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EXERCISE NEW HORIZONS

The Real Terrorist threat to Canada

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La présente étude a été rédigée par un stagiaire du Collège des Forces canadiennes pour satisfaire à l'une des exigences du cours. L'étude est un document qui se rapporte au cours et contient donc des faits et des opinions que seul l'auteur considère appropriés et convenables au sujet. Elle ne reflète pas nécessairement la politique ou l'opinion d'un organisme quelconque, y compris le gouvernement du Canada et le ministère de la Défense nationale du Canada. Il est défendu de diffuser, de citer ou de reproduire cette étude sans la permission expresse du ministère de la Défense nationale.

Abstract

Until the attacks of September 11 2001 most Canadians believed that terrorism was something that could not affect them, something that only happened in foreign lands. However, Canada actually has a rich history of terrorism and is currently home to many terrorist organizations that use us as a base of operations. We generally chose to ignore this reality. The problem is that with Canada/U.S. trade amounting to \$460 Billion U.S. Dollars annually, we can no longer risk ignorance; if the border were to be closed or severely restricted, due to terrorism, the lives and livelihood of every Canadian would be affected. As a nation, Canada must take the threat of indirect repercussions of terrorism seriously; we cannot afford to do otherwise. Recent legislation such as Bill C-36, the *Anti-Terrorism Act* and the new National Security Policy *Securing an Open Society*, go a long way to establishing the regulatory framework to combat terrorism, but we lack the public understanding and the political will to fully implement the legislation to its fullest extent.

This paper argues that Canada's relations with the United States are highly vulnerable to action by terrorist groups operating from or within Canada. Terrorist organizations such as Al-Quada and others are operating within Canada and could easily target Canadian or American citizens or infrastructure from a relatively secure base of operations. This paper proves that terrorists are operating in Canada and points out areas of significant concern. Government and private funding, organized crime, a porous refugee system and rigorous privacy legislation all work in the favour of terrorist groups. Canada needs to generate the political will correct these deficiencies and fight terrorism at home in order to secure our economically critical relations with the U.S.

The Real Terrorist Threat to Canada

Until the attacks of September 11, 2001 most Canadians believed that terrorism was something that could not affect them, something that happened in foreign lands ravaged by war, strife and poverty but could be blissfully ignored at home. The 9/11 attacks changed our viewpoint, at least for most of us, but for how long? Do Canadians consider terrorism a threat to their daily lives? No, we have “tried to smother terrorism with kindness.”¹ Canada is a prominent member of the world community, a rich, democratic and progressive country. It is also one of the five nations named as a target of Al Queda.² We can no longer isolate ourselves from the threat; Canadians should know and understand that terrorism lives and breathes in our country. Even if we can deceive ourselves into thinking that Canada is not a target, we cannot ignore that the United States (U.S.) is. Under the Bush administration the U.S. has taken a hard line on terrorism and nations who support terrorism. Canada/U.S. trade amounted to \$460 Billion U.S. Dollars in 2003,³ almost \$2 Billion Canadian each day. These two facts cannot be de-linked, if the border were to be closed or severely restricted, even temporarily, the lives and livelihood of every Canadian would be affected. As a nation, Canada must take the threat of indirect repercussions of terrorism seriously; we cannot afford to do otherwise.

Recent legislation such as Bill C-36, the *Anti-Terrorism Act* and the new National Security Policy *Securing an Open Society*, go a long way to establishing Canada’s

¹ Stewart Bell, *Cold Terror*. (Toronto: Wiley, 2004), 215.

² Brad Johnston. “Canada - Tracking The Terrorist Threat Posted: 16 Apr 2004.” On-line available from <http://www.lifesafety.ca/documents/Is0009.htm>; Internet; accessed 26 April 2005.

³ Matt Stearns, “U.S. policies frost neighbors to the north: Canada upset about lumber, beef and missile defense issues March 14, 2005” Knight Ridder Newspapers On-line available from http://www.freep.com/news/nw/canada14e_20050314.htm; Internet; accessed 26 April 2005.

regulatory framework to combat terrorism, but it is one thing to enact legislation or policy; it is quite another to implement it. *Securing an Open Society* outlines three core national security interests: Protecting Canada and the safety and security of Canadians at home and abroad; Ensuring that Canada is not a base for threats to our allies; And contributing to international security.⁴ These three concerns are fundamental to our security and have now been clearly laid out. What is needed is public understanding of the risks, so that pressure can be applied to the government to follow through with its goals.

This paper will argue that Canada's relations with the United States are highly vulnerable to action by terrorist groups operating from or within Canada. Terrorist organizations such as Al-Quada and up to 50 others are operating within Canada and could easily target Canadian or American citizens or infrastructure from a relatively secure base of operations.⁵ Canada must strengthen its defence against terrorism and prevent these groups from operating with impunity; not doing so risks a devastating freeze in relations with our most important trading partner. In order to achieve this aim, Canada must develop the political will to enforce our own laws and policies. To do this, Canadians and by extension Canadian politicians, must be convinced that terrorism is a clear and present danger to our way of life.

⁴ Privy Council Office. *Securing an Open Society: Canada's National Security Policy*. Ottawa: Her Majesty the Queen in right of Canada, 2004, 4-5.

⁵ Canadian Security Intelligence Service. *Submission to the Special Committee of the Senate on Security and Intelligence by Ward Elcock, Director of CSIS June 24, 1998 Ottawa*. On-line available from http://www.csis-scrs.gc.ca/eng/miscdocs/kelly_e.html ; Internet; accessed April 26 2005, Part III. The Terrorism Threat to Canada.

