agreement with a foreign country that serves the mutual interests of both. A common security perimeter fits clearly in that category.

On December 7, 2011, the president of the United States and the prime minister of Canada announced that the two countries had agreed to carry out two joint action plans aimed at speeding up trade and travel, improving security, and aligning regulatory procedures between the two countries. The agreement was titled the Action Plan on Perimeter Security and Economic Competitiveness. The new agreement is a follow-up to the February 2011 Shared Vision for Perimeter Security and Economic Competitiveness. It concentrates on four major areas of cooperation: addressing threats early; facilitating trade, economic growth, and jobs; integrating cross-border law enforcement; and improving

critical infrastructure and cyber security. The latest agreement acknowledges the progress that has been made since 9/11 to cooperate in matters relating to the security of both nations, and holds forth the promise of further efforts in the future.

On the American side, there has been legitimate concern that Canada has been soft on terrorism, and that the northern border is a threat to U.S. security. As I have outlined at length, there has been justification for these concerns. However, the recent court decisions in Canada and the coming to power of a prime minister and government that seem determined to give security issues top priority should put the greater part of those concerns to rest. What both countries have yet to understand is that immigration and refugee policies are key elements of national security, and failure to take these policies into consideration can undermine any other steps that might be taken to protect the safety and security of their citizens. In the decade since 9/11, there has been little evidence that either country is willing to face this reality.

IV. Tools

The Justice for Victims of Terrorism Act: A New Weapon in Canada's Counterterrorism Arsenal

Sheryl Saperia

There has recently been a groundbreaking development in Canada's counterterrorism laws. In March 2012, the Justice for Victims of Terrorism Act (JVTA) and related amendments to the State Immunity Act (referenced here under the single banner of the JVTA) received Royal Assent. The JVTA comprised one portion of the government's omnibus crime bill, cited as the Safe Streets and Communities Act.¹

The JVTA is intended to deter future acts of terrorism by enabling victims of terror and their families to launch civil lawsuits against the sponsors and perpetrators of these attacks. Terror sponsors can include not only local individuals and organizations, but also foreign states. Indeed, the most notable aspect of the JVTA may be the creation of a new exception to state immunity, permitting certain foreign states to be sued in Canadian court for their role in terror sponsorship. The recent passage of the bill renders this a judicious time to review the JVTA's contents, why it was introduced, what its salutary effects are likely to be, and the potential arguments against it.

I am uniquely positioned to offer insights into this legislation, as I have been deeply involved in its legal crafting and political advocacy during the past five years through my work with the Canadian Coalition Against Terror (C-CAT).² C-CAT is responsible for the original conception of the bill, and has worked with parliamentarians throughout the bill's eleven iterations and introductions in the House of Commons and the Senate. The final text of the bill represents a cooperative effort between the executive, the legislature, and C-CAT as the primary stakeholder. And when terror victims begin to initiate legal proceedings, the courts will play a crucial role in the JVTA's interpretation and application.

The Objective: Preventing More Canadians from Becoming Terror Victims

The purpose of this legislation is nothing less than the prevention of more Canadian terror victims. This goal can be advanced without committing the military to more combat missions, or impinging on civil liberties for the sake of national security. Using ordinary tools in our legal system, the JVTA allows victims of terror to file civil lawsuits against local and state sponsors and perpetrators of terrorism.

The bill rests on the premise that money is the lifeblood of terrorism. As the United States Court of Appeals for the Seventh Circuit noted in the case of *Boim v. Quranic Literacy Institute*, “there would not be a trigger to pull or a bomb to blow up without the resources to acquire such tools of terrorism and to bankroll the persons who actually commit the violence.”³ Defeating terrorism therefore requires disruption of the financial aid that individuals, organizations, and foreign states provide to terrorist entities.

The criminal justice system is the obvious candidate to tackle this issue, as Canada’s Criminal Code contains a plethora of prohibitions surrounding terrorist activity and financing. However, at last count there have been only two Canadian convictions for the latter. This cannot be attributed to a dearth of terrorist financing in the country: the Financial Transactions Reports Analysis Centre of Canada (FINTRAC) has identified hundreds of millions of dollars of suspected terrorist activity financing flowing through Canada.⁴ In 2010-11, FINTRAC reported to the Royal Canadian Mounted Police and Canadian Security and Intelligence Service a record high of 103 suspicious transactions related to terrorist financing or similar threats to Canadian security, and another 50 transactions related to both money laundering and terrorist activity.⁵

Canada is not unique in its poor record of terror financing convictions. Victor Comras, appointed by former U.N. Secretary General Kofi Annan to monitor the implementation of Security Council measures against terror financing, has decried that most major financial supports of terrorism, “whether for al Qaeda, Hamas, Hizballah or other terrorist entities, have successfully avoided criminal prosecution.... The record on closing down entities and institutions feeding terrorism is even more dismal.”⁶

The criminal justice system must therefore be bolstered by additional and innovative strategies, such as the JVTA. The JVTA draws loosely on U.S. legislation—including the 1992 Antiterrorism Act, the 1996 Antiterrorism and Effective Death Penalty Act, and the Civil Liability for Acts of State Sponsored Terrorism Act (the Flatow Amendment)—to carve out a civil cause of action against terrorist sponsors and perpetrators.

Benefits of the JVTA

The JVTA, like the U.S. legislation that it is roughly modeled after, employs the civil justice system to augment the campaign against terrorist financing. The three most obvious advantages of using civil law over criminal law in this context are the lower standard of proof required to find a party liable; the power conferred on victims to launch a claim themselves rather than helplessly rely on the Crown to take action; and the financial compensation that can be awarded to victims in the event of a successful judgment. But there are many other reasons that the legislation would be advantageous.

Deterring terror sponsorship and preventing terrorist attacks. The potential for the JVTA to deter acts of terrorism is twofold. First, civil suits have the potential to bankrupt or at least financially impair the terrorist infrastructure through successful court judgments. It is worth recalling that civil suits were devastatingly effective against Ku Klux Klan and other white separatist leaders in the United States. In a 1988 case, for instance, two Klan groups were found liable for an attack on civil rights activists in Georgia. They were ordered to pay nearly \$1 million in damages. The Invisible Empire, once the largest and most violent Klan group, was forced to dismantle and surrender all of its assets, including its name. Similarly, a terrorist organization will have trouble recruiting and training its members, purchasing weapons, and launching attacks if it or its sponsors have been forced to spend their money paying out monetary awards.

Second, even the possibility of being named in a civil suit may deter individuals and groups from materially supporting a terrorist organization. Unlike terrorist perpetrators, who tend to seek publicity and attention, sponsors do not want to be identified. Terror financing expert David Aufhauser has endorsed civil suits for this very reason, saying that “private actions can be of material assistance to the government. Because I can tell you: The bankers of terror are cowards. They have too much to lose by transparency. Name, reputation, affluence, freedom, status. They’re the weak link in the chain of violence. They are not beyond deterrence.”⁷

Holding wrongdoers accountable with a lower standard of proof. The criminal law justifiably requires an extraordinarily high burden of proof: the accused must be proven guilty beyond a reasonable doubt. However, the complex financial networks that fund terrorism have integrated state sponsors of terror, organized criminal activities, front companies, funds siphoned from legitimate and illegitimate charitable donations, and informal money transfer systems such as hawalas to conceal and transfer funds—often rendering this high standard of proof unattainable. In contrast, civil law requires proof “on a balance of probabilities.” This standard is lower, which means that evidence insufficient for conviction in a criminal proceeding may be enough to establish liability in a civil proceeding.

A well-known example of the efficacy of civil suits over criminal trials is the O.J. Simpson case. Simpson’s criminal trial for the murders of his ex-wife Nicole Brown Simpson and her friend Ronald Goldman resulted in a not-guilty verdict. Yet in the subsequent civil action, the jury concluded that Simpson had wrongfully caused the death of the victims, and ordered him to pay compensatory damages of \$8.5 million, and punitive damages of \$25 million.

Similarly, the lower burden of proof in civil suits has been successfully exploited in terrorism cases. In Omagh, Northern Ireland, a 1998 terrorist attack involving a 500-pound car bomb killed 29 people and injured another

220. While the Real IRA (RIRA) was quickly ascertained to be responsible, only one person was convicted in criminal court. Relatives of some of the victims subsequently commenced a civil action against five RIRA leaders and the organization as a whole. Four of those leaders were found liable, with the judge awarding £1.6 million to twelve relatives.⁸ Jason McCue, a lawyer for the plaintiffs, suggested in the aftermath of the verdict that “it is now time for the politicians to not only accept the legitimacy and value of the civil action process in respect of victims and society as a whole, but also to develop it.”⁹ He also submitted that civil suits might be more effective than official inquiries in dealing with terrorist attacks. “The legitimacy of a courtroom rather than an inquiry room,” McCue wrote, “the tested rules of evidence and, most important, putting power and decisions in the hands of the victims, could produce far better results than an inquiry could ever hope to achieve.”

Acting as a catalyst for government-led investigations and prosecutions. Civil suits can alert government regulators to illegal conduct that they had not detected themselves. The Arab Bank case is such an example. Lawsuits seeking hundreds of millions of dollars in damages were filed in New York in 2004 against the Jordan-based Arab Bank for allegedly distributing compensation money to families of suicide bombers. These suits triggered a probe by U.S. regulators, and a Justice Department criminal investigation. The Arab Bank was then charged with failing to implement an adequate anti-money laundering program, and failing to report suspicious activities.¹⁰ The Omagh civil suit also generated government interest. After the civil action commenced, every named defendant was subsequently charged or taken into police custody.

Compensating terror victims. Unlike such countries as the U.S., France, and Israel, which have clear protocols for assisting victims of terrorism and providing compensatory benefits, Canada does not provide even the most basic financial assistance in the aftermath of an attack. The Canadian Resource Centre for Victims of Crime has noted that federal compensation is nonexistent, while provincial compensation plans are inadequate and fluctuate across the country:

In Canada, compensation for victims of violent crimes is a provincial issue. The Canadian government does not provide compensation to victims, neither directly, nor through support of the provincial plans. The Federal government also does not provide compensation to those Canadians who are victimised abroad, even where there is no compensation plan in that jurisdiction.... Provincial compensation schemes vary quite widely from province to province. The provincial plans only recognize those injured in the province.¹¹

Indeed, the families of the 1985 Air India bombing, who constitute Canada’s largest body of terror victims, testified at the 2006 Air India

Commission of Inquiry about the severe inadequacy of governmental response in the aftermath of the attack. Only in 2011 did the government finally offer some assistance, and many families were disappointed by the “symbolic” payment of \$24,000.¹²

Notably, subsection 83.14(1) of Canada’s Criminal Code contains a provision allowing for the forfeiture of property that is owned or controlled by a terrorist group, or that is used for terrorist activity. Subsection 83.14(5.1) allows for the proceeds that arise from the disposal of that property to be directed to compensate terror victims, in accordance with regulations made by the Governor in Council. Yet no regulations have been enacted, and no proceeds have ever been distributed to victims.

If Canada will not create uniform compensation plans for victims of terrorism across the country, nor even implement existing mechanisms for financial assistance, Canadian victims of terrorism ought to be allowed—at a minimum—to seek compensation directly from the sponsors of the harm they suffered. The JVTa accomplishes this.

Offering victims a measure of control. Criminal proceedings are brought by the state or Crown, not by the victim, as criminal offenses are seen as offenses against society as a whole. Consequently, victims and their families have little or no control over how criminal proceedings are managed. They may be witnesses at trial, and can submit victim impact statements, but they are not a party to the proceedings. In contrast, the victims are a key party in civil proceedings, initiating the suits themselves. As plaintiffs, they choose whether to bring a claim forward, who their legal representation will be, and whether they wish to settle in advance or see the case through.

Generating a public relations campaign. Jason McCue, lawyer for the Omagh family members in their civil action against members of the Real IRA, points out that terrorists are adept at using the media for their own purposes: to intimidate the public, recruit new members, and justify their actions. To McCue, we therefore “have no choice but to wage a public-relations war against the culture that sustains terrorism. That means inverting many of the images that the terrorist seeks to propagate and from which they gain benefit.”¹³

How can this be done? He suggests that through civil suits, “victims, their families, and their community of supporters might be a better counterterrorism delivery mechanism than governments.” For example, insofar as terrorist groups can claim to be the weak David battling the Goliath state, there is a danger that conventional state counterterrorism measures can be manipulated into propaganda victories that advance the terrorists’ agenda. A civil suit, in contrast, enables the true victims to bring their perspective to the public’s attention. Terrorists cannot portray themselves as victims when parents who have lost their children in an attack take the stand in court. In other words, McCue explains, civil suits provide “a humane and emotional media campaign that even the most adept terrorist spin doctor cannot win.”

Ending impunity for state sponsors of terror. Customary international law has, as a general rule, offered foreign states immunity from being sued in other countries' domestic courts. Canada's State Immunity Act codifies this position in subsection 3(1): "Except as provided by this Act, a foreign state is immune from the jurisdiction of any court in Canada." This state immunity is not absolute: sections 4-8 proceed to carve out instances in which Canadian courts have civil jurisdiction over foreign states. These situations include Canadian court proceedings in which the state waives its immunity by initiating or intervening in Canadian court (section 4); proceedings that relate to the foreign state's commercial activity (section 5); proceedings that relate to death or personal or bodily injury or damage to or loss of property, provided it occurs in Canada (section 6); proceedings that relate to a foreign state's ships and cargo if the ship was used or intended to be used in the context of commercial activity (section 7); and proceedings that relate to a foreign state's interest in property in Canada that arises by way of gift or succession (section 8).

