

UPDATE – Anti – Terrorist Laws

Bill C-16, the *Charities Registration (Security of Information) Act*, could not appear to be a more timely piece of law-making. The tragic events in New York City and in Washington, D.C., of September 11, 2001, have brought more attention to this legislation. While the balance of thought and sentiment in North America has shifted to collective security from individual rights, civil liberties groups, legitimate charities and charitable organizations like the Canadian Centre for Philanthropy, remain highly skeptical of the proposed new legislation.

The goal of the Bill (which is, at time of writing in early October, before a House of Commons Committee) is to de-register charities linked to terrorist groups by their fundraising activities. The criticisms of the Bill remain similar to those made several months before the terrorist attack (when this author's original piece was drafted). The criticisms, as detailed to the Government by various groups and legal experts, are many, including principally the following ones:

- (a) use of the word "terrorism", without providing a definition of it. Critics are naturally concerned about the potential breadth of such a term. They ask questions such as, "Which groups out of favour, or out of the political mainstream could be included and, therefore, prosecuted?" The very reason for the existence of the law is to counter terrorist activity, yet the term "terrorist" is never defined.
- (b) Both procedural and substantive unfairness is obvious in that an organization is "tried" *in camera* (in private), no tried and tested civil or criminal procedure is used to ensure fairness and accuracy of evidence and testimony, evidence against a challenged organization is only summarized (ostensibly so as to not damage sources of evidence) and that there is no direct appeal process to the courts.

Post-September 11, much greater attention was focused on this Bill. The general consensus that emerged was that additional legislative work had to be done. Furthermore, C-16 would have to be seen as only one part of a more comprehensive anti-terrorist legislative package, involving the portfolios of several senior Ministers, including Justice, Immigration and Transportation.

It is widely accepted now that changes to the Criminal Code, as well as to financial services legislation and regulations will be minimally necessary to accomplish the goals of critically damaging the operations of terrorists operating in Canada.

As of early October, Justice Minister Anne McLellan was demonstrating that the Government was reacting to the criticisms of C-16. She promised new legislation that would, indeed, define terrorism and even include a list of designated organizations that would be defined as terrorist:

"We have to make sure that while identifying tools to deal with the scourge of terrorism and identifying effective ways to suppress financing of terrorist organizations, that we do not in any inappropriate and unfair way, sweep up innocent organizations."

New omnibus legislation is now planned, to include elements of C-16. The new omnibus legislation will accomplish the following:

- (a) make it a crime to participate in terrorist organizations;
- (b) provide that much-requested definition of terrorism;
- (c) give the police agencies new surveillance tools;
- (d) create a new offence making it illegal to raise funds on behalf of terrorists

On October 11, Elinor Caplan, the Minister of Immigration, unveiled a new fraud-resistant immigration identification card, as her part of the anti-terrorism measures. The new card is to contain much information about its owner, including a photograph, signature, nationality, sex, eye-colour and immigrant category. The present card is a paper visa with minimal security features.