In order to prove the thesis, this paper will first define terrorism and then provide some historical context to Canada. It will provide proof that Canada is supporting global terrorism through irresponsible government action and inaction. The critical risk to Canada, that an attack on the U.S. may close the border, will be identified. Finally, several recommendations will be made to improve the situation, these recommendations involve simply enforcing the laws and policies that are in place, and if removed from the political realm, should be relatively easy to implement.

One might think that defining terrorism would be an easy task. Not so. Nearly every agency and author encountered in the research for this paper had a different definition. In the main, they are similar but there are some important differences. The definition of ‘terrorist activity’ in Bill C-36 for instance, seems complete but its 20 odd sub and sub-sub paragraphs of legalistic text defies easy distillation for this work.⁶ After much comparison, the definition that seems to state most clearly the complex meaning of the word is derived from a 1998 Israeli study: “Terrorism is the intentional use of, or threat to use violence against civilians or against civilian targets, in order to attain political aims.”⁷ Not only does this amplify the *Oxford Concise Dictionary* definition of a ‘terrorist’ as “a person who uses or favours violent and intimidating methods of coercing a government or community,”⁸ but also allows for the argument that terrorists and

⁶ Parliament of Canada. *Bill C-36, the Anti-terrorism Act*. On-line available from http://www.parl.gc.ca/37/1/parlbus/chambus/house/bills/government/C-36/C-36_3/C-36TOCE.html; Section 83.0. Internet; accessed April 26 2005.

⁷ Boaz Ganor, “Defining Terrorism: Is One Man’s Terrorist Another Man’s Freedom Fighter? Proposing a Definition of Terrorism.” On-line available from <http://www.ict.org.il/articles/define.htm>; Internet; accessed 26 April 2005.

⁸ R.E. Allen, ed. *The Oxford concise Dictionary*, 8th ed., (Oxford: Clarendon Press, 1990), 1261.

freedom fighters are closely related and at times synonymous.⁹ In the end, the real meaning of terrorism is the use of violence against civilians to achieve a political end; the Israeli definition captures this essence.

Terrorism is not new in Canada; it has chequered our history from political unrest in 1837 through to the violence of the Doukhobors in the 1960s'. The 'Front del liberation du Quebec' (FLQ), maintained considerable terrorist pressure for a free Quebec for almost a decade, culminating in the October crisis of 1970. Most notably, Canada is the source of the most devastating single act of terrorism in world history prior to the attacks in September 2001 – the bombing of Air India flight 182, which killed 329 people.¹⁰

Indeed, Canada has a rich and well-rounded history of terrorism. The 1987 report of the Senate Special Committee on Terrorism and Public Safety lists 428 incidents within Canada through the years 1960 to 1989.¹¹ The former director of the Canadian Security and Intelligence Service (CSIS), Ward Elcock, stated: "With perhaps the singular exception of the United States, there are more international terrorist groups

⁹ *World Conflict Quarterly* (WCQ) takes an opposite tack when it refers to slightly different definitions from the U.S. State Department, Department of Defence and the FBI; but then refutes these as being too applicable to patriotic events in American history such as the Boston Tea Party. As an alternative WCQ settled upon the unsatisfactory "War crimes committed during peacetime. See. *World Conflict Quarterly. Definition of Terrorism*. On-line available from <http://www.globalterrorism101.com/UTDefinition.html>; Internet; accessed 26 April 2005.

¹⁰ Michael McAuliffe and Peter Hadzipetros, "In Depth: Air India: The Bombing of Air India Flight 182." CBC News Online, Updated March 16, 2005 On-line available from <http://www.cbc.ca/news/background/airindia/>; Internet; accessed 26 April 2005.

¹¹ N.A. Kellett, Department of National Defence, Directorate of Strategic Analysis Policy Planning Division Policy Group, Project Report No. 2001/11 *The Terrorist Threat*, June 2001, 8. This number does not include 511 violent incidents or 93 terrorist support activities which were not included in the study either because of a lack of appropriate information or because they did not fit the definition of the study. See also, Bino, Ernest B. "Canadian Public Policy for Countering Terrorism," Masters Thesis, Queen's University, 1990., Annex A, who lists 399 incidents between 1960 and 1985.

active here than any other country in the world.”¹² A 2001 Department of National Defence study highlights numerous terrorist activities within Canada.¹³ The RCMP have linked terrorism funding to street gangs in the major urban centers.¹⁴ Even though newspaper articles point out terrorist activities on an almost daily occurrence,¹⁵ many Canadians choose to be ignorant of the issue. A 2003 report from the Senate Standing committee on National Security and Defence summarized the situation, “Never has a combined physical and economic threat to the Canadian homeland been more palpable, but rarely have Canadians been more sanguine about their well-being.”¹⁶ It is imperative to the security of our nation that Canadians take notice of the threat and force the government to take a hard line against terrorism.

The Air India bombing should have alerted Canadians that we are not insulated from spillover violence of foreign disputes. Proportionately, Air India was as devastating for Canada as 9/11 was for the U.S., yet we were unable or unwilling to act quickly and decisively in the case. After twenty years, a blunder filled investigation, and costs of over \$130 million, only one conviction was achieved relating to a second failed attempt to destroy an Air India plane. The remaining terrorists are free to carry on their life in Canada.¹⁷ The group responsible for the attack, the Babbar Khalsa (BKI) organization, remained a charitable organization until 1996. The BKI and other related groups were

¹² Canadian Security Intelligence Service. *Submission to the Special Committee...* http://www.csis-scrc.gc.ca/eng/miscdocs/kelly_e.html .