The JVTA, then, does not establish the first and only exception to an otherwise pristine rule of state immunity. Rather, it creates one more limited exception, lifting the immunity of states providing support to listed terrorist organizations that kill or harm Canadians. As Peter Leitner has pointed out, "There is something fundamentally absurd with the current legal arrangement in Canada that allows lawsuits against Iran for selling you rotten pistachios [under the commercial activity exception], but bars legal action against them for sponsoring terrorist acts which kill Canadian citizens abroad."¹⁴ Irwin Cotler, Liberal MP and former justice minister and attorney general of Canada, echoes this sentiment: "We have a situation where, simply put, our State Immunity Act unconscionably favors foreign states that aid and abet terrorists over Canadians who are harmed by that terror. It removes impunity with respect to commercial transactions, but it retains immunity with respect to terrorist actions."¹⁵ In other words, a breach of contract seems considerably more frivolous than the sponsorship of terrorism. If the former can serve as the basis for an exception to state immunity in Canada, surely the latter should too.

Moreover, while section 6 of the State Immunity Act allows for civil suits relating to death or personal injury that take place within Canada, terrorist attacks that have affected Canadians thus far have usually taken place outside of the country. The JVTA's new exception to state immunity is important because it would assist Canadian victims of terrorist attacks that occur both inside and outside of Canada.

Precedent for the JVTA

The JVTA is primarily modeled on American legislation, albeit with important differences in structure and language. For instance, whereas the United States employs multiple statutes to deal with various facets of suing

terrorists and their sponsors, the JVTa is intended to be a consolidated piece of legislation.

The U.S.'s Anti-Terrorism Act permits a U.S. national who is injured "in his or her person, property or business by reason of an act of international terrorism" to sue individuals and corporations for his or her loss. The Anti-Terrorism and Effective Death Penalty Act (AEDPA) creates an exception to the Foreign Sovereign Immunities Act, lifting the sovereign immunity of foreign states for perpetrating or providing material support for an act leading to "personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking." The Civil Liability for Acts of State-Sponsored Terrorism Amendment (the Flatow Amendment) clarifies that a cause of action is created against foreign states.

In contrast, the JVTa, which focuses exclusively on terrorism, is composed of two parts. The first portion is a stand-alone act, which creates a civil cause of action against any listed entity or other person that causes loss or damage by contravening the Criminal Code's anti-terrorism provisions, as well as against a foreign state, listed entity, or other person that breaches those provisions for the benefit of a listed entity. The second part of the bill amends the State Immunity Act to lift the immunity of certain foreign states in civil proceedings that relate to the sponsorship of terrorism.

While various countries have general laws of civil responsibility that allow suits against local wrongdoers (as evidenced by the Omagh civil action in Northern Ireland), only the United States currently allows suits against foreign states as well. However, the potential impact that Canada's new laws could have on other countries is considerable. Over the years, my colleagues and I have received subtle indications that other Western governments are watching closely, and may be interested in passing similar legislation.

There is some precedent for the JVTa's basic intent within international law provisions. For instance, Article 5 of the 1999 International Convention for the Suppression of the Financing of Terrorism stipulates that, "Each state party shall ensure . . . that legal entities liable in accordance with [provisions of the Convention] are subject to effective, proportionate and dissuasive criminal, civil, or administrative sanctions." And Article 8 stipulates that each signatory should consider establishing mechanisms whereby the funds from terrorism-related forfeitures are utilized to compensate the victims of terrorist offenses.

An Analysis of Key Clauses

This chapter now examines key clauses of the bill under three categories: the standalone Justice for Victims of Terrorism Act, amendments to the State Immunity Act, and the "Lockerbie Amendments," which were advanced by C-CAT and ultimately adopted into the bill shortly before its passage.

Justice for Victims of Terrorism Act. Section 4 of the JVTA sets out the scope of the new civil cause of action. Subsection 1 currently provides:

Any person that has suffered loss or damage in or outside Canada on or after January 1, 1985 as a result of an act or omission that is, or had it been committed in Canada would be, punishable under Part II.1 of the Criminal Code, may, in any court of competent jurisdiction, bring an action to recover an amount equal to the loss or damage proved to have been suffered by the person and obtain any additional amount that the court may allow, from any of the following:

(a) any listed entity, or foreign state whose immunity is lifted under section 6.1 of the State Immunity Act, or other person that committed the act or omission that resulted in the loss or damage; or

(b) a foreign state whose immunity is lifted under section 6.1 of the State Immunity Act, or listed entity or other person that—for the benefit of or otherwise in relation to the listed entity referred to in paragraph (a)—committed an act or omission that is, or had it been committed in Canada would be, punishable under any of sections 83.02 to 83.04 and 83.18 to 83.23 of the Criminal Code.

Subsection 4(1) allows a person who has suffered loss or damage as a result of a breach of laws found in the terrorism section of the Criminal Code to bring an action. Under paragraph (a), the suit can be brought against any person, listed entity, or foreign state (who has lost its immunity under the State Immunity Act, as explicated below) that committed the act responsible for the damage. The term “person” includes an organization, as defined in section 2 of the Criminal Code. “Listed entity” is a term defined in subsection 83.05(1) of the Criminal Code. It refers to an individual or group that has been designated by the Governor in Council (Cabinet), on the recommendation of the minister of public safety, as being associated with terrorism. An individual or group can become a listed entity if it has (a) “knowingly carried out, attempted to carry out, participated in or facilitated a terrorist activity,” or (b) “knowingly acting on behalf of, at the direction of or in association with an entity referred to in paragraph (a).”

The types of terrorism prohibitions that, if violated by a person or listed entity could render that person or group liable under the JVTA, include:

- willfully providing or collecting property, intending or knowing that it will be used to carry out terrorist activities (section 83.02).

- collecting property, inviting another person to provide property, or making available property or financial or other services, intending or knowing it will be used for terrorist activity or to benefit a terrorist group (section 83.03).
- knowingly dealing in property that is owned or controlled by a terrorist group; knowingly entering into or facilitating any transaction of such property; knowingly providing financial or related services in respect to such property for the benefit of or at the direction of a terrorist group (section 83.08).
- neglecting to disclose to the RCMP and CSIS any property in their possession or control that they know is owned or controlled by or on behalf of a terrorist group, and any information about transactions in respect of such property (section 83.1).
- failing to report on a regular basis whether they are in possession or control of property owned or controlled by or on behalf of a listed entity—applicable to foreign banks, credit societies, savings and credit unions, trust companies, loan companies, and others (section 83.11, and related requirements in section 83.12).
- knowingly participating in or contributing to any activity of a terrorist group for the purpose of enabling the terrorist group to carry out terrorist activity (section 83.18).
- knowingly facilitating terrorist activity (section 83.19).
- committing an indictable offense under the Criminal Code or any other federal statute for the benefit of, at the direction of, or in association with a terrorist group (section 83.2).
- knowingly instructing a person to carry out any activity for the benefit of a terrorist group for the purpose of enabling the terrorist group to carry out terrorist activity (section 83.21).
- knowingly instructing a person to carry out terrorist activity (section 83.22).
- knowingly harboring or concealing a person whom they know to have carried out or to be likely to carry out a terrorist activity, in order to enable the person to carry out that activity (section 83.23).
- committing a hoax to cause a reasonable apprehension that terrorist activity is occurring or will occur, without believing that such activity is occurring or will occur (section 83.231).

Under paragraph (b), persons, listed entities, and foreign states which have lost their immunity under the State Immunity Act can also be sued for causing loss or damage that results from violating any of sections 83.02 to 83.04 and 83.18 to 83.23 of the Criminal Code for the benefit of or otherwise in relation to the responsible listed entity.

Subsection 4(2) of the JVTA provides that the case in question can be heard in Canadian court only if it has a *real and substantial connection to Canada*, or if the plaintiff is a Canadian citizen or permanent resident. The intent of this provision is to clarify that universal jurisdiction, which would allow any plaintiff to bring a claim against any defendant in a Canadian court, is *not* being established. Rather, a significant connection must be demonstrated between the cause of action and the court in which the claim is brought.

The JVTA language also deals with issues of *causation*. Insofar as terrorist organizations do not keep open and transparent financial records, it will ordinarily be unfeasible to obtain evidence demonstrating that a particular dollar paid for the particular bullet that caused harm. It was therefore important to ensure legislatively that a terror victim would not be saddled with the unreasonable burden of proving that the alleged sponsor of the terrorist entity was directly responsible for the victim's loss inflicted by the terrorist entity. Subsection 4(2.1) of the JVTA creates a presumption that the defendant caused the plaintiff's loss or damage when a court finds that (a) a listed entity caused harm to the plaintiff by committing an act punishable under the terrorism section of the Criminal Code, and (b) the defendant breached certain Criminal Code laws for the benefit of or otherwise in relation to that listed entity (such as providing monetary funds). Legal presumptions can be rebutted by the defendant if there is proof to the contrary.

The JVTA also deals with the issue of the applicable *limitation period*. Limitation periods establish a cut-off date for seeking legal redress for a particular event. Subsection 4(3) sets out the limitation period for an action brought under the JVTA. The clock starts running on the day the bill comes into force, but is suspended for any period in which the victim is unable to commence proceedings (a) due to a physical, mental or psychological condition, or (b) because the identity of the wrongdoer could not be ascertained. Paragraph (a) is reminiscent of the Ontario Limitations Act, which suspends the limitation period for claims "based on assault or sexual assault during any time in which the person with the claim is incapable of commencing the proceeding because of his or her physical, mental or psychological condition."¹⁶ Paragraph (b) has support in the Supreme Court of Canada's determination in a 1992 case that, "The reasonable discoverability rule ... should be applied and the limitations period should begin to run only when the plaintiff has a substantial awareness of the harm and its likely cause."¹⁷ The clause will be particularly beneficial for victims of past terrorist attacks whose limitation period may have otherwise expired.

In a case where the terrorist act occurs on the soil of a foreign state, subsection 4(4) of the JVTA offers the court discretion to refuse to hear a claim if the plaintiff fails to provide that foreign state with the *opportunity to arbitrate* the matter "in accordance with accepted international rules of arbitration" prior to pursuing the claim in court. The encouragement to

arbitrate first, modeled after a similar U.S. provision in AEDPA, has three benefits. First, it shows consideration for state sovereignty, recognizing that suing a foreign state outside of that country should not necessarily be a first resort. Second, arbitration represents a potentially friendlier and more flexible means of adjudicating a dispute, which may deliver a more positive outcome than traditional litigation. Third, the provision represents one more hurdle for plaintiffs to overcome in order to demonstrate serious intent, and to prevent frivolous suits.

Subsection 4(5) of the JVTAs addresses the *enforcement of foreign judgments*. It provides: “A court of competent jurisdiction must recognize a judgment of a foreign court that, in addition to meeting the criteria under Canadian law for being recognized in Canada, is in favour of a person that has suffered loss or damage referred to in subsection (1). However, if the judgment is against a foreign state, that state must be set out on the list referred to in subsection 6.1(2) of the State Immunity Act for the judgment to be recognized.”

Two points are made by this language. First, a foreign judgment will be enforceable in Canada only for a successful victim-plaintiff. Second, any judgment against a foreign state will be enforceable only if that state has been designated under subsection 6.1(2) of the State Immunity Act as a supporter of terrorism.

The intent of the provision is admirable, confirming that as a matter of Canadian public policy, foreign anti-terror judgments from similar jurisdictions and legal systems to Canada’s will generally be enforceable in Canada. However, C-CAT has expressed concern about the language of this provision. In particular, there is uncertainty as to what is meant by a foreign judgment that meets “the criteria under Canadian law for being recognized in Canada.” “Canadian law” suggests a unified standard, but the rules regarding foreign judgments vary from province to province. This provision is imprecise and arguably establishes a nonexistent standard.

The JVTAs is *retrospective*. It provides a civil cause of action to those who were harmed by acts proscribed by the Criminal Code’s terrorism section on or after January 1, 1985. The JVTAs should be seen as “retrospective” rather than “retroactive”—two terms that are erroneously used interchangeably. In *Benner v. Canada*, Justice Iacobucci endorsed statutory interpretation expert E.A. Driedger’s understanding of the distinction:

A retroactive statute is one that operates as of a time prior to its enactment. A retrospective statute is one that operates for the future only. It is prospective but it imposes new results in respect of a past event. A retroactive statute operates backwards. A retrospective statute operates forwards but it looks backwards in that it attaches new consequences for the future to an event that took place before the statute was enacted.¹⁸

Applied to the JVTA, the effect of past terrorist involvement would not be affected from the time it occurred. Rather, a successful lawsuit would impose liability for past events of terrorist activity or sponsorship as of the date of judgment. However, even if the JVTA were found to be retroactive, it should still be valid because the legislature has the right to enact such legislation. In other words, any presumption that may exist against retrospectivity or retroactivity for a non-criminal law applies only when there is no clear legislative intent to the contrary.

From a policy perspective, retrospectivity is crucial if the legislation is to achieve its intended goals. One such goal is to hold wrongdoers accountable. Without retrospectivity, those responsible for terrorist attacks that occurred prior to the passage of the bill would effectively be granted immunity. It is in the public interest to ensure that those involved in the past sponsorship of terror resulting in the loss of Canadian life be subject to the provisions of this law. Retrospectivity also helps to fulfill the deterrence objective of the legislation. The civil remedy should apply to past terrorist activity in order to make previous and potential wrongdoers think twice about future involvement in terrorist activity.

Amendments to the State Immunity Act. Section 2.1 is added to the State Immunity Act to define the contours of state sponsorship of terrorism: “For the purposes of this Act, a foreign state supports terrorism if it commits, for the benefit of or otherwise in relation to a listed entity as defined in subsection 83.01(1) of the Criminal Code, an act or omission that is, or had it been committed in Canada would be, punishable under any of sections 83.02 to 83.04 and 83.18 to 83.23 of the Criminal Code.” This definition of the support of terrorism contains the same language found in the JVTA’s creation of the civil cause of action against a foreign state. The foreign state is found to support terrorism only if it violates certain Criminal Code anti-terror provisions in relation to a listed terrorist entity. Direct involvement in terrorist activity or support to a non-listed terrorist organization would not fall under the set definition.

