



Anti-terrorism Act, 2015 (Bill C-51)

The Parliament of Canada passed Bill C-51 on June 9th, 2015. It enhanced the capacity of many government agencies to communicate and intervene when the authorities become concern about public safety. The Canadian Bar Association has asked, "Does the Bill strike the appropriate balance between enhancing state powers to manage risk and safeguarding citizens' privacy rights and personal freedoms?"

Ron Nikkel, a Ronning Centre International Fellow and former President of Prison Fellowship International, comments:

Bill C-51: To See or Not to See the Implications

Some years ago I travelled to Africa to meet with Rajan, an influential businessman who had just been released from prison. His crime? Well, it was not that he had been found guilty of committing a crime or that he had been conspiring to commit a crime—he had been arrested and summarily imprisoned as a preventative measure at the President’s “pleasure.” Rajan is an honest man, a clear thinker who had been openly critical of political corruption and had expressed concerns over the anti-business policies of the government. For nothing more than voicing criticism he was considered an “enemy of the state” and a threat to national security. There were no formal charges against him, there was no trial—just suspicion and the allegation of intent; and for that he was vilified and arbitrarily deprived of freedom.

Rajans' case is not unusual. In many countries, particularly in totalitarian states and states in which the rule of law is not guaranteed, ordinary and well-meaning citizens face the possibility of arbitrary arrest and imprisonment solely on the basis of suspicion or accusation or misperception. This is the current situation in Pakistan where strict “anti-blasphemy” laws are often used unscrupulously to “settle” other grievances. The only basis is suspicion or accusation of insulting Islam. At this very moment people like Asia Bibi and Valiha Arafat languish in prison among many others on death row, pending endless appeals based on ill-founded and unsubstantiated accusations against them.

From my experience with the miscarriage of justice around the world and the devastating impact of the lives of innocent people when human rights are sacrificed for sake of security, Bill C-51 should cause us to rethink its implications. While there is much to applaud in the Bill that makes it more difficult for terrorists to operate in our country, we should be concerned about the potential for misuse and abuse of the sweeping powers that the Bill has granted to law enforcement. In its focus on security, the Bill does not adequately provide for safeguarding the

rights of the very citizens it seeks to protect. To be sure, the intent of Bill C-51 reflects the growing reality of global terrorism and the need to protect the security of our people. However the unintended consequence and potential for misapplying some of the provisions in the Bill will inevitably impinge on our freedom of speech and our freedom from arbitrary arrest and detention without “cause.”

There is a scenario in Bill C-51 that gives law enforcement the right to arrest and detain a person for up to seven days without any evidence that the person represents a real threat to security or that the person is conspiring to commit an act against national security. The basis for arrest can be as simple as suspicion or an allegation that a person may pose a threat. And so I see images of Rajan suffering imprisonment and censure by a government that was simply afraid that he posed a threat. And I see Asia and Valiha on death row as victims of a law under which their civil rights are not secure. And I see men and women in the prisons of America and Europe and countries around the world who become radicalized in prison when government lets them down.

Much has already been debated in regard to the merits and costs of Bill C-51. Unfortunately, in spite of the good in it the Bill takes us down the road of obscuring the Rights and Freedoms in our Charter behind the veil of national security. And I for one don't want to end up imprisoned like Rajan by a government that may suspect or fear me and accuse me and arrest me without just cause simply because of something I say or read or the people I know. As Canadians we need to have a deeper conversation about the relationship between our national security and the Rights and Freedoms under which we thrive.

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