¹³ Kellett, 79-80.

¹⁴ Jim Bronskill, “Street gangs fund terrorism: RCMP report.” *The Ottawa Citizen*, 27 March 2000.

¹⁵ A cursory review of the *National Post* and *Toronto Star* gleaned approximately 42 articles in March and April 2005.

¹⁶ Standing Senate Committee on National Security and Defence. *Canada's Coastlines: The Longest Under-Defended Borders in the World VOLUME 1, October 2003*; Conclusion. On-line; available from <http://circ.jmellon.com/docs/view.asp?id=521>; Internet; accessed 26 April 2005

¹⁷ McAuliffe and Hadzipetros, “Indepth: Air India...” <http://www.cbc.ca/news/background/airindia/>

outlawed in 2003, an incredible 19 years after being implicated in the bombing.¹⁸ In essence, our lethargic response and inept investigation combined with a lack of public interest (excepting the Indo-Canadian community) sent a message that Canada was tolerant of terrorists. When combined with a refugee system that is extremely porous,¹⁹ we have opened the door and simultaneously closed our eyes to terrorists within Canada.

Canada and Canadians aid terrorism in many ways. Most often we are ignorant of the implications of seemingly innocent and innocuous acts or policies. Terrorist organisations however, are able to take advantage of our open society and capitalize on it to cause mayhem and death worldwide. Terrorists are able to obtain tax free status in Canada, obtain direct government funding, manipulate organized crime and the drug trade as well as finding shelter with relative impunity.

Funding of terrorist activities is the most pervasive form of aid Canada contributes, encompassing private money, government grants and criminal activities. Private fund raising usually occurs through recognized charitable organizations, such as community groups and religious institutions. In this scenario, tax-deductible voluntary or forced donations are made from private citizens and local businesses alike, in the form of 'war taxes,' subscriptions, or spontaneous donations at fund raising events. There are varying degrees of coercion provided by front organizations that actively collect funds destined for the purchase of arms and explosives.²⁰ European experience shows that close scrutiny revealed sophisticated extortion rackets in Germany and Switzerland where

¹⁸ Bell, 20-21.

¹⁹ Thompson, John C. and Joe Turlej. *Other People's Wars: A Review of Overseas terrorism in Canada*, A Mackenzie Institute Occasional Paper. (Toronto: The Mackenzie Institute, 2003), 97.

²⁰ Bell, 27, 95.

billions of dollars were being redirected.²¹ A great deal of effort is made to filter the money through legitimate humanitarian and community organizations to avoid legal or political scrutiny, and on many occasions public and political figures are involved in these rallies.²² Canada Post even printed a stamp run during a vanity stamp program, featuring a prominent Tamil separatist, to the political benefit of that terrorist organization and the embarrassment of the legitimate Sri Lankan government.²³ As an example of the scale involved, the support organization for The Liberation Tigers of Tamil Eelam (LTTE) or Tamil Tigers²⁴ was averaging a collection of over one million dollars a month from the Toronto area alone in the late 1990s.²⁵ On one occasion in 1999, they were able to collect \$1.6 million on a single day, all of it tax-deductible and therefore affecting every Canadian taxpayer.²⁶ In order to halt or at least curb these activities, tax-exempt status must be removed from organizations supporting, sponsoring or in anyway related to terrorism.

Allowing these terrorist organizations to maintain a tax sheltered charitable status is one method of gleaning federal support, but public funding through direct government grants is another method of supplying the funds required to conduct operations.²⁷

Provincial and federal grants to religious schools, temples, mosques, community centers,

²¹ Thompson, 73-77.

²² Bell, 40.

²³ Bell, 40-41.

²⁴ Thompson, 40-48 and Bell, Ch 2. The Tamil Tigers or The Liberation Tigers of Tamil Eelam (LTTE) is a terrorist organization fighting for independence in Sri Lanka at the cost of 62,000 people since 1983. They are the most prolific suicide bombers on the planet. (Bell, 40.) The LTTE has political offices in over 40 countries and has developed an extremely sophisticated network of political and financial contacts. Of note are political connections to the Ontario and Federal Liberal parties. Effort by CSIS to ban this organization were stopped and it remains a legal organization. There are approximately 8000 Tamil Tiger fighters living in Canada.

²⁵ Thompson, 74, see also Bell, 27.

²⁶ Bell, 44.

²⁷ Bell, xxiii, 38.

community newspapers and other seemingly legitimate organizations have routinely been rerouted directly, or indirectly, into the hands of terrorists.²⁸ CSIS and the RCMP have identified many of the offending organizations; however, much of the information provided to government is ignored or disregarded for political reasons.²⁹ Public pressure needs to be brought to bear in this area of funding and strict audits must be conducted.

Compounding the identification issue is the ‘listing’ of organizations as terrorists to make them susceptible to the full weight of the law. There are somewhere between one and two hundred terrorist organizations that operate world wide; CSIS has identified 50 that operate in Canada. Unfortunately, there are only 35 groups listed in accordance with Bill C-36.³⁰ The deduction that there are at least 15 identified terrorist organizations operating in Canada with tacit support of government is disturbing. To fully implement Bill C-36, all terrorist organizations must be subject to it. Therefore, if listing of a group becomes political due to concentrations of voting blocks; authority to place entities on the ‘terrorist’ list should be removed from Cabinet and be made the responsibility of a non-political body.