Subsection 6.1(1) carves out a *new exception to state immunity*: “A foreign state that is set out on the list referred to in subsection (2) is not immune from the jurisdiction of a court in proceedings against it for its support of terrorism on or after January 1, 1985.” This provision contains two key elements: the support of terrorism on or after January 1, 1985 is conduct that threatens state immunity, but only those states that appear on a list will actually lose their immunity in any related civil proceedings.

Subsection 6.1(2) details the *listing process*. It allows the Governor in Council to “establish a list on which the Governor in Council may, at any time, set out the name of a foreign state if, on the recommendation of the Minister of Foreign Affairs made after consulting with the Minister of Public Safety and Emergency Preparedness, the Governor in Council is satisfied that there

are reasonable grounds to believe that the foreign state supported or supports terrorism.” In other words, Cabinet has the ability, but is not required, to list foreign states that have supported or continue to support terrorism. This framework of allowing lawsuits against foreign states only if they appear on a government-approved list differs from the original C-CAT proposal, and has been the subject of criticism. It will be discussed further later in this chapter.

Subsections 3 to 9 provide further details on the listing process: the list must be established within six months of the bill’s passage (although there is no obligation to place a single state on the list); the foreign state can apply to be removed from the list; the ministers of foreign affairs and public safety must make a decision about that application, and inform the state of their decision; the foreign state cannot re-apply to be removed unless there have been material changes in its circumstances since the last review; the list of states must be reviewed every two years, although the review does not affect the validity of the current list; and notice that the review has been completed must be published in the *Canada Gazette*.

Subsection 10 clarifies that if civil proceedings are commenced against a foreign state that is on the list, but at some point before the case is completed that state is removed from the list, the state’s immunity remains lifted for the purpose of those proceedings, subsequent appeals, and any related enforcement proceedings.

Various sections are added to and amended in the State Immunity Act to provide the court with *more tools in its dealings with the foreign state* during civil proceedings relating to the support of terrorism. The amendment to subsection 11(3) allows relief to be granted in civil proceedings against a foreign state for its support of terrorism or its terrorist activity, by way of an injunction, specific performance, or the recovery of land or other property.

Paragraph 12(1)(b) allows for attachment and execution of the foreign state’s property that is located in Canada, as well as arrest, detention, seizure and forfeiture in the case of an action *in rem*, when that property is used or is intended to be used by the state to support terrorism.

Paragraph 12(1)(d) is added to permit the attachment or execution of a foreign state’s property in Canada if it relates to a judgment rendered in a terrorism-related civil suit. However, this only applies to property that does not have cultural or historical value.

Subsection 13(2) is amended to allow the court to impose a penalty or fine against the foreign state for its refusal to produce documents or other information in the course of terror-related proceedings.

Section 12.1 is added to enable a successful victim-plaintiff to solicit assistance from the minister of finance in locating the financial assets of the state that are within Canada, and from the minister of foreign affairs in identifying and locating the property of the state that is within Canada. It reads: “At the request of any party in whose favour a judgment is rendered against a foreign state in

proceedings referred to in section 6.1, the Minister of Finance or the Minister of Foreign Affairs may, within the confines of his or her mandate, assist, to the extent that is reasonably practical, any judgment creditor in identifying and locating the following property....” However, there are considerable caveats. First, the ministers are permitted, but not obligated, to offer any assistance. Second, assistance may not be offered if the foreign affairs minister believes that doing so “would be injurious to Canada’s international relations,” or if “either Minister believes that to do so would be injurious to Canada’s other interests.” This vague language could be used as a wide-ranging excuse not to aid the victims in the aftermath of a successful verdict. To strengthen this provision and increase the likelihood of ministerial assistance, C-CAT has suggested at a minimum that the word “may” be replaced with “shall.” This would add some necessary pressure on the ministers, while the subsequent words “to the extent that is reasonably practical” already ensure that ministers will not be compelled to provide information in unreasonable or inappropriate circumstances.

The “Lockerbie Amendments.” Some important changes were made to the bill shortly before it was passed. Prior to these “Lockerbie Amendments,” the JVTA allowed civil suits against a listed foreign state only if it sponsored a listed entity, but not if that same listed foreign state had directly committed a terrorist act. This was problematic. In the 1988 Lockerbie bombing case, for example, Libya used its own officials to blow up a Pan Am flight en route from London to New York, killing 243 passengers and 16 crew members. Under such circumstances, Libya could not be sued under the JVTA. Only if it had used a listed entity to commit the act, rather than its own officials, could the current JVTA language allow victims to file a civil claim against the state.

C-CAT therefore proposed its “Lockerbie Amendments,” ultimately accepted by Parliament, which allow listed foreign states to be sued for direct Lockerbie-type terrorist activity on the condition that a Canadian court of competent jurisdiction has already determined that the state supports or has supported terrorism. Thus, a new subsection was added to the State Immunity Act, providing:

6.1(11) Where a court of competent jurisdiction has determined that a foreign state, set out on the list in subsection (2), has supported terrorism, that foreign state is also not immune from the jurisdiction of a court in proceedings against it that relate to terrorist activity by the state.

This broadens the scope of conduct for which a foreign state can be sued in a Canadian court, but does so carefully and narrowly. It does not create a new trigger for lifting state immunity. Rather, the new subsection is more properly described as an extension of the initial trigger, the support of terrorism. Once

a listed state has lost immunity for its support of terrorism, it should also be liable for direct terrorist activity. “Terrorist activity,” in turn, has the same meaning that is already provided in section 83.01 of the Criminal Code, and applies to acts or omissions on or after January 1, 1985.

Counterarguments and Responses

The following section outlines—and then responds to—several questions about the JVTa, its effects, and its effectiveness.

Could civil suits against local and state sponsors of terrorism under the JVTa trigger retaliatory measures against Canada? The JVTa should be seen as one more addition to a series of measures already enacted by Canada and other countries since 9/11 that have challenged many conventional norms in domestic and foreign policy. In the past decade, Canada has passed tough and controversial anti-terror legislation, revisited its immigration policies, and banned terrorist organizations—despite the concomitant risks of reprisals through violence or other means. These moves reflect a recognition that, as articulated by the Ontario Court of Appeal, terrorism is a crime “that has no equal,” and therefore “must be dealt with in the severest of terms.”¹⁹

Moreover, Canada has enacted other principled policies in the past, despite the risks they seemed to pose. One such example was cutting off lucrative economic ties with South Africa in the 1970s and 1980s in order to pressure that country to end apartheid. In fact, Canada’s prime minister at the time, Brian Mulroney, was the first world leader to take this action despite the potential economic fallout not only from South Africa but also other trading partners. Other countries soon followed Canada’s lead, however, and apartheid was abolished. Another example was the decision to list Hizballah as a terrorist entity in Canada despite the warnings from Raymond Baaklini, the Lebanese ambassador to Canada, regarding the consequences for Canada, and the potential danger to Canadians who tour the Middle East.²⁰ Canada also took a leadership role in the military campaign against al Qaeda and the Taliban in Afghanistan. This deployment not only cost the lives of Canadian soldiers, but it also identified Canada as a target for retaliation. Nevertheless, Canada—under both Liberal and Conservative governments—pursued its principled policy in this conflict.

It should also be noted that current Canadian law already allows civil suits against local sponsors of terrorism, and against foreign states for certain conduct such as breach of commercial contract and loss or injury to person or property committed on Canadian soil. Retaliation for these laws has not taken place.

Ultimately, fear of retaliation (whether through violence or reciprocal civil suits) cannot be Canada’s sole guiding principle of diplomacy. If this were so, Canada could never take a meaningful and principled human rights

stand against any totalitarian regime or criminal organization, other than those deemed inconsequential to Canadian interests and safety.

Why are foreign states subject to civil proceedings under the JVTA only if the Canadian government has listed them as supporters of terror? In drafting the JVTA, the government decided to adopt the U.S. model of designating certain states as supporters of terrorism, and allowing only these states to be sued by victims. C-CAT shares the government's desire to prevent spurious suits against democratic allies, which would turn Canadian courts into venues for mischief and mockery of the system. However, given that the Canadian list of terror-sponsoring states, like that of the U.S., is likely to be very short, C-CAT proposed a different mechanism for guarding against frivolous suits while also broadening the number of states that could be sued.

Rather than employing the U.S. "positive list" (meaning the list of states that *can* be sued), C-CAT advocated for a "negative list" of countries that *cannot* be sued. Under this model, countries would be immune from lawsuits if they (1) are extradition partners according to the schedule to the Extradition Act, or (2) share a bilateral extradition treaty with Canada. Such countries constitute Canada's primary allies, and possess legal systems in which Canada has expressed some degree of confidence. This formula, based on preexisting markers for evaluating Canada's relationships with other countries, would prevent the intense political and diplomatic pressure inevitably provoked by the creation of a list of terror-sponsoring states. Moreover, the U.S. experience has witnessed the exclusion of certain states from the list due to political considerations. There is a strong possibility that a Canadian "positive list" would produce similar results, leaving any number of apparent state sponsors of terror off the list.

Thus, earlier versions of the JVTA, which were private member's bills rather than government bills, had been drafted based on this extradition model. (A private member's bill is one introduced by an individual Member of Parliament or senator who is not a Cabinet minister. Accordingly, private member's bills do not have the weight of the government behind them and are often harder to pass into law.) One such private member's bill belonged to Irwin Cotler. In a 2010 article, Cotler criticized the government's decision to use the American listing model in its version of the bill. "Whether a foreign state is listed will always be the subject of political negotiations between governments," he wrote. "It will always be an issue of executive discretion. It will always have an element of arbitrariness about it; it will effectively take away the basic right of civil remedy from the victims themselves." Cotler preferred the extradition framework, arguing:

I understand the government's desire to prevent frivolous or vexatious lawsuits against our democratic allies. While my bill removes

immunity from perpetrators of terrorism and its state sponsors, it seeks to address this concern by providing a limited carve-out for countries with whom Canada has an extradition treaty—that is, those democracies that respect the rule of law, that have an independent judiciary and that provide due process. Accordingly, victims of terrorism could seek redress in those countries precisely because of their democratic character and provision for due process. Given that such recourses would be available to victims with respect to these countries, it is not imperative to remove state immunity entirely.²¹

Nonetheless, the government has understandably decided to maximize its control over the process, and protect Canada's foreign relations to the greatest extent possible by enabling victims to sue only those foreign states that will appear on the Cabinet-approved list. The wisdom of this choice can only truly be assessed once the first list appears. If only one or two or even no states are designated as supporters of terror, victims will be justified in objecting to the “positive list” model.

Is it constitutional for the federal government to legislate on matters related to civil law? Sections 91 and 92 of The Constitution Act, 1867 set out the matters in which the federal parliament has authority to legislate, and those falling under the jurisdiction of provincial legislatures. The creation of a civil remedy is generally understood to be a matter of provincial jurisdiction under its “property and civil rights” power. Yet the JVTa, a piece of federal legislation, creates a civil cause of action against local and state sponsors and perpetrators of terrorism. Whether this interferes with the constitutional division of powers is a significant consideration, particularly in light of the recent Supreme Court of Canada decision that the government's proposed Securities Act fell outside the scope of federal jurisdiction.²²

Though a long paper could be devoted entirely to this question, it can be said that while there is no guarantee a court will ultimately find the JVTa constitutional, the federal government is armed with strong arguments in its favor. For example, although The Constitution Act, 1867 establishes a division of powers, the Supreme Court of Canada has acknowledged: “The history of Canadian constitutional law has been to allow for a fair amount of interplay and indeed overlap between federal and provincial powers.”²³ If the federal Parliament enacts a law whose essence falls under federal jurisdiction, that law may be able to impact on matters ordinarily falling within provincial jurisdiction.²⁴ Thus, the Supreme Court of Canada held in *General Motors v. City National Leasing* that the federal Competition Act could contain a civil remedy for loss suffered as a result of activities in violation of that act.²⁵ In the case of the JVTa, the federal government could argue that it is validly

legislating under its criminal law power, its implicit foreign affairs power, and its “peace, order and good government” power.

The federal criminal law power is located in subsection 91(27) of The Constitution Act, 1867. The federal government could point out that the JVTA creates a civil cause of action for a breach of Criminal Code laws. Insofar as criminal prosecutions have enjoyed very limited success in defeating terror sponsorship, the civil remedy is necessary to deter and even punish this type of criminal activity. Indeed, section 3 of the JVTA describes the objective of the legislation in this way: “The purpose of this Act is to deter terrorism by establishing a cause of action that allows victims of terrorism to sue perpetrators of terrorism and their supporters.” Moreover, the fact that the JVTA is part of Bill C-10, an omnibus crime bill, strengthens the notion that the JVTA is considered to fall within federal legislative authority on the basis of the criminal law power.

A foreign affairs power is implied from the explicitly granted federal authority over matters that affect the country as a whole and have an international dimension, such as “Militia, Military and Naval Service, and Defence,” “Navigation and Shipping,” “Ferries between a Province and any British or Foreign Country or between Two Provinces,” and “Naturalization and Aliens.” Terrorism is an international issue, affecting Canadians inside and outside the country. Certainly the lifting of state immunity under the State Immunity Act, and even the creation of a civil remedy against foreign states, should be seen to fall under federal jurisdiction. But arguably a civil remedy against local sponsors of terror could also be viewed as a federal matter, particularly when the local terror sponsor has an international component (terror financing networks can be complex, spanning banks, organizations, individuals and states throughout the world).

Lastly, section 91 of The Constitution Act, 1867 allows for the federal Parliament to “make Laws for the Peace, Order, and good Government of Canada.” One aspect of this power is the “national concern” branch, which, according to the Supreme Court of Canada, “applies to both new matters which did not exist at Confederation and to matters which, although originally matters of a local or private nature in a province, have since ... become matters of national concern.”²²⁶ If it can be shown that terrorism and terror financing in Canada possess the “singleness, distinctiveness and indivisibility that clearly distinguishes [them] from matters of provincial concern,”²²⁷ the federal government may be able to enact the JVTA under this power. One important indicator of the requisite “singleness, distinctiveness and indivisibility” is whether “provincial failure to deal effectively with the intraprovincial aspects of the matter could have an adverse effect on extraprovincial interests.”²²⁸ Indeed, the federal Parliament can argue that failure of one or more provinces to establish the civil remedy against terror sponsors would render the law ineffective. On that basis, federal jurisdiction may be necessary.

With these three arguments in its arsenal, the federal government is well situated to assert its jurisdiction to enact the JVTA.

Will plaintiffs ever be able to collect on their damages awards? In other words, is the JVTA merely symbolic? Will defendants, especially state sponsors of terror, ever abide by a Canadian court's order for damages?

The first response to this possible objection is that the symbolic element of the bill should not be belittled. The government is making a clear statement that terrorism is an issue it takes seriously, that terror sponsorship will not be tolerated, and that victims have a key role to play in this campaign.

Second, victims may find that they have good reasons to pursue a claim in court even if they do not anticipate collection of a damages award. Turning to the civil courts offers them an alternate avenue to pursue justice, and in a format they can control. The civil process, regardless of the end payout, can publicly and officially identify terror sponsors, hold them civilly accountable, utilize the discovery process to unravel the illegal financial networks that terror sponsors try to obscure, and establish as a matter of public record the victimization of the plaintiffs by the defendants.

Third, local sponsors of terror with assets in Canada will have difficulty evading any judgments against them.

Fourth, while collecting against foreign state defendants may be challenging, it is not impossible. The finance and foreign affairs ministers are encouraged, under section 12.1 of the State Immunity Act, to assist the successful victim-plaintiff in identifying and locating the assets and property of the foreign state in Canada. Although this language could be stronger, the section should boost the plaintiff's chances of successful collection. It is also possible, however unlikely, that a foreign state will voluntarily submit to the jurisdiction of the Canadian courts, and comply with a court judgment. Indeed, it is hard to predict how the political context could affect a state's behavior in this regard. Consider the Lockerbie bombing case, where Libya belatedly paid \$8 million to each family to settle the judgments awarded by a U.S. court for its role in the terrorist attack.²⁹ This payment was contingent on the United States and the United Nations agreeing to lift sanctions against Libya, and on the United States removing Libya from its list of state sponsors of terror. In other words, for a variety of political and economic reasons, Libya decided that compensating the victims' families was in its best interests.

Fifth, as other countries enact comparable legislation, defendants may run out of locations in which to hide their assets, and the chances of plaintiffs getting paid will increase.

Sixth, if the JVTA is enacted and victims are systematically unable to collect on any judgments, it may be appropriate to amend the law by strengthening existing provisions or adding new mechanisms to enhance collection.

Conclusion

Mohammad Momin Khawaja, a Canadian recently convicted of terrorism offenses, was found by the court to have written the following in an email:

[W]e know that the only way the Kuffar support their wars are with their economies. So we have to come up with a way that we can drain their economy of all its resources, cripple their industries, and bankrupt their systems in place.... We need constant economic J [Jihad], blow after blow, until they cripple and fall, never to rise again.... What did Sept. 11 do to America? ... Would you not say that the actions of 19 men on Sept. 11 are the most accurate, effective, and honorable way of conducting economic J? Imagine if there were 10 Sept 11's, wouldn't that accurately bring America down, never to rise again? Yes, I understand that innocent human beings died, but there is absolutely no other way of achieving the same objective with the same effect.³⁰

The JVTA turns these malicious ideas on their head by attempting to cut off the terror economy in order to save innocent lives. Moreover, victims take their fight to a court of law, without resorting to or advocating for violence.

While the JVTA is not without its weaknesses, the bill nevertheless represents a significant and commendable contribution to the counterterrorism arsenal. By providing a civil remedy for the contravention of terrorism-related criminal laws, private citizens are poised to strengthen Canada's efforts in confronting terrorism and terror financing.

Risk Assessment and Terrorism: The Canadian Context

D. Elaine Pressman

Whatever words we utter should be chosen with care, for people will hear them and be influenced by them for good or ill.

—*Prince Gautama Siddharta, the founder of Buddhism*

On January 18, 2010, Zacharia Amara, the ringleader of a plot to set off massive bombs in Toronto and other targets in Ontario was handed a life prison sentence.¹ The envisioned plot included the detonation of three one-ton truck bombs made with ammonium nitrate. The explosions were to occur at two downtown Toronto office building locations at a time when a maximum amount of civilians would be nearby; an Ontario military base was also targeted.

Amara's motivation for this plot was ideological and political. He opposed Canada's mission in Afghanistan, believed that Canadian foreign policy had to be changed, and sought to do this by recruiting young men to commit acts of terrorism. He acted, as Ontario Superior Court Judge S.B. Durno remarked at sentencing, with the full knowledge that death and serious bodily harm to members of the public was likely.² Although law enforcement foiled Amara's plans, his intent, capability, and ideological and political motivation remained. He was one of eighteen men and youths arrested in June 2006—the so-called “Toronto 18”—for involvement in a terrorist plot. Charges against four adults and three youths were stayed or dropped. Of the remaining number, seven adults (including Amara) pleaded guilty, and the four conspirators who went to trial were convicted. This plot had the potential to cause loss of life on a scale never before seen in Canada.

A major terrorist plot in Canadian history with deadlier consequences occurred on June 23, 1985, when Sikh extremists placed bombs hidden in baggage on two Air India planes. Air India flight 182 departed from Toronto and exploded at an altitude of 31,000 feet, killing all 329 passengers, 280 of whom were Canadian. A second bomb exploded as baggage was being transferred in Tokyo's Narita Airport, killing two baggage handlers. This remains the deadliest terrorist act in Canadian history. Only one person was convicted in relation to the bombing: Inderjit Singh Reyat, an Indian-born electrician who had become a Canadian citizen.

A resident of British Columbia at the time of the bombing, Reyat was sentenced to a total of fifteen years' imprisonment for two separate convictions

related to the bombing. He served a ten-year sentence after being convicted in 1991 of two counts of manslaughter for making the bomb that exploded in Tokyo. He was sentenced to five years in a separate trial for his role in constructing the bomb that was used on the Air India flight. After serving these sentences, Reyat was re-arrested and tried for perjury in relation to his time as a Crown witness during the 2003 trial of two others arrested in connection with the bombing. Ripudiman Singh Malik and Ajaib Singh Bagri had been charged with conspiring to blow up Air India flight 182, and with causing the explosion that killed the baggage handlers at Narita Airport. Malik and Bagri were acquitted, at least in part due to the lies told by Reyat while he was testifying under oath (this testimony being the result of a controversial plea deal). Reyat was convicted of perjury on September 18, 2010, and sentenced in January 2011 to a nine-year sentence. He has been an unrepentant ideologue: When Reyat was sentenced for perjury, Judge Mark McEwan remarked that he “did not appear to be at all remorseful.”³

Ideology is not innate. Belief in an ideology, even a fervent belief where extreme violence is considered justifiable, is not an indicator of a mentally unbalanced person. It is not an indicator of a cognitively impaired or crazed individual. Ideologies are communicated. Language, verbal and nonverbal, and images are the means through which such communication takes place. Human communication is used to transfer the ideas, influence thought and intellectual development, and promote action. The resulting attitudes and beliefs relate to the individual’s ideological perspective, and shape his or her goals, actions, and worldview.

Attitudes are the prism through which experiences are filtered. The FBI considers both terrorism and violent extremism to include significant ideological motivators, and both violent extremism and terrorism are defined in terms of ideology.⁴ Ideology and worldview contribute to one’s interpretation of events and actions. They provide the framework for grievances, and do not inevitably dissipate. They can become more extreme and inflexible over time. Individuals convicted of violent action driven by such ideological motivation require risk assessments for the same purposes that risk assessments are used with other violent criminals. The results of the assessments are used to assist correctional placement and programming, and for decisions relating to early release. Such assessments may also have a use for investigators. It is imperative, however, that pertinent risk indicators be used for violent extremists that address the role of ideology, attitudes, intention, motivation, and capacity. It is important to measure the degree to which attitudes are used as a justification for violent action. Risk analyses are also relevant to members of the military, and personnel operating in strategic locations and with sensitive infrastructure. Concerns about “insider risk” increased following the killings at Fort Hood, Texas by Army psychiatrist Nidal Hasan.⁵

What are these appropriate risk indicators, and is it possible to determine the risk of recidivism in those who have previously perpetrated or attempted to commit terrorist acts? The application of an empirically supported set of risk items within a structured approach is a positive development for determining an objective and reliable assessment of risk of violent extremism. This chapter explains and advocates such an approach.

The Role of Ideology in Canadian Terrorism

Political, religious, and ideological violence is not new to Canada. Canada has been the target of a significant number of violent extremist attacks during the past century. Extremists and terrorists in Canada have been motivated by a variety of ideological causes. These have included a range of nationalist objectives; political goals (left wing and right wing); politico-religious aims; violent animal rights activists; lethal anti-abortionists; and those willing to use violence to highlight ecological concerns.

As Ron Crelinsten's contribution to this book explains, one of the most notable examples of Canadian "homegrown" violent extremism in the past century was motivated by nationalistic fervor and political ideology. The *Front de libération du Québec* (FLQ) was active from 1963 to 1973 pursuing the goals of Quebec independence, socialist ideals, and the emancipation of the working class. FLQ militancy included the kidnapping and murder of Pierre Laporte, deputy premier and minister of employment and immigration in the Quebec Liberal Government, and the kidnapping of James Richard Cross, the British trade commissioner in Montreal.

Aboriginal violent extremism is also motivated by nationalist and political goals. Land claims by indigenous groups have been part of the political landscape of Canada for decades. Some of these groups view violence as a viable method to achieve their political ends. One such example, the Mohawk Warrior Society, was responsible for the Oka crisis.⁶ Right-wing extremists in Canada have also shown a willingness to engage in violence to achieve their political goals. Their activities have ranged from nonviolent activism to killings. In 1986, one incident involved the placement of a bomb in a Canadian Immigration Center in Vancouver to protest immigration policies. Another incident involved five white supremacists who beat a caretaker to death at a Sikh temple in Surrey in January 1998.⁷ There is growing concern over extreme right-wing groups known as "Sovereign Citizens" and "Freeman-on-the-land" groups that, to various degrees, reject the government, nullify any allegiance to the government, refuse taxation, and do not accept the laws and statutes of the country.⁸ Members of these groups claim that Canada's laws have been developed by a criminal government, and some members support violent anti-government action. Others have claimed that they have the right to shoot

politicians to protect their rights as sovereign citizens. The FBI considers these groups to be one of the most dangerous domestic terror threats to the United States, and Canadian law enforcement is equally concerned about the growth of the movement in Canada.

Terry Nichols, one of the men convicted in the 1995 Oklahoma City bombing, adhered to this ideology. In April 1992, Nichols, while a resident of Sanilac County, Michigan, wrote a letter to the Michigan Department of Natural Resources renouncing his citizenship of the State of Michigan and the U.S., and stated that he was answerable only to “the Common Laws.” This position is characteristic of the Sovereign Citizen Movement and Freeman-on-the-land attitudes. Nichols, a hunter, expressly revoked his signature on any hunting and fishing licenses that he viewed as binding him to what he considered the illegitimate government of Michigan. When he wrote letters, he was known to use the abbreviation “TDC,” indicating that he was using the federal zip code under “threat, duress and coercion.”

Some violent extremists possess a complex set of motivations that combine political ideology with other issues of concern. Others combine the need to engage in action to support their position with a willingness to use violence. The members of the Canadian anarchist “urban guerrilla” group known as the Squamish Five were a “direct action” group active in the 1980s in Canada. Committed to their principles and ideological position, they were arrested in 1983 and convicted in May 1984 of committing terrorist acts with the alleged motives of concern about the environment, poverty, and the threat of nuclear destruction. The five members—Ann Hansen, Brent Taylor, Juliet Caroline Belmas, Doug Stewart and Gerry Hannah—were involved in bombings and related criminal acts.

On May 30, 1982, Hansen, Taylor, and Stewart traveled to Vancouver Island and set off a large bomb at the Dunsmuir, British Columbia Hydro substation, which had been criticized as environmentally unsound. They caused \$5 million in damage, but nobody was injured. Subsequently, in October 1982, the five filled a stolen pickup truck with 550 kg (1,210 pounds) of dynamite, and drove from Vancouver to Toronto to bomb Litton Industries, a company producing guidance components for American cruise missiles. They feared the work at Litton would increase the risk of nuclear war. Their bomb detonated on October 14, and although it was intended to cause only property destruction, it injured ten people.

The Squamish Five were arrested and charged in January 1983. Some of the members appealed their sentences as excessive. They did not consider themselves violent extremists, and believed the trial judge hadn’t given “sufficient weight” to their “good motives” in committing the crimes. This belief in good, justifiable, morally right motivation is central to ideologically motivated violence.

Ecological concerns were the primary motivation for other violent incidents in Canada. In the late 1990s farmer and religious leader Wiebo Ludwig was involved in a series of incidents of bombings and vandalism against oil and gas companies that he believed were polluting the area around his property; he caused millions of dollars in damage. Ludwig was convicted in April 2001 on five charges, and sentenced to twenty-eight months in prison (but was paroled after serving two-thirds of his sentence). Ludwig was another unrepentant violent extremist continuing to support his cause. He said that “the best thing to do is to find a way to make peace, to work things peacefully... but that isn’t always possible in a world full of men who aren’t interested. To do nothing would be cowardice. In my opinion, in this broken world, you can’t to some degree help but use violence.”⁹

Over the past three years, environmentally motivated attacks have been carried out against gas group Encana in northeastern British Columbia. Six bombings in the past several years have targeted the natural gas pipeline and gas wells operated by Encana near the city of Dawson Creek, 750 kilometers (466 miles) from Vancouver. The first in a series of bombings took place on October 11, 2008, followed by a bombing on October 16 and another on October 31. Another bomb exploded on January 4, 2009, followed by two more explosions in July 2009.¹⁰ There were no reported injuries, but the most recent bomb exploded just 500 meters (1,500 feet) from workers.