Finally, criminal funding through organized crime and gang violence has become another lucrative source for terrorists. Although criminal activities encompass the risk of alienating the support base and focusing law enforcement efforts against the group, virtually every terrorist organization employs crime for fundraising.³¹ The cost of crime to the Canadian economy is estimated at \$46 Billion every year, a ripe target for well-

²⁸ Thompson, 77-85.

²⁹ Bell, xix.

³⁰ Public Safety and Emergency Preparedness Canada. *Listed Entities*. On-line; available from http://www.psepc-sppcc.gc.ca/national_security/counter-terrorism/Entities_e.asp; Internet; accessed 27 April 2005

³¹ Bell, 94-95 See also. Thompson, 88.

organized, highly motivated and secretive terrorist organizations.³² Drugs are a major part of this income and virtually all illicit drug traffic in Canada supports terrorism in some way.³³ People smuggling, prostitution, fraud, counterfeiting, and auto theft rings all play a significant role in financing terrorists in Canada.³⁴ The RCMP has the major role to play in combating crime of any nature; it is becoming increasingly clear however that terrorist groups are replacing traditional organized crime cartels as the main benefactors of crime. This now adds an international and political dimension to the mix that requires additional effort and resources. Once again, strict and rigorous enforcement of current laws, particularly Bill C-36, will restrict the flow of monies to terrorists.

If simply funding terrorism was the only support Canada provided, perhaps we could remain complacent; however, we do much more. Ahmed Ressam was not collecting monies for the Islamic jihad, he was not a criminal extorting funds, he was a well-trained professional killer who planned to bomb Los Angeles airport and was using Canada to base his operations.³⁵ CSIS tracks at least 50 terrorist groups based in Canada and over 350 specific terrorists.³⁶ Marwan Al-Shehhi, the pilot who flew flight 175 into the south tower of the World Trade Centre had an apartment on Jameson Ave in Toronto.³⁷ Al-Shehhi was possibly in contact with one of the five Al Qaeda sleeper cells discovered in Toronto in November 2001, only two months after the World Trade Center attacks.³⁸ The individuals responsible for the Air India bombing were also based in

³² Ibid., 89.

³³ Ibid., 91.

³⁴ Thompson, 91-94, Bell, 95.

³⁵ PBS Frontline. "Trail of a Terrorist; Ahmed Ressam's Millennium Plot." On-line available from <http://www.pbs.org/wgbh/pages/frontline/shows/trail/inside/cron.html>; Internet; accessed 26 April 2005.

³⁶ Canadian Security Intelligence Service. *Submission to the Special Committee...* http://www.csis-scrs.gc.ca/eng/miscdocs/kelly_e.html.

³⁷ Johnston. "Canada - Tracking The Terrorist Threat..." <http://www.lifesafety.ca/documents/ls0009.htm>

³⁸ Ibid.

Canada, a base that has proven secure and rewarding for them. These are but a few of the known terrorists who have used Canada as a safe haven. It probably only scratches the surface of the total number actually operating here.

One may ask how can it be that a modern democratic nation that claims to be based upon good governance and law would allow terrorists to thrive and prosper amongst its citizens? Perhaps it is the simple freedoms that we cherish that will prove to be Canada's achilles heel. The Charter of Rights and Freedoms guarantees that Canadians have the right to free choice of religion, freedom of speech and opinion, of peaceful assembly, of association; as well as rights of equality, mobility, democracy and a fair and just legal system.³⁹ These are wide ranging and very powerful rights that protect us from injustice; however, they also shield those who wish to use Canada as a base for terrorism. Therefore, if we are to protect these rights we must remain vigilant to abuse and manipulation of the law.

The right to privacy, for instance, is embedded in the Charter and has spawned comprehensive privacy protection laws,⁴⁰ which unfortunately tend to impede law enforcement. In her 2004 annual report, the Auditor General reviewed the government's initiative to counter money laundering as a tool to inhibit terrorist fund raising activities (FINTRAC). Although complementing the legislation she noted: "Legislative restrictions limit FINTRAC's ability to provide good-quality financial intelligence on money

³⁹ Department of the Solicitor General of Canada. *Canadian Charter of Rights and Freedoms*. On-line; available from http://laws.justice.gc.ca/en/charter/const_en.html#libertes; Internet; accessed 26 April 2005.

⁴⁰ Office of the Privacy Commissioner of Canada. *Privacy Legislation*. On-line; available from http://www.privcom.gc.ca/legislation/index_e.asp; Internet; accessed 26 April 2005

laundering and terrorist financing.”⁴¹ Additionally, since the information provided to law enforcement was so limited it, “...rarely led to new investigations”⁴² and “...no prosecutions had been launched yet as a result of FINTRAC disclosures.”⁴³ Thus a program to assist law enforcement was directly impeded by legislation to protect privacy. At the same time, pressure to protect personal privacy and limit sharing of personal information⁴⁴ is causing the Government to hesitate on such issues as biometric ID due to claims that it is an invasion of the right of privacy.⁴⁵ There is no doubt that privacy is important, but it must be balanced with the protection of society as a whole.