Extreme environmentalist groups have displayed a willingness to use violent tactics to stem the expansion of natural-resource industries in northern Alberta and elsewhere, to bring attention to environmental destruction caused by oil and tars and developments, to support aboriginal land rights, and to highlight other social causes. One example occurred in May 2010 in Ottawa, when a Royal Bank of Canada branch, in a quiet residential area of the city, was firebombed by a retired Canadian government civil servant. Roger Clement, age 58, claimed that the bombing was carried out to protest the bank’s support for the Alberta tar sands development, and its support for the Vancouver Olympics (which he believed was held on stolen indigenous land). Clement was arrested along with two others, but was the only person convicted of the bank bombing. Although the act was considered domestic terrorism by some law enforcement officials, Clement pleaded guilty only to arson. He was sentenced in December 2010 to a three- and-a-half-year sentence for the arson, and an additional six months for an earlier mischief charge. Clement did not express regret or remorse for the attack, did not reject his political or ideological objectives, and did not renounce his use of violent tactics. The only regret Clement expressed in court was for the inconvenience he caused “for the high cost of his incarceration,” and his inability to fulfill his obligations to his friends and family.¹¹ Other violence motivated by single-cause extremism in Canada has included anti-abortionists stealing and destroying medical

equipment and vandalizing premises, and the shooting of three obstetricians who performed abortions.

Foreign political grievances have motivated other terrorist attacks, including the aforementioned 1985 bombing of Air India flight 182 by Sikh extremists. Another terrorist incident involving foreign grievances occurred on March 12, 1985, when three gunmen claiming to be members of the Armenian Revolutionary Army occupied the Turkish Embassy in Ottawa for four hours and killed a security guard. There had been prior attacks on Turkish diplomats in Canada in 1982. On April 8, 1982, Turkish commercial counselor to Canada Kani Gungor was paralyzed in an attack by Armenian nationalists at his Ottawa apartment. ASALA (the Armenian Secret Army for the Liberation of Armenia) took responsibility. On August 23, 1982, the Turkish military attaché to Canada, Atilla Altikat, was killed in an armed assault in Ottawa. Colonel Altikat, who had been an officer in the Turkish air force, was killed in his car on his way to work. The Justice Commandos for Armenian Genocide (JCAG) claimed responsibility.

The Turkish embassy attackers in 1985 were all residents of Canada, including Kevork Marachelian of La Salle, Quebec, Rafi Panos Titizian of Scarborough, Ontario, and Ohannes Noubarian of Montreal, Quebec. They were not charged with a terrorism offense, but with first-degree murder and such other offenses as attacking the premises of a diplomat. All three were found guilty of first-degree murder, and Judge David Watt imposed the mandatory sentence of life imprisonment with no possibility of parole for 25 years.¹² Noubarian told the court that what the three did “sprang from the national ideals we shared”—that is, from their political ideology and beliefs.

There is no information available as to the type of indicators used in risk assessments undertaken within the Canadian correctional system, or management programs used for individuals convicted of such politically motivated violence. There may well be many more violent extremists incarcerated in Canada than is officially recognized because of the nature of the convictions—in other words, for murder or arson rather than “terrorism” or ideologically motivated violence. Marachelian and Noubarian were released from prison on February 19, 2010. Information has been scarce about the conditions of their release, and whether there has been follow-up as to the state of their current ideological positions and intent. Rafi Titizian was also released in April 2010.

Violence motivated by religious conviction is not new in Canada. It has existed from as early as the 1920s. Early examples of religious violence were committed by sects of the Doukhobors, a religious community first located in Manitoba and Saskatchewan, and later relocated to British Columbia. A group of Doukhobors known as the “Sons of Freedom” (SOF) and the “Freedomites” carried out fire and bomb attacks in Canada for decades. In 1962, the Royal Canadian Mounted Police rounded up fifty-nine leaders of the SOF in British

Columbia for one of their bombings. In 2001, an 81-year-old Freedomite woman, Mary Braun, chose to appear naked in court. She was convicted of setting fire to a college building, and sentenced to six years in prison.

Today, Canadian security agencies have heightened concerns about another kind of political-religious violence: “homegrown” terrorists and violent extremists inspired by al Qaeda. They are the highest priority for security agencies in Canada, the United States, and other Western countries. Bob Paulson, the RCMP commissioner in charge of the National Security Criminal Investigations Program, remarked in February 2009 that “more homegrown extremists and suspected terrorists are believed to be operating in Canada than ever before.”¹³ The Canadian Security and Intelligence Service (CSIS) identified this threat from violent political-religious extremists as the most immediate danger to Canada and Canadians.¹⁴

In 2008, the first terrorism cases were successfully prosecuted under Canada’s new Anti-Terrorism Act. On September 25, 2008, Nishanthan Yogakrishnan, who was arrested in June 2006 as part of the Toronto 18 conspiracy, was the first to be found guilty under the act—convicted of “knowingly participating and contributing to a terrorist group.”¹⁵ In May 2009, he was sentenced to prison for two and a half years. Ontario Superior Court Judge John Sproat ruled that there was “overwhelming” evidence that a terrorist conspiracy had existed.

Of the eighteen individuals originally arrested in the Toronto 18 plot, seven had charges against them dropped or stayed. Seven adults pleaded guilty for their role, and the four who did not plead guilty were ultimately convicted at trial. At least five of the conspirators were given sentences in the seven- to ten-year range, and some of the convicted have already been released. What is their risk of recidivism? What are their current levels of commitment to violent action? How can their individual risk be assessed? What is known about the present ideological perspective, commitment, and intent to harm Canadian society by such individuals? Are the tools being used in Canada’s Correctional Services appropriate for ideological and political violence? Clearly, the risk of an individual with no remorse or change in ideology, and a continuing commitment to violence, remains high.

Another of the earliest major convictions under the Anti-Terrorism Act was handed down on October 29, 2008, in Ottawa. Mohammad Momin Khawaja, a twenty-nine-year-old Ottawa resident, was the first person charged under Canada’s Anti-Terrorism Act—although not the first convicted, due to the length of pretrial deliberations. He was eventually convicted on five terrorism charges for actions that included participating in a terrorist group, training at a remote camp in Pakistan, providing cash to a group of British extremists, offering them lodging and other assistance, and offenses related to building a remote-control device to set off explosions.

Born in Ottawa, Khawaja was highly educated, skilled in electronics, and worked as a software developer before he was arrested in 2004. He was sentenced to ten and a half years plus time already served since 2004.¹⁶ Khawaja appealed to the Ontario Court of Appeal, which increased his sentence to life imprisonment. In noting that the trial court's sentence was insufficient to deter terrorism, the ruling from a three-justice panel noted: "When terrorists acting on Canadian soil are apprehended and brought to justice, the responsibility lies with the courts to send a clear and unmistakable message that terrorism is reprehensible and those who choose to engage in it here will pay a very heavy price." The justices also noted that the trial court's sentence failed to "reflect the enormity of his crimes and the horrific nature of the crime of terrorism itself."¹⁷ The Ontario Court of Appeal's decision emphasized that the sentencing of terrorists requires regard for three factors: "(1) the unique nature of terrorism-related offences and the special danger that these crimes pose to Canadian society; (2) the degree of continuing danger that the offender presents to society; and (3) the need for the sentence imposed to send a clear message to would-be terrorists that Canada is not a safe haven from which to pursue their subversive and violent ambitions." Khawaja's lawyer has appealed the case to the Supreme Court of Canada.

To assess the changes in "rehabilitative prospects" identified by the appellate court, the status of an individual with such ideological commitment needs to be assessed and reassessed over time. Explicit and transparent risk indicators are required, and these must be relevant to terrorist crime, both measurable and reliable.

Said Namouth, a permanent resident of Canada, was arrested in Maskinongé, Quebec, in September 2007. He was convicted of promoting terrorism by propagandizing for terrorist groups, serving as a jihad recruiter, and acting as a webmaster for the Global Islamic Media Front (GIMF), an al Qaeda-affiliated organization that is designated a terrorist group by Canada's government. He argued that his actions were not illegal because the right to freedom of expression was protected under section 2(b) of the Canadian Charter of Rights and Freedoms. The court rejected his argument, and Namouth was sentenced to life in prison in February 2010.¹⁸

Canada, as a signatory to the United Nations International Convention for the Suppression of the Financing of Terrorism, has agreed to criminalize the collection of funds where the individual intends or knows that the funds will be used to support terrorism. The first person convicted under Canada's anti-terrorism legislation for knowingly raising money to benefit a terrorist group was Prapaharan Thambithurai. A resident of Ontario, 46-year-old Thambithurai was arrested in New Westminister, British Columbia, in March 2008, and charged with "providing money, property or services" to a terrorist group, specifically the Liberation Tigers of Tamil Eelam (LTTE). The LTTE is designated a terrorist entity by the Canadian government. From late 2007

to March 2008, Thambithurai had collected between \$2,000 and \$3,000 for the World Tamil Movement (WTM), a charitable organization of which he was a member—but he later admitted that he was aware that the LTTE would keep a portion of the funds.¹⁹ Thambithurai entered a guilty plea on May 11, 2010, and was sentenced to six months in prison by Judge Robert Powers of the Supreme Court of British Columbia.²⁰ The government appealed the six-month sentence as too lenient, but this appeal was rejected in March 2011.

As the above examples illustrate, genuine remorse and a commitment to abandon violent action is often absent in violent extremists even as they are being tried, convicted, and sentenced. There is often no acknowledgement that the violent action taken was unjustified, or that the ideology driving violent action was in any way flawed. This was also true of Thambithurai. Immediately after pleading guilty to providing funds to a terrorist organization, he walked out of the courthouse and told reporters that the LTTE was not really a terrorist organization.²¹

Terrorism is a complex phenomenon, and the individuals who perpetrate such offenses are equally complex. The diverse characteristics of the people who have been active in violent extremism in Canada support the notion that terrorists come from a variety of cultural, racial, religious, and ethnic groups. They come from different socioeconomic backgrounds, but most are educated, skilled, and employable. This differentiates them from other common violent criminals; they are, as noted researcher Martha Crenshaw observed, essentially normal rather than psychologically disordered persons.¹² They live in many geographic areas of Canada, and span the entire age range from adolescents all the way up to an 81-year-old senior citizen. They are male and female. Some violent extremists have a connection to global or regional issues or grievances. Some do not, and are distinctively Canada-focused.

These individuals do not exhibit a single profile. This lack of a single profile does not mean that there are no common elements among these violent extremists. Despite there being no single profile, a defined set of relevant risk indicators can be extracted from the knowledge base of these types of acts, the actors who perpetrate them, and the range of ideologies that served as motivating forces. These indicators can be applied to assist in the objective determination of the efficacy of intervention, de-radicalization programs, and other “rehabilitation” initiatives that the judicial and correctional systems in Canada support. Researchers have extracted, via analysis of the writings and statements of terrorists with different ideologies and in different parts of the world, a set of common themes that represent terrorism broadly. The indicators for individual violent extremist risk assessment proposed in this chapter are supported by these identified themes.²³

These indicators are structured to permit rating, so that the degree of severity that is observed on each indicator for each different individual

extremist can be determined, much as in a clinical evaluation. The indicators are relevant to divergent types of violent extremists committed to different objectives and ideologies. The risk indicators are classified into five sectors, including: (1) beliefs, attitudes, and ideology, (2) intent to act, and contextual features supporting that intent, (3) history, training, and capacity, including associations, (4) motivational aspects (leader, ideologue, follower, criminal opportunist, excitement seeker), and a quantified delineation of the mixture of these motivational components, and (5) mitigating influences, or factors that serve as inhibiting factors to violent extremist action.

These indicators can be structured into a framework, and used to measure and delineate differential risks of recidivism, and assess differential risks of individuals suspected of radicalization to violence. Although this approach cannot identify individuals from a general population in the manner of profiling, it can provide useful information on those who have been arrested, indicted or convicted. It can provide structured knowledge about those suspected of planning unlawful violent action.

Canadian terrorism and violent extremism has included incidents and plots ranging from hoaxes and vandalism to hostage takings and mass murder. The objectives of the plot, the intention in terms of loss of life, the capacity of the perpetrators, and their motivations have varied, but there is a common analytical framework to be constructed that is universally applicable. This construct with an administrative protocol is described in the following section of this chapter. Not a profile, this approach (referred to as the VERA, or Violent Extremist Risk Assessment protocol), is an analysis of the distinctive features of each individual using a common structure. The common indicators are rated after consideration of all available information, including available intelligence, background information, historical documents, case records, and other relevant information. Professional judgment plays a definitive role in the final decision, but all accessible data and background knowledge is used in the structured process of the risk assessment protocol for ratings, to promote a systematic and consistent approach, and to enhance and support the ultimate professional judgment. These elements and the protocol are discussed below.

The Violent Extremist Risk Assessment (VERA) Protocol & Terrorism Risk

Terrorists vary in ideology, intent, capacity, and history, as discussed in the previous section. They have different grievances and goals. They hold dissimilar attitudes and beliefs. They differ in age, employability, and education. Terrorists take diverse pathways to extremism. What are these common elements (risk indicators) that can be empirically identified and structured into a protocol using a defensible methodology? Can this approach, a systematic assessment of risk of engagement in violent action (a current and ongoing risk), be undertaken to evaluate change in a convicted violent

extremist's views and intention? Can these common risk elements be applied to terrorism and violent extremism motivated by different political, religious, or other ideological goals? The answer to these questions is affirmative.

It is no simple task to assess or to attempt to modify attitudes, ideology, and perspective, but the answer is not to ignore this challenge, or the ability to quantify these. Without a base level assessed at a given point in time, the effectiveness of programs and protocols that are relevant to assessing change cannot be determined. Furthermore, with ideologically based violence, intervention programs must be individualized, that is, they must be tailored to the unique attitudes and characteristics of the violent extremist. This is substantively different than, for example, teaching skills in prison, or providing other educational or criminogenic needs management programs (for example, addressing alcohol or drug dependency). The information required for the development of appropriate programs for ideologically motivated violence can be developed from the information resident in the ratings, and individual descriptors of the common risk indicators discussed earlier. There are many unanswered questions about the efficacy of de-radicalization programs. It is probable that a targeted individualized intervention, rather than a generalized management program focus, will have a better chance of success as a preferred strategy.²⁴ Controlled studies in the field of de-radicalization and disengagement are needed. We still do not understand fully, for example, the fundamental impact on recidivism of an alleged rejection of violence by an individual who maintains his extremist views.

Questions pertaining to the ongoing dangerousness of individuals who have committed ideologically based offenses are of significant concern at times of release from incarceration. They are of interest to law enforcement officers attempting to determine the danger of an individual who is under surveillance while at liberty. At the time of parole, board members make judgments as to the risk an individual poses to the community at large. They often look to rehabilitation programs that demonstrate change. For terrorists and violent extremists in Canadian prisons, there are no known specifically designed programs that have been developed for ideological violence. Furthermore, there is insufficient trained staff available and competent to provide such programs.

Risk assessments are mandated within the justice system. They are used to determine the reasonableness of bail, to assist in classification and placement decisions in correctional institutions, and used in trials. Terrorist violence, as I have shown, is different from other criminal violence, and specific risk assessment protocols are needed for these violent criminals. This conclusion is supported by a comprehensive review of terrorists in the criminal justice system,²⁵ and by the recent work of renowned risk assessment expert John Monahan.²⁶ It was concluded that it is imprudent to regard the violent extremist/terrorist as merely a criminal, since doing so blurs important

distinctions between the terrorists and others. Risk assessments that use only those risk factors appropriate to ordinary violent criminals and not violent extremism are imprudent.

There is scholarly agreement that terrorists do not necessarily exhibit psychological disorders, psychopathy, impulse control problems, mental retardation, school failure, criminogenic needs, or other mental or clinical illnesses. Most are capable of being functioning members of society; are capable of planning, controlling, and camouflaging their intentions or movements; and they are frequently well educated and articulate. They are normal individuals who have rationally decided to commit themselves to an ideology that justifies the use of violence against civilians to achieve their goals. The risk assessment protocol discussed in this chapter for violent extremists was first developed by this author in 2009 using risk indicators empirically supported by the current state of knowledge. The protocol, VERA, incorporates risk indicators that are common to the range of violent extremists, including right-wing, left-wing, nationalists, eco-terrorists, religious, and single-cause ideological extremists. In other words, VERA's risk factors and mitigating factors relate to all violent extremists and terrorists. The indicators include individual specifics related to ideology, intent, capacity, history, associations, and motivations. These are identified, described, evaluated, and assessed for level of risk. Interviews are used whenever possible for additional information.

The VERA uses the structured professional judgment (SPJ) approach. This is a methodology that applies a composite of empirical knowledge and professional judgment. The SPJ approach guides the assessor to arrive at a risk level through consideration of a defined set of risk factors. SPJ protocols can use different factors or indicators depending on the type of criminal violence but they are usually structured into sections such as the five categories included in the VERA (as outlined above). The assessor measures or rates the relevance of the risk factors, and also evaluates the presence or absence of risk management factors that may have a mitigating effect on risk. This approach resulted from the need for risk assessment tools for populations for whom a more rigid actuarial approach was not suited. The SPJ approach is more scientific and reliable than unaided professional or clinical decisions, and provides a level of accuracy that exceeds unstructured professional judgment.

In addition to the use of extensive terrorism research to identify the specific characteristics for the violent extremist risk indicators, they were also based on the experience of law enforcement experts. Input from members of the RCMP with operational experience with violent extremists, and discussions with international forensic experts and professionals in the security and corrections field, shaped the risk indicators included. Finally, modifications were made following the actual use of the first VERA approach with high-risk terrorists in Australia. The risk factors are consistent with the current state of knowledge.

The VERA 2, developed following experiences implementing the first VERA, consists of thirty-one items that are grouped into categories. The list of the specific indicators appears in Table 1.²⁷ Each item on the VERA 2 is scored as high, moderate, or low, based on interviews, records, and all other accessible information. Of the thirty-one items, twenty-five are risk factors for violent extremism, and six items relate to factors that mitigate the risk of violent extremism by an individual. Australian prison officials have used the VERA 2 with convicted terrorists, and it has been introduced into Indonesia. The protocol is known to Correctional Services Canada and the Parole Board of Canada, following training delivered in both sectors. It is being evaluated by Canadian law enforcement, and is being considered in an evaluative application in the United States. The applications intended are for diverse ideologically motivated convicted violent extremists and terrorists. It is expected that information obtained from the VERA 2 will have relevance for law enforcement, recidivism projections, parole board decisions, and other risk-related decisions for violent political extremists in Canada and elsewhere.

Policy Implications

Can the VERA 2 risk items provide content and efficacy information to policymakers in relation to counterterrorism and de-radicalization/disengagement initiatives? The answer is yes, in that the VERA 2 risk items provide a framework for understanding the indicators considered the most salient in terms of terrorist intent, capacity, and motivation. These indicators focus on the ideology, attitudes, grievances, and justification for the use of violence, explore historical influences, consider relationships and other contextual indicators contributing to risk of violence, and explicitly delineate these features of an individual in a replicable, methodologically consistent, and transparent way. This permits comparative analysis of terrorists in Canada and elsewhere in the world to uncover differences in violent extremism within and between groups and geographic locations. Such information should be of use in counterterrorism initiatives, and to develop a fuller understanding of terrorism and violent extremism. Considered individually, each risk item can be explored to develop available policy options to address the identifiable represented risk. The ratings provide a mechanism by which the efficacy of proposed or implemented policies or applications can be evaluated.

There are many potential applications for the VERA 2. Many have been mentioned earlier. One application is monitoring the assessed risk of inmates in correctional institutions, and concomitantly using this information for parole board decisions. A second application involves the assessment of individuals who are employed in sensitive or strategic positions. This includes the military, employees in sensitive government positions, employees in sensitive critical infrastructure locations and positions, and those in defense

facilities. A third application relates to the use of the risk indicators for pre- and post-program evaluation to assist in efficacy analyses of de-radicalization or terrorist disengagement programs. A fourth application is the use of the risk indicators and mitigating factors to provide direction for content and targets in government-approved de-radicalization or other management programs. A fifth application is law enforcement and behavioral analyses of terrorists and violent extremists.

The VERA 2 indicators can provide a framework for investigations done by front-line officers faced with criminal situations that include extremist or hate-crime elements, or honor-related violence. Front-line officers have requested a systematic way to consider risk, and to differentiate dangerous extremism from other criminal violence. The VERA 2 can be used in concert with other normative psychological tests, and other approaches. It should be used in addition to, rather than in lieu of, other strategies and analyses.

Marshall McLuhan, the internationally respected Canadian communication theorist and philosopher, pointed out the importance of communication in this “global village.”²⁸ The act of terrorism sends a message; it is communication. A full understanding of communication and its implications is essential for deciphering the process of radicalization, for analyzing violent extremism, and for determining risk. Communication strategies are important for the development of counterterrorism initiatives. The impact of words, and our communication at all levels of society, needs to be heeded.

Our education system can be better harnessed at all grade levels to promote protective factors against violent extremism. Enhanced communication among government agencies, academia, intelligence communities, and law enforcement—if fully promoted—can create new insights. No one source, not even those in intelligence, has all the correct answers. Communication with and among diverse communities and interest groups in Canada can be a mitigating influence against the development of unhealthy restrictive poles in Canadian society. Such polarization has minimized inter-group interaction in other societies, limited inter-community communication, and facilitated the development of fear and mistrust among communities—thereby creating a danger to the democratic legal order in some societies.²⁹

The role of communication, and the deficiencies in communication, were identified in the final report of the Commission of Inquiry into the Bombing of Air India Flight 182. In a like manner, the transfer of ideas, and the actions resulting from this transfer of ideas, can be a constructive or destructive force in Canadian society. Proactive communication strategies can provide a deterrent to terrorism, and should be an active component of any counterterrorism strategy. The power of words, and the use of structured approaches to risk, should not be underestimated in addressing the risk of violent extremism within our society.

Table 1: VERA 2 Items

| VERA 2 Risk Assessment Items Pressman & Flockton, 2010 |
|--|
| BELIEFS & ATTITUDES |
| Commitment to ideology justifying violence |
| Victim of injustice and grievances |
| Dehumanization/demonization of identified targets of injustice |
| Rejection of democratic society and values |
| Feelings of hate, frustration, persecution, alienation |
| Hostility to national collective identity |
| Lack of empathy, understanding outside own group |
| CONTEXT & INTENT |
| Seeker, consumer, developer of violent extremist materials |
| Identification of target (person, place, group) in response to perceived injustice |
| Personal contact with violent extremists |
| Anger and expressed intent to act violently |
| Expressed desire to die for cause or martyrdom |
| Expressed intent to plan, prepare violent action |
| Susceptible to influence, authority, indoctrination |
| HISTORY & CAPABILITY |
| Early exposure to pro-violence militant ideology |
| Network (family, friends) involved in violent action |
| Prior criminal history of violence |
| Tactical, paramilitary, explosives training |
| Extremist ideological training |
| Access to funds, resources, organizational skills |
| COMMITMENT & MOTIVATION |
| Glorification of violent action |
| Driven by criminal opportunism |
| Commitment to group, group ideology |
| Driven by moral imperative, moral superiority |
| Driven by excitement, adventure |
| PROTECTIVE ITEMS |
| Re-interpretation of ideology less rigid, absolute |
| Rejection of violence to obtain goals |
| Change of vision of enemy |
| Involvement with nonviolent, de-radicalization related programs |
| Community support for nonviolence |
| Family support for nonviolence |

The True North, Stronger and Freer: How 9/11 Changed Canada

Jonathan Kay

How much has Canada changed in the past decade? Consider this: As the World Trade Center rubble was still smoldering, the then-leader of Canada's left-wing NDP party (which is now the country's official opposition), Alexa McDonough, declared: "As responsible international citizens, it is important to reaffirm our commitment to pursuing peaceful solutions to the tensions and hostilities that breed such mindless violence."¹ A year later, in a CBC interview broadcast on the first anniversary of the Sept. 11 attacks, then-Prime Minister Jean Chrétien suggested the 9/11 attacks might have been a reaction to Western greed and arrogance: "You cannot exercise your powers to the point of humiliation for the others."²

Such remarks would be unthinkable now. Ten years after the 9/11 attacks, Canada is a place where even most mainstream leftists recognize the need for military intervention as a means of disrupting terrorism and protecting local populations.

A decade ago, for instance, Canada's involvement in the bombing of Muammar Qaddafi's loyalists in Libya in the spring of 2011 would have been a major political issue: Ms. McDonough and other well-known Canadian activists such as Naomi Klein and Judy Rebick would have locked arms and marched on Parliament Hill, demanding a "peaceful solution." Yet in the 2011 federal election campaign, the word "Libya" was scarcely mentioned by any politician of note, even as the bombs were falling. Nor did anyone make much of Afghanistan, where 158 Canadian soldiers have died (as of this writing), and our 3,000-man combat mission is currently transitioning into a smaller, but still vital, training role.

In short, the past decade has fundamentally transformed Canada's attitude toward foreign policy, and the use of force more generally. After a quarter-century pacifist interregnum, we once again became comfortable with our proper historical role as an active military ally to the United States and Britain. Canadians now stand up and salute their soldiers at NHL hockey games. A major part of Ontario's Highway 401—the road traveled by fallen soldiers from CFB Trenton to the coroner's office in Toronto—has been renamed the Highway of Heroes. These are small, symbolic gestures that any American would see as entirely normal. But they would have been unthinkable

in the pre-9/11 era, when Canada's military was rusting into irrelevance, and our Liberal leaders still entertained gauzy visions of a world without war.

For students of the Canadian response to 9/11, it is important to remember what the country's response to previous major terrorist attacks had been. The worst of these was the June 23, 1985 mid-air bombing of Air India Flight 182. The destruction of that aircraft over the Atlantic Ocean killed all 329 people on board—the first time in history that a Boeing 747 had been blown out of the sky. The main suspects (only one of whom was ever convicted, largely due to the inexperience and bungling of Canadian authorities) were militant Canadian Sikhs seeking to punish India in the wake of the Indian army's 1984 attack on the Golden Temple in Amritsar, Punjab.

Until 9/11, the downing of Air India flight 182 was the deadliest attack in the history of modern terrorism. In per capita terms (Canada has about one-tenth of America's population), it was roughly equivalent to 9/11. Yet the effect on Canadian attitudes was miniscule. While 270 of the 329 victims were Canadian, most had some tie to India. Bizarrely, the Canadian prime minister, Brian Mulroney, phoned his Indian counterpart in India to express his condolences—as if this were primarily an Indian disaster.³ There was a feeling that Canada and the West weren't being targeted, but rather a country far away.

Most white Canadians didn't feel that they were under any risk from the Sikh threat; they hadn't the slightest interest in the foreign-policy issues underlying the attack on flight 182. At the time (and to a certain extent, even now) militant elements within Canada's Sikh community were campaigning openly to create an independent Sikh state called Khalistan in the Indian Punjab—a region that 99 out of 100 Canadians couldn't find on a map. While many Americans became interested in the Muslim faith after 9/11—and even educated themselves about its history, liturgy, associated political ideologies, and violent schisms—there was no comparable intellectual movement in Canada following the downing of flight 182. Canadian laws remained largely unchanged, and the criminal investigation of the flight 182 attacks stumbled along in amateurish fashion for two decades.