The privacy policy is not alone in its ability to shield terrorists. The Supreme Court of Canada ruled in 1985 that refugee claimants had the same full legal rights as any Canadian citizen under the Charter of Rights and Freedoms, even if the person in question had arrived in Canada illegally.⁴⁶ The implication of this decision is that anyone entering Canada by any means, including fraud, deception, smuggling or bribery can receive the same protections that all Canadians have. Once in Canada, all an individual needs to do is to make a refugee application and they will be able to remain with legal protection until due process results in acceptance or removal. Therefore, the only point of

⁴¹ Office of the Auditor General of Canada. *2004 Report - Implementation of the National Initiative to Combat Money Laundering*; Conclusions. On-line; available from <http://www.oag-bvg.gc.ca/domino/reports.nsf/html/20041102ce.html>; Internet; accessed 26 April 2005.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ For example see: Veronica Kitchen. *Fortress North America or Smart Border?* On-line available from <http://www.shoutmonthly.com/iraqterror/smartborder.html>; Internet; accessed 26 April 2005, and; Canada Online. *Issue - National ID Cards in Canada Extra Security or a Needless Invasion of Privacy?* On-line available from <http://canadaonline.about.com/library/issues/blinationalid.htm>; Internet; accessed 26 April 2005.

⁴⁵ Mapleleafweb. *National Identity Cards - The Next Step? Canada looks to biometrics to fight terrorism.* On-line available from http://www.mapleleafweb.com/features/privacy/id_cards/cards.html; Internet; accessed 26 April 2005.

⁴⁶ Supreme Court Decision, *Regina vs. Singh*, 1985, available online at Supreme Court. *Supreme Court Decision, Regina vs. Singh, 1985*, On-line; available from http://www.lexum.umontreal.ca/csc-scc/en/pub/1985/vol1/html/1985scr1_0177.html; ; Internet; accessed 26 April 2005, 201-203.

screening prior to attaining the full benefits of citizenship under the Charter is prior to arrival; however, of the 272 ports of entry, only 44 have immigration agents assigned, and few of these are on a 24-hour basis.⁴⁷ A testament to this dilemma is that Immigration enforcement officers investigate all claimants and in approximately 45% of cases, order removal (or deportation), a process that is costing the court system alone an estimated billion dollars a year. This indicates a thorough investigative process, but removal orders do not necessarily mean that the individual leaves the Country. Indeed many applicants simply remain in Canada, change their identity and re-apply, as many times as is necessary to succeed.⁴⁸

⁴⁷ April 2003 Report of the Auditor General, available online at <http://www.oag-bvg.gc.ca/domino/reports.nsf/html/20030405ce.html>, section 5.56, 5.73-5.90

⁴⁸ Thompson, 96-98.

Removal orders and confirmed removals

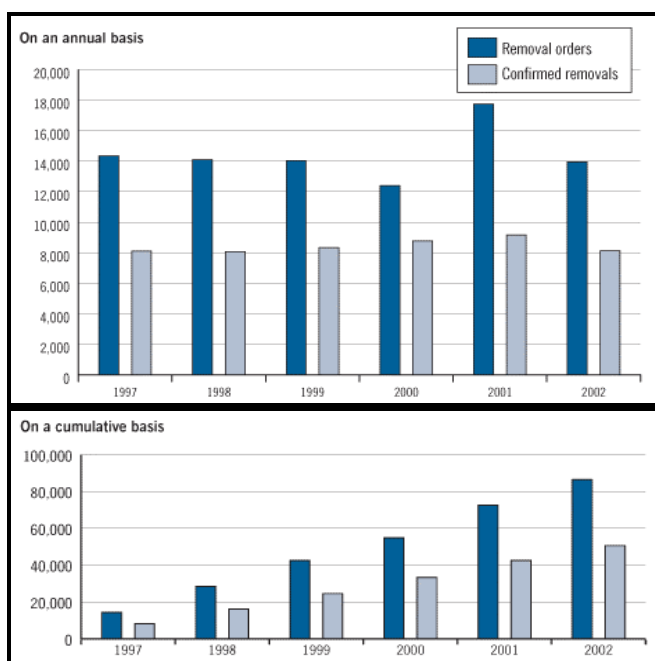


Figure 1: Gap between removal order and execution of those orders⁴⁹

Source: Citizenship and Immigration Canada

Figure 1 shows that there is an alarming increase in the number of removal orders issued that are not being executed. The lower chart shows that cumulatively, by December 2002, there were over 36,000 cases where an order to remove the person from Canada had been issued, but the individual remained in Canada. Compounding the problem and not represented in Figure 1, is the growing backlog of investigations, in December 2002 there were 11,000 refugee cases being investigated and over 53,000 cases waiting for an investigator to be assigned.⁵⁰ People smuggling (circumvention of

⁴⁹ Office of the Auditor General of Canada. *2003 Report -Citizenship and Immigration Canada — Control and Enforcement*. Exhibit 5.9. On-line; available from <http://www.oag-bvg.gc.ca/domino/reports.nsf/html/20030405ce.html>; Internet; accessed 26 April 2005.

⁵⁰ *Ibid.*, 5.99-5.101. The Auditor General notes that not all cases result in a person illegally residing in Canada; See also, Thompson, 96-98. It should be noted that this discussion relates to persons applying for refugee status for humanitarian reasons (average of 37,500 per year between 1999 and 2002 (<http://www.cic.gc.ca/english/pub/facts2002-temp/facts-temp-3.html#a>)) under the Immigration and Refugee Protection Act, (Immigration and Refugee Protection Act (2001, c. 27)

normal immigration laws, usually for a price) brings thousands of false refugee claimants into the country each year and has become a lucrative industry for terrorist organizations. The practice not only nets substantial sums of money, but also provides a ready source of recruits.⁵¹ This paper will not examine the correctness of the refugee policy; nevertheless, these figures indicate that our ability to enforce the refugee policy is woefully ineffective, even if the policy itself is sound.