Prevailing Canadian attitudes remained similar in the 1990s, when Canada was used as a base of operations and a source of financing for the Tamil Tigers, a Sri Lankan terrorist group and insurgent army that refined the art of suicide bombing decades before the names Osama bin Laden or Abu Musab al Zarqawi became known to the world. Many of these extremists had come into the country as refugees following Sri Lanka's descent into civil war in the 1980s. That the Tigers got much of their funds by extorting Tamil-owned businesses in the suburbs of Toronto was well known in Canadian security circles.⁴ But there was little incentive to act on the matter, because the problem was seen as a Tamil one, not a Canadian one.

Canada's status as a self-consciously multicultural state also hindered any sort of muscular response to the presence of terrorist bagmen and operatives

in the country. The Liberal Party in particular enjoyed a lengthy run in power between 1993 and 2006, building much of its support on being known as “the party of immigrants.” Many of the most powerful and cohesive voting blocs at Liberal leadership conventions were Sikhs, Tamils and Muslims—groups that all had their own reasons for opposing an aggressive anti-terrorism campaign. Sikh gurdwaras were seen as especially rich targets, since the trove of cash donations they collected every week could easily be channeled into political donations or get-out-the-vote drives.

Most scandalously, Liberal Members of Parliament in the Toronto suburbs would appear at events where the Tamil Tiger insignia was on open display.⁵ Politicians from all parties would attend Sikh parades where floats bore the image of “martyrs” who had blown up flight 182 or performed assassinations in India (a practice that continued, in some cases, even after 9/11).⁶ “Ethno-politics,” as it came to be called, exercised a huge disincentive on any Canadian politician who sought to rein in extremists within immigrant communities.

One particularly telling episode occurred in 2000, when it emerged that Liberal cabinet ministers had attended a May 6 fundraising dinner organized by the Federation of Associations of Canadian Tamils, a group that had been identified in a U.S. State Department report as a front for the Tamil Tigers. When pressed about the issue in Parliament, the Liberals deflected questions, suggesting that they were simply engaging in multicultural outreach. Minister of International Cooperation Maria Minna, who had attended the May 6 event, said that her questioners were motivated by “pure racism.”⁷

Even with respect to Arab terrorism against Israel, the goal among elite Canadian politicians and academics was largely one of staying neutral and promoting “dialogue.” Canada prided itself on being an “honest broker” in the world, with a foreign policy distinct from that of the United States and other NATO allies. At the United Nations, Canada regularly lined up with developing nations to support ritualized denunciations of Israel. Even as late as 2002, at the Francophone Conference in Beirut, Prime Minister Chrétien sat just a few seats away from Hassan Nasrallah, the leader of Hizballah, and gave a speech with Nasrallah in the crowd.⁸ When questioned about this, Chrétien didn’t seem to see anything wrong with it. Terrorism was simply not a subject that Canadian political leaders thought about.

The events of Sept. 11, 2001 changed this attitude massively—though the full effect would not be felt for several years. It was not just the twenty-four Canadians who perished in the 9/11 attacks, or the searing media images. It was also naked self-interest: Canada’s export economy is almost entirely based on the U.S. market. And in the days after 9/11, there was a very real threat that the border would become impassable to the thousands of goods-laden trucks that cross every hour. Unfounded rumors began circulating that some of the 9/11 terrorists had come through Canada on their way to the United States.

Given the political climate, Canadian politicians knew that they would have to update Canada's anti-terrorism policies in a hurry, or risk watching Canada's export economy become another casualty of 9/11.

Within a few months, Canada had passed the Anti-Terrorism Act, which provided police and justice officials with the right to convene secret trials and preemptively detain suspects, among other powers. The Canadian government also worked to create a large array of cooperative security protocols with the United States, some of which would later be encoded in the 2005 Security and Prosperity Partnership of North America. At the time, these provisions were controversial: Many Canadians seized on them to give voice to the usual Canadian anxieties about being bullied and subsumed by the United States. But as episodes of terrorism multiplied around the globe, from Bali to Madrid to London, Canadians came to realize that their country was under threat as well. Ten years later, the Anti-Terrorism Act, and the increased vigilance toward terrorism that it represents, generally has become uncontroversial.

In the years following 9/11, there were other changes as well. Canadians Jews, seeing the cause of fighting terrorism in Israel and North America as one and the same, became more assertive in challenging Canada's policy of voting with the Palestinians at the United Nations. In time, the Liberals began changing their U.N. policies. They also sent a sizable delegation to Afghanistan—including JTF2 commandos, who began working with the CIA and local Afghans in late 2001, to do the dirty work that preceded full-scale military operations.

The Afghanistan operation marked a historic change in Canada's military identity. While Canada had played an outsized role in both World Wars, its military had largely been left to rust in the years since the end of the Cold War. Protected by the United States, and ideologically intoxicated on the pacifistic cant of Pierre Trudeau, many Canadian intellectuals developed a fetish for peacekeeping, as opposed to offensive military operations.

Canada's initial large-scale deployment to Afghanistan had many elements of traditional peacekeeping and nation-building: We were out of the fight, for the most part, and headquartered in Kabul. But Paul Martin, perhaps seeking to make amends for our failure to join the Iraq invasion in 2003, made the courageous decision to transfer the main Canadian contingent to the Taliban heartland of Kandahar province. This proved to be momentous for Canada. Though Canadian troops had faced live fire in the Balkans and other hot spots for decades, this was different: For the first time since Korea, our military was on the front line of a real, full-time war against a declared enemy of Western civilization. In 2006, for instance, the Princess Patricia's Canadian Light Infantry led the fighting in both Battles of Panjwaii, brutal encounters featuring close-range combat amid mud huts and trenches.⁹

Americans might not see this as such a big deal: American GIs, after all, have seen Panjwaii-type combat in Vietnam, both Iraq wars, the brief and

bloody intervention in Somalia, and Afghanistan. But in Canada, two whole generations of Canadians had never seen our soldiers fight this way before, except in black-and-white TV documentaries. And the sight of it, reported by our journalists, filled us with a pride that has manifested itself in a renaissance in Canadian patriotism (a fact much noted during the 2010 Vancouver Olympics, when our world-leading gold-medal haul set off a bout of outright American-style jingoism). Even in Quebec, a province historically known for anti-war agitation, the response to the Afghan campaign was more muted than expected. Indeed, many Quebecers were justly proud that the largely francophone Royal 22e Régiment—the “Vandoos”—distinguished itself in a variety of operations in Kandahar, often at great sacrifice.

Canada seemed to find a sense of mission off the battlefield as well. Our status as an amoral “honest broker” no longer made sense in the Afghan War era: When your troops are shooting and killing an enemy, you have, by definition, chosen sides. We became the loudest critics of the Durban “anti-racism” sham, and an unabashed friend to Israel when it fought wars against Hizballah in 2006 and Hamas in 2008.

Even in the purely domestic context, the after-effects of 9/11 have been remarkable. Aside from our anti-terror policies, we no longer let multicultural pieties get in the way of denouncing the barbaric misogyny of some unassimilated immigrants. “Honor killings” once were the stuff of back-page crime stories. Now they are on the front page, for we recognize them as vestiges of the ideology that produced 9/11 and the Taliban. It became clear that Canadians had become tired of the political correctness they had been fed during the long period of Liberal rule, and the years after 9/11 witnessed a vigorous right-wing political backlash. As a result, Canada now is a far more conservative country than it was in the 1990s. Tory leader Stephen Harper is now ensconced in his third term as prime minister, and his opposition is fractured and leaderless.

The 9/11 attacks must be remembered first and foremost as an epic terrorist crime, and as a great tragedy for the victims and their families. Yet they also have had profound political and cultural ramifications that have transformed Canada into a more serious country, and one that plays a bolder and more helpful role on the world stage.

Tackling al Qaeda Today

Brian Michael Jenkins

In early 2002, I wrote a report for the RAND Corporation that offered a “strategy for the second phase of the war on terrorism.”¹ The first phase—the invasion of Afghanistan, removal of al Qaeda’s Taliban protectors, and dispersal of the terrorist organization’s accessible training camps—had been accomplished with remarkable ease in the final months of 2001. What remained was likely to be a long campaign to destroy the organization. Much has happened since then, including the U.S.-led invasion of Iraq, the spread of al Qaeda affiliates, a resurgence of the Taliban and escalation of the fighting in Afghanistan, the death of Osama bin Laden, and the still-unfolding political turmoil in the Middle East and North Africa. At the same time, a number of things that were of immediate concern in the spring of 2002 did not happen. Muslims did not rise up on al Qaeda’s behalf. Al Qaeda did not carry out another 9/11-scale attack. Terrorists did not employ weapons of mass destruction.

The mission to destroy al Qaeda is not yet accomplished, but the situation has changed, and therefore the approach needs adjustment. This chapter reviews elements of the earlier strategy in light of current circumstances and explores what might be the best way to tackle al Qaeda today. While this review focuses primarily on U.S. policy, it is presented here as part of a collection of essays that address both U.S. and Canadian audiences. Canada was not the target of the 9/11 attackers (although 24 Canadians were killed in the attack), but Canada promptly joined the military effort in Afghanistan, which made it an explicit target of al Qaeda’s campaign. Al Qaeda’s new emir has derisively described Canadians as “second-rate crusaders.”² Canada worried about its security, faced homegrown terrorist plots, passed new laws, and, like most democracies, debated the challenge these posed to civil liberties.

My 2002 report emphasized that “the destruction of al Qaeda must remain the primary aim of the American campaign.... Al Qaeda will adapt to new circumstances, disperse, change names, merge with other entities, or be absorbed into its own successors, but as long as its leadership, structure, operatives, financing, and ability to recruit survive in any form, it will seek to repair damage, reestablish connections, issue instructions, and mobilize resources to support further terrorist operations.” This is as true now as it was then. Considerable progress has been made. Al Qaeda’s operational capabilities have been reduced, its leadership decimated, its appeal diluted by

competing causes, especially those resulting from the recent political changes in North Africa and the Middle East. Al Qaeda today is more decentralized, more dependent on its regional affiliates and allied groups, and its ability to inspire homegrown terrorists to action, but al Qaeda is not finished yet.

While al Qaeda's central command group has been hardest hit, its franchises remain active in Iraq, the Arabian Peninsula, and Africa, and supportive Islamist insurgencies rage on in Afghanistan and Pakistan. There is convergence among these movements, if not coalescence—al Qaeda's ideological and strategic influence remains strong, and extends beyond the organization itself. Al Qaeda will not quit. Its determination undented, it continues under new leadership to follow bin Laden's strategy of global terrorism against the West. Al Qaeda has adapted to new circumstances, as expected, and, although weakened, it continues to pose a threat. Its destruction remains the principal focus of the counterterrorist campaign.

My 2002 report noted that "the pursuit of al Qaeda must be single-minded and unrelenting ... the heavy burden of security, and the public's impatience for closure can tempt the United States into a dangerous complacency." That is taking place now. Economic crisis and ten years of casualties abroad have made the public increasingly impatient. Some argue that the terrorist threat was wildly exaggerated to support military and political agendas, as well as a profitable security industry. Domestic intelligence programs and intrusive security measures have come under assault. Critics of the counterterrorist campaign now have a more receptive audience.

As in the United States, Canadians have debated the proper balance between security and civil liberties, although Canada's trajectory has differed from that of the United States. In response to the 9/11 attacks, Canada's parliament passed the Anti-Terrorism Act, which expanded the use of electronic surveillance, allowed for preventive detention, and obliged suspects to testify. These controversial provisions were allowed to lapse in 2006, but in 2008 were reintroduced, albeit without success. The government tried again to reintroduce the measures in 2011, renewing the heated debate about whether the terrorist threat justified curtailment of individual liberties.

The absence of another 9/11 or even a significant successful terrorist attack on an American target abroad or at home since then (with the exception of Major Nidal Hasan's jihadi-inspired murder of thirteen fellow soldiers at Fort Hood, Texas) has altered public attitudes; they are no longer what they were in the immediate shadow of 9/11. Shaking off the terror created by the 9/11 attacks is a positive development. The terrorists did not imperil the republic nor, in a nation of 300 million people, did they significantly increase the danger to individual citizens

Canada uncovered terrorist plots inspired by al Qaeda's global jihad ideology, but suffered no attacks on its soil. In contrast to the dark visions that

immediately followed 9/11, the subsequent decade proved to be remarkably peaceful at home.

A Postwar Peace?

It is entirely appropriate to continually review counterterrorist efforts, adjusting them in accordance with the nature and level of the current terrorist threat. The country has settled down, while authorities gradually got the measure of their terrorist adversary. Some countersecurity measures may be relaxed. Indeed, some components of the campaign against al Qaeda and the Taliban are not sustainable in their current form. That, however, does not mean the nation can breathe a sigh of relief and dismantle the entire counterterrorist effort. While avoiding the argument that the United States must accept the prospect of perpetual war, the notion of postwar peace does not fit current circumstances.

My 2002 report noted that “the campaign against terrorism will take time ... the battle against al Qaeda could last decades.” An armed struggle lasting decades is something people in the United States (and Canada, too), accustomed to short wars, still find difficult to fathom. We know now that al Qaeda rapidly declined after its retreat from Afghanistan. This was not obvious in the early part of the decade. Al Qaeda’s descent was masked by a continuing global terrorist campaign carried on by alumni of al Qaeda’s training camps and precursors of its current affiliates, who carried out dramatic terrorist bombings from Southeast Asia to Western Europe. These one-off attacks or, in some cases, brief terrorist campaigns, although spectacular, gave al Qaeda only Pyrrhic victories that led to local crackdowns and the further disruption of its still-nascent global network. The U.S.-led invasion of Iraq and the ensuing insurgency also helped to distort assessments of al Qaeda. The invasion breathed new life into the jihadi movement, handing it a strategic opportunity, which its field command in Iraq then squandered with the wanton slaughter of fellow Muslims. By 2006, certainly by 2007, al Qaeda’s spell had been broken. Its actual powers were diminished. More realistic assessments of its strengths and weaknesses began to prevail. Bloodshed tarnished its reputation among Muslims.

While the destruction of al Qaeda remains far off, there is a strong urge in the United States to unilaterally declare the fighting to be over, and to return to a pre-9/11 normality. While this is an understandable sentiment, it is unrealistic. The withdrawal of Western forces from Iraq, the current turmoil in Syria and elsewhere in the Middle East, and uncertainty about the future of Afghanistan and Pakistan offer a resilient and opportunistic al Qaeda chances of long-term survival. Al Qaeda is not dead. The conflict is not over.

Acceptance of a long contest has operational consequences. In a very long haul, sustainability becomes the key to success. Counterinsurgency and

counterterrorist operations abroad and security measures at home must be sustainable—politically and economically. The economic crisis in the West has reordered priorities. Fewer resources will be available for all government programs, counterterrorism included.

American Efforts in Afghanistan

My 2002 report argued that “the fight in Afghanistan must be continued as long as al Qaeda operatives remain in the country ... only when al Qaeda is completely destroyed or when the new Afghan government can effectively exercise authority throughout its territory can withdrawal be risked.” Ten years later, this clearly requires reconsideration.

I personally supported President Obama’s decision to send reinforcements to Afghanistan in 2009. The Taliban insurgency had grown dangerously. A decision to withhold further troops would have undercut U.S. efforts to persuade its NATO allies to increase their commitments. A decision not to send U.S. troops would also have altered Pakistan’s calculations. Finally, the notion of continuing an effective campaign against al Qaeda in Pakistan without a military presence in Afghanistan, let alone continuing it with a hostile Taliban government in power, seemed unrealistic. However, I thought that the buildup should be temporary, allowing time to deploy more special forces who would in turn train and organize more local forces.

The United States and NATO forces reversed a deteriorating situation in 2009, and have pushed the Taliban out of some of their strongholds, but keeping the deployment at current troop levels is not politically sustainable. It is not just a matter of resource constraints—a large foreign military presence in Afghanistan, no matter how well trained for counterinsurgency and sensitive to local culture its soldiers may be, cannot escape the fact that it is a foreign presence. Soldiers from a foreign land are there to shoot at Afghan insurgents in a society that dislikes foreigners. (Weary of the war, Canada withdrew its combat forces in 2011, although a sizable training contingent remains.) Drawing down forces is necessary, but not just the drawdown currently envisioned. Strategy must be changed.

When the Afghan government might be able to exercise authority throughout its territory is uncertain. Its armed forces have improved and perform well in the company of foreign forces, but they do less well on their own. The withdrawal of foreign forces is inevitable, but it will entail risks.

It seems doubtful that the Taliban could be persuaded to abandon their longtime al Qaeda allies in return for political concessions. And they expect to win in the long run. Whether they might accept anything less for a settlement now may be tested in negotiations. It seems that Taliban leaders have little incentive to negotiate anything unless they are convinced that they cannot win simply by waiting for foreign troops to leave. Demonstrating staying power, therefore, is

essential for the counterterrorist effort. This, in turn, will require a significant reconfiguration of the foreign forces in Afghanistan, reducing the number of combat forces and concentrating on training and support for the Afghan army. It also will require greater emphasis on local defense forces, and a lowering of expectations to a sustainable standoff at a much lower level of violence. With continued foreign support, Afghan forces might be able to defend portions of the country, with various insurgent groupings holding other parts.

Pakistan figured heavily in the 2002 strategy, as it does today. My 2002 report advised that “Pakistan must be kept on the side of the allies in efforts to destroy the remnants of al Qaeda and the Taliban and dilute Islamic extremism.” While cooperation between Pakistan and the United States has been uneven, the basic foundation of good relations has steadily eroded. Determined American diplomacy and massive amounts of aid and assistance have not been sufficient to allay Pakistan’s suspicions of U.S. motives and intentions, cool its anger at America’s lack of trust and disregard for its sovereignty, or arrest the radicalization of Pakistan’s own institutions. Every unfortunate incident seems only to fuel Pakistan’s smoldering hostility. What was always a narrowly based alliance has been reduced to a tenuous truce.

To argue now that Pakistan must be kept onside falls into the category of a mere desideratum. As long as the United States and NATO deploy large numbers of combat troops in Afghanistan, it will require Pakistan’s permission to support them through the Khyber Pass. And as long as remnants of al Qaeda and Afghan Taliban insurgents can find refuge among friendly tribes within Pakistan’s frontiers, the United States will have cause to criticize Pakistan’s lack of action and an incentive to operate unilaterally.

The continuation of the war in Afghanistan virtually guarantees continued tension with Pakistan. A significant withdrawal of coalition forces will reduce dependence on Pakistan; however, it will not end U.S. efforts to destroy al Qaeda’s remaining leadership, which, despite Pakistan’s denials, resides in Pakistan, not Afghanistan. In a “postwar” environment years from now, it may be possible to develop a normal relationship with Pakistan. For the foreseeable future, a difficult *détente* is about the most the two countries are likely to achieve.

Intelligence Efforts

The 2002 strategy argued that “new networks must be created to exploit intelligence across frontiers.... International cooperation is essential.” This has been a success. Unprecedented cooperation among intelligence services and law enforcement organizations worldwide, encouraged by al Qaeda’s post-9/11 terrorist campaign, have rendered the terrorists’ operating environment far more dangerous. As a result, the jihadist enterprise has not been able to launch a significant successful terrorist attack against Western targets since 2005.

Al Qaeda has been obliged to alter its strategy, increasing its dependence on homegrown jihadists to carry out terrorist attacks. But despite its considerable communications efforts, its exhortations thus far have not succeeded, owing to an unreceptive audience in the United States and Canada, and effective intelligence, which has uncovered and thwarted almost all of the terrorist plots in both countries.

The intelligence effort has not been cheap, either in dollars or in the potential costs to civil liberties. Despite long-term progress against the jihadi enterprise, each new terrorist threat or failed attempt brings pressure to increase preventive and security measures. The problem now is not faulty intelligence, but a public that has unrealistic expectations of security, and political leaders who feel obliged to be seen as doing something if terrorists attempt to do something.

Political Warfare

The 2002 report argued that “current U.S. strategy should be amended to include political warfare... it is not sufficient to merely outgun the terrorists. The enemy here is an ideology, a set of attitudes, a belief system organized into a recruiting network that will continue to replace terrorist losses unless defeated politically.” Political warfare, of course, remains an important aspect of the current conflict, but it is vastly more complex than initially imagined. There are many audiences, many media, many messages, and many competing commentaries. There is no single government institution to coordinate communications. It is extremely difficult to coordinate a government-wide effort, nor can government control the world’s media.

The voice of Western governments is only a small part of a large competitive cacophony in which otherwise trivial local events, like publishing cartoons of the Prophet Muhammad or a misguided minister’s threat to burn a Qur’an, can provoke violent protest on the other side of the planet. At the same time, determined terrorist communications efforts, like al Qaeda’s relentless exhortation to do-it-yourself terrorists, yield only a meager response.

Prejudices, predispositions, and biases find easy reinforcement; they are hard to overcome. People hold tightly to even absurd beliefs if those beliefs conform to their existing view of the world. This is not to say that nothing can be done, but rather to introduce a strong dose of realism.

Weapons of Mass Destruction

The 2002 report devoted considerable attention to the prospect of terrorists with weapons of mass destruction. There was great concern at the time that 9/11 was not just the culmination of a long-term trend of escalating terrorism, but that it foreshadowed terrorist use of such weapons. Many in

government considered a terrorist attack with biological or nuclear weapons resulting in mass casualties to be only a matter of time: some forecast that it was likely not more than a decade away. This has not occurred.

Al Qaeda clearly had nuclear ambitions, and reportedly made several unsuccessful attempts to acquire fissile material. But as its organizational capabilities and human resources declined, al Qaeda's quest for nuclear weapons was reduced to a propaganda campaign calculated to excite its followers and frighten its foes. Al Qaeda's potential use of weapons of mass destruction, however, has remained a major preoccupation. The consequences of a worst-case scenario make it difficult to ignore the possibility of nuclear or biological terrorism. That possibility should not, however, be allowed to distort the entire counterterrorist effort, or become a national obsession that creates needless terror.

Civil Liberties Concerns

The 2002 report ended with the admonition that "the war against the terrorists at home and abroad must be conducted in a way that is consistent with American values." Canadians too expressed concern that government efforts to combat terrorism should not jettison liberties. The U.S. response to 9/11, I believe, has been measured (with the glaring exception of the invasion of Iraq, which, in my view, had little to do with 9/11, despite efforts at the time to link the two).

Civil liberties in the United States have not been savaged, although the foundation for a much more oppressive state has been laid. Democracies are dancing on the edge of tyranny. In the United States, judicial oversight of surveillance has been reduced, the concept of material assistance to terrorist groups has been broadened, indefinite detention without access to attorneys or judges has been ensconced in the law, and terrorist suspects may be turned over to military custody. These extraordinary powers have not been abused, but if faced with another major terrorist attack, the United States might find irresistible the temptation to deploy all instruments of oppression.

The United States has used military force abroad, including the targeted killing of al Qaeda commanders. The fears and concerns of those who believe that the use of coercive interrogation techniques was necessary are understandable. However, I disagree. Whatever information was obtained through torture came at a huge cost to America's values, which are a critical component of its arsenal.

The popular perception south of the border that Canadians are soft on terrorism is belied by the provisions of Canada's Anti-Terrorism Act. Canada, like the United Kingdom, accepted preventive detention. The United States rejected preventive detention, although in the final month of 2011, the country passed a law allowing for indefinite detention of U.S. citizens and military

custody for terrorist suspects. President Obama, while signing the bill into law, indicated that his administration intended to turn suspected terrorists apprehended on U.S. soil over to civilian courts. And U.S. courts cannot compel a defendant to testify.

Conclusion

Upon reflection, then, a number of the basic principles of the 2002 strategy still apply today: Al Qaeda remains the principal focus of the counterterrorist campaign, which could go on for a long time. Therefore, the effort must be sustainable. Self-declared arbitrary endings are premature. A reduction in the threat should be the occasion for a thoughtful review, not an assault on what have been largely successful counterterrorist measures.

The greatest failure has been in South Asia, where the United States has invested most heavily (apart from the war in Iraq). Current troop levels in Afghanistan cannot be sustained. Withdrawal will entail unavoidable risks, which can be mitigated by changes in strategy, but expectations will have to be lowered. Pakistan, meanwhile, is engulfed in its own internal quarrels. The best the United States can do there is reduce its dependence and manage a difficult *détente*.

Al Qaeda thus far has been unable to mobilize more than a handful of homegrown do-it-yourself terrorists. The United States is not threatened by the imposition of sharia, which most American Muslims do not want. Nonetheless, political warfare aimed at combating radicalization and recruitment remains important, although it is far more complex than imagined—victories are likely to be subtle, local, and limited.

Potential terrorist use of nuclear or biological weapons is a threat, but it is one that easily can be exaggerated, contributing to national terror. The focus should remain on the more pedestrian, more likely terrorist threats.

Although traditional values have suffered some dents in this contest, democracy has prevailed in both countries, the courts have prevailed, both countries remain free and, for the most part, tolerant.

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II. TERRORIST STATES AND TERROR-SUPPORTING GROUPS

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IV. TOOLS

The Justice for Victims of Terrorism Act: A New Weapon in Canada's Counterterrorism Arsenal

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- 4 For example, the FBI defines violent extremism as “any ideology that encourages, endorses, condones, justifies, or supports the commission of a violent act or crime against the United States, its government, citizens, or allies in order to achieve political, social, or economic changes, or against individuals or groups who hold contrary opinions.” See Federal Bureau of Investigation, “Counterterrorism Analytical Lexicon” (n.d.).

- 5 Major Nidal Hasan killed thirteen and injured dozens more on November 5, 2009. This was the most deadly shooting to occur on an American military base.
- 6 The Oka crisis was a violent land dispute between the Mohawk nation of Kanesatake and the Quebec town of Oka. The dispute originated in 1717, when the governor of New France granted lands to a Catholic seminary which the Mohawks claimed was illegal. The land transfer resulted in what the Mohawks saw as unacceptable development. The Office of Native Claims had rejected the Mohawks' claim years earlier, resulting in increased frustration. Ron Crelinsten's chapter in this volume includes a longer exposition of the Oka crisis.
- 7 In January 1998, Nirmal Singh Gill, aged 65 years, was stomped to death in the parking lot of the Sikh temple in Surrey, British Columbia, in an incidence of hate crime. Wiretaps documented the five perpetrators bragging and laughing about the killing, as well as expressing their hatred of various other minority groups.
- 8 The "Freeman-on-the-land" movement uses legal concepts from the sovereign citizen and tax protester movements that have been active in the United States. This includes groups such as the Posse Comitatus, an extreme right-wing tax resistance movement. Adherents believe that power should reside in the county, and not with the state or federal government. Their concepts of common law and their preoccupation with various theories on finance can be traced back to almost identical theories from the Montana Freemen and other Sovereign Citizen movements in the 1970s and 1980s.
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- 26 John Monahan, "The Individual Risk Assessment of Terrorism," forthcoming 2012 in *Psychology, Public Policy, and Law*.
- 27 *The VERA 2 was developed with the collaboration of John Flockton, a forensic psychologist, who first used the VERA at a high-risk management correctional center in Australia where "AA" terrorists were incarcerated.*
- 28 The centenary of Marshall McLuhan was in 2011. Among his well-known phrases are "the global village," "the medium is the message," and violence as being "a quest for identity"—including by terrorists. Terrorist attacks and other violent acts are both the medium *and* the message of violent extremists.
- 29 For example, the 1987 coup in Fiji, caused in part by intercommunity mistrust, contributed to the breakdown of the democratic legal order there. The Netherlands has been concerned about the polarization of its society over the past century, which has contributed to the lack of integration of some immigrants into Dutch society, and has resulted in the unwillingness by some segments of the population to learn the Dutch language and accept Dutch customs.

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