One might wonder at the relatively small number of attacks within Canada and consider ourselves lucky. Why then should we risk the wrath of these powerful and violent organizations by aggressively cracking down on their activities? The answer to this question lies in the risk Canadians are willing to take should another serious attack occur in North America. Canada and the U.S. share the world's longest undefended border and have formed partnerships in almost every aspect of North American life. Our politicians claim that Canada and the U.S. are like 'family'. However this relationship, family or otherwise, is fragile. The Ontario Chamber of Commerce reports that the restrictions and border delays alone resulting from the 9/11 attacks has cost Canada \$8.34 billion annually (\$952,055 per hour).⁵² The implications of another attack could cause

<http://laws.justice.gc.ca/en/I-2.5/index.html>) and not those applying to enter Canada as an immigrant (187,160 people in 2004 (<http://www.cic.gc.ca/english/monitor/issue08/02-immigrants.html>))

⁵¹ Thompson, 94-99. See also Bell, 31-34.

⁵² Ontario, Chamber of Commerce. *OCC Borders and Trade Development Committee, report on "Cost of Border Delays to Ontario. May 2004."* On-line; available from [http://www.occ.on.ca/2policysubmissions/OCC%20Borders%20Cost%20Study%20\(ONTARIO\).pdf](http://www.occ.on.ca/2policysubmissions/OCC%20Borders%20Cost%20Study%20(ONTARIO).pdf); Internet; accessed 26 April 2005 , 8-9.

even more severe reactions to cross border trade which impacts upon Canada to a far greater degree than on the U.S.⁵³

An attack on the U.S. from Canada is not merely a remote possibility it is a reality. One of the 9/11 hijackers was based in Canada and more famously the case of Ahmed Ressam gives us a stark example that this has already occurred. Ponder for a moment the backlash if Ahmed Ressam had succeeded in his plan to explode a 100-pound bomb at Los Angeles International Airport? Suppose that the result was the death of several Americans, perhaps dozens or even more?⁵⁴ At the time, many Americans already believed that Canada was weak on terrorism and that the border was not adequately guarded. Ressam, as a terrorist who had been arrested and released several times in Canada, still managed to plan an attack and build a bomb undetected confirmed these preconceived beliefs. Had he been successful the reaction could have had serious implications for cross border trade and travel. That is the real threat of terrorism to Canada.

For ease of analysis, the level of support received from people or organizations within Canada enabling possible attack scenarios on the U.S. will be placed in four major categories. Level 1, the lowest level of support, considers a terrorists simply transiting through Canada en-route to perpetrating an act of terrorism within the U.S. This is the simplest form of support and would involve sleeper agents and false documents and would be quite difficult to intercept. Marwan Al-Shehhi would have received level 1

⁵³ Ibid, 7.

⁵⁴ For background on the Ressam case see: Canada.com. *Ahmed Ressam: Terrorist Within - The Reckoning - In Chapter 16, after failing in his mission to bomb LAX, Ahmed Ressam faces the U.S. judicial system.* On-line available from <http://www.canada.com/national/features/terrorist/story.html?id=2112f471-e6c4-4308-ad83-bb48d66c5bdc>; Internet; accessed 26 April 2005, or PBS Frontline. *Trail of a Terrorist; Ahmed Ressam's Millennium Plot.* On-line available from <http://www.pbs.org/wgbh/pages/frontline/shows/trail/inside/cron.html>; Internet; accessed 26 April 2005.

support on his way to hijacking Flight 715 in September 2001. Level 2 support involves significant financial and possibly inadvertent governmental support. As outlined earlier, many terrorist groups fit into this category including Hizbollah, the Irish Republican Army (IRA), the Kurdish Workers Party (PKK), and the Palestinian Liberation Organization (PLO). The third level of support (level 3) involves a much wider base of operations and would include information gathering, planning activities, political subversion and recruiting. The Tamil Tigers are receiving level 3 support from Canada and Canadians for their actions in Sri Lanka. The highest level of support (Level 4) entails the actual basing of operations in Canada, Ressam and the Islamic Jihad or the BKI who placed the bombs on the Air India flights were operating at this level.

While it is difficult to predict how the U.S. would respond if an attack on their territory or people were to occur, recent events give us some indicators. Furthermore, the level of perceived support the terrorists received from Canada and Canadian citizens would likely be a significant factor in any U.S. reaction. Level 4 support to an attack against U.S. infrastructure, such as was attempted by Ressam, would likely have crippling consequences. Cross border access to trade and travel is the most obvious vulnerability, but there are others. Canada is already on the U.S. watch list for international trade, a perception that we are soft on terrorism is one of the main reasons for this listing which could have wide ranging effects.⁵⁵ An indicator of U.S. public opinion, particularly amongst the extreme right wing, is a plan by the 'Minuteman Project,' a group the U.S. government considers vigilantes, to patrol the Canadian

⁵⁵ Peter Morton. "U.S. issues list of beefs with Canada: Country on 'Watch List.'" Financial Post, 2 April 2005. FP 4.

border.⁵⁶ The requirement for Canadians to hold passports to cross into the U.S. and for Canadian air carriers to forward passenger lists for screening on flights crossing their territory are issues which have yet to be resolved, but are indicators that the problem is taken very seriously south of the border.⁵⁷ All of these actions, including border slowdowns are occurring in an environment where there have been no successful attacks on the U.S. from Canada, but which have serious monetary and social impact upon us. In order to prevent more serious ramifications on cross border issues Canada must take crucial measures to ensure an attack does not occur.

Reassuringly, our government has not been idle with regard to the terrorist threat since 2001; however, many of the initiatives taken have not been fully implemented. Indeed, the Auditor General has recently released a report outlining many remaining shortfalls in implementation.⁵⁸ Many of these shortfalls can be corrected with renewed public pressure on government to enforce and properly fund existing legislation. The National Security Policy for instance, is a robust document but remains only a framework for other policies to populate such as *Canada's International Policy Statement* released recently.

⁵⁶ Sheldon Alberts. "Vigilantes' may patrol U.S. border with Canada." National Post, 19 April 2005. A3.

⁵⁷ Chris Sorensen. "No-Fly' Causes Scramble: U.S. Airspace Demand." Financial Post, 22 April 2005. FP1.

⁵⁸ Office of the Auditor General of Canada. Auditor General report, 2005-04-05 National Security in Canada—The 2001 Anti-Terrorism Initiative — Air Transportation Security, Marine Security, and Emergency Preparedness. On-line; available from <http://www.oag-bvg.gc.ca/domino/reports.nsf/html/20050402ce.html>; Internet; accessed 26 April 2005

More mature is Bill C-36, which is a powerful piece of law and provides, “one of the most complex, multi-jurisdictional pieces of legislation ever passed in Parliament.”⁵⁹ There has been progress in many areas, yet the *2005 Canadian Security Guide Book*, produced by the Standing Senate Committee on National Security and Defence, points out 86 extant problem areas.⁶⁰ For this law to be effective we need to establish and foster the political will to adhere to its words and act decisively against terrorists. It is in every Canadians’ interest to convince the government that terrorism is a tangible threat to our way of life, and that “...fundamentally, being ready for terrorism is the business of every citizen.”⁶¹

Poor screening of refugees at ports of entry and embarkation must be rectified. Legislation exists to create a ‘smart border’ and therefore free critical staff to focus on refugee claimants. Fully implemented, the 32-point plan articulated in the Smart Border declaration will go a long way to improving the secure flow of legal travellers and goods across the border. Unfortunately momentum is slipping both on the U.S. and Canadian sides of the border. U.S. intelligence agencies have lost some confidence in the Canadian Governments handling of several key cases and that lack of trust may limit cross border intelligence sharing (point 25 of the 32 point plan).⁶² At the same time, Canadian pressure to limit biometric ID,⁶³ fear of U.S. trade agendas,⁶⁴ and distancing ourselves

⁵⁹ Thompson, 122.

⁶⁰ Standing Senate Committee on National Security and Defence. *Report of the Standing Senate Committee on National Security and Defence. Canadian Security Guide Book, 2005 Edition, An Update of Security Problems in Search of Solutions*. The Honourable Senator Colin Kenny, Chair. Ottawa: 2004.

⁶¹ Thompson, 131.

⁶² Belelieu, Andre. “Canada Alert: The Smart Border Process at Two: Losing Momentum?” Canada, Canadian Security Intelligence Service - *Hemisphere Focus* Volume XI, Issue 31(December 10, 2003). On-line; available from http://www.csis.org/americas/pubs/hf_v11_31.pdf; Internet; accessed 26 April 2005, 6-8.

⁶³ Mapleleafweb. “National Identity Cards” ... http://www.mapleleafweb.com/features/privacy/id_cards/cards.html;

from Ballistic Missile Defence,⁶⁵ has caused backsliding on several of the 32 points. Failure to implement this program will further exacerbate the great need for increased staffing for both the new Canada Border Services Agency (CBSA) and Citizenship and Immigration Canada (CIC).

Increased surveillance and protection of transportation hubs requires that the Canadian Coast Guard and port authorities be more thoroughly integrated into the security community. Port security is an area that needs to be streamlined. Currently multiple agencies have varying jurisdictions and abilities to act. A clear system must be established to ensure that goods and persons entering our ports are properly screened.⁶⁶ Improved security for cargo shipment at airports remains a major source for concern. The Senate committee indicated several problems in this area, which if unresolved, would provide an easy means of attack from Canada into the U.S.⁶⁷

The issue of money laundering is a fundamental stumbling block in our ability to fight terrorism and build confidence south of the border that we are serious in doing so. Simply put, Bill C-36 provides the legislation needed to do what is needed, but political will is not available to implement it properly.⁶⁸ These tough new laws on anti-terrorism are world class; however, they rely on one critical aspect – to take effect the organization must be ‘listed’ as a terrorist entity by the government. The difficulty, as previously

⁶⁴ Tim Harper, “Fortress America sparks new fears,” National Post, 15 March 2005. A1 and A8.

⁶⁵ Robert Fife and Anne Dawson “Beef up defence to be a player, Cellucci says,” National Post, 4 February 2005, A6.

⁶⁶ Standing Senate Committee, 2005 Canadian Security Guide Book, 41-42, 57-59, 123-140.

⁶⁷ Standing Senate Committee, 2005 Canadian Security Guide Book, 176-181.

⁶⁸ Bell, 209.

discussed, is that this is a very political process which can be influenced by large concentrated voting blocks.⁶⁹

Examples of political reluctance to outlaw groups are numerous. The most noteworthy are the BKI who were linked to the Air India bombing, but remained a charitable organization 19 years and a legal group for almost 25 years until they were listed in 2003; and the Tamil Tigers who are reportedly responsible for more than 160 suicide bombings, including the assassination of Indian Prime Minister Rajiv Gandhi and Sri Lankan President Premadasa.⁷⁰ The Tamils are outlawed by the U.K. and the U.S. and identified by the U.N. Security Council as terrorists, but remain a recognized charity in Canada. It would be difficult, politically, for several provincial and federal politicians, including Defence Minister Bill Graham and Prime Minister Paul Martin, to outlaw this group as they have publicly supported them in the recent past.⁷¹ If Bill C-36 is to work to its full effect, listing of organizations as linked to terrorism must become an apolitical act. An office similar to the Auditor General or the Privacy Commissioner could be established to oversee this function.

Canada's open door policy to refugees should be protected, but to do this safely, immigration officials must be able to enforce the policy. As it is unlikely that government will propose a constitutional amendment to overturn the Supreme Court decision of *Regina vs. Singh*, refugee claimants must be screened before entering Canada. Therefore, a much more rigorous program of selection at ports of embarkation is needed

⁶⁹ Gordon, Alistair, "The feds' Tiger tales don't add up." National Post, 10 March 2005 and Gordon, James. "Grits' failure to outlaw Tamil Tigers 'obscene'," National Post, 14 March 2005. See also Bell, Ch 2, and Thompson 122-123.

⁷⁰ Thompson, 42-43, 123-125. See also Bell, Ch 2

⁷¹ Bell, 29, 56-61. See also Gordon, Alistair, "The feds' Tiger tales don't add up." National Post, 10 March 2005.

to curtail the 45% of refugees that end up with a removal order. High-risk applicants must be held out of the country as indicated in the Auditor General's report.⁷² Additionally, government should provide guidance on the application of Bill C-36 that caution should favour protection of security over individual rights until a thorough background check can be made on a suspect individual. We are a nation that values individual rights and freedoms and we also rely heavily on immigration to sustain growth; this cannot and should not end. Nevertheless, we must apply our laws intelligently and ensure that our immigration and refugee system can be trusted to halt, not harbour terrorists. It is not only important that we do this for our own protection, but revitalizing trust in this area will assist in building confidence in the U.S.

The recommendations listed above do not require new legislation or acts of parliament; these already exist. The true need is political will to fully implement and fund the legislation that is already in place, and if done quickly enough will mean that Canada will no longer be as safe a haven for terrorists as it is today. Considering the three key interests of the national security policy, these actions would address the second goal and help ensure that we are no longer a base for terrorism and therefore would no longer be a threat to our key ally. One could also say that fully enforcing our laws would support the third goal of contributing to international security. What is much less clear is if these actions would support the first goal of the national security policy – protecting Canadians at home and abroad. It is possible that terrorist groups who are no longer able to hide in Canada, would use years of accumulated inside information to target Canada and Canadians. Therefore, we need to ask our political masters if they are willing to close

⁷² Office of the Auditor General of Canada. *2003 Report ...* <http://www.oag-bvg.gc.ca/domino/reports.nsf/html/20030405ce.html>, section 5.25.

down terrorist organizations within Canada and potentially make Canada more of a target. Not an easy dilemma, nevertheless, if the real danger is our trading relations with the U.S. and by implication, our economy and way of life, the choice should be academic.

It should now be clear to the reader that terrorism is a true threat to Canada, but not in the traditional sense. Canadians live in an open and giving society that prides itself on a liberal and diverse culture and embraces multiculturalism. These same values; however, makes us an easy pawn in the hands of terrorist organizations who intend to use us as a base of operations. We generally believe that terrorism is something that does not happen here, that it is an issue for oppressive states or larger nations to deal with. Although Canada does present a viable target for terrorists to attack, they are far more likely to use this country as a base of operations to attack the U.S. This indirect course of action is the most dangerous to Canada. Our economic interdependence to the U.S. is fundamental to our standard of living, and with that, our way of life. If a terrorist attack on the U.S. were to cause that country to close our mutual boarder, even for a matter of weeks, our economy would be inordinately damaged, well beyond the scope of any corresponding damage it would do to the American economy. To ensure security of our way of life, the Canadian government cannot let this happen.

We have the laws needed to inhibit the ability of terrorist organizations to function with impunity. Our laws, if enforced can strictly impede the flow of money to terrorism. Additionally, given the proper resources government agencies such as Immigration Canada, CBSA, the Coast Guard, CSIS and the RCMP can properly carry out the tasks they are charged with doing in order to foster the protection of the country.

The basic need is the political will to toughly enforce the current legislation and fund the programs necessary to carry out the intelligence, law enforcement, immigration and security measures outlined in Bill C-36 and the National Security Policy. The 'listing' or an organization as an illegal entity must be removed from the political realm, not to do so leaves the process open to undue influence by large and powerful voting blocks. To do this, the public must be educated. Canadians can no longer afford to ignore terrorism. We cannot tolerate ignorance or inaction and the government must take the lead in educating the population as to the real nature of the threat and what must be done about it. Canada's relations with the U.S. are highly vulnerable to action by terrorist groups who are operating with relative impunity from or within Canada. Currently we are failing in our efforts to fight terrorism, if we allow the status quo to continue our whole way of life is at risk.

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