

The Experience of Muslim Civil Society Organisations in Shaping Canadian Anti-Terrorism Law and Policy

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Counterterrorism and community partnership

The need to work with communities has become a common feature of counter terrorism strategies in Western Europe and North America

Canada's National Security Strategy emphasises that its approach is underpinned by a 'fundamental belief that countering terrorism requires partnership' with civil society and is 'critical' to its success (*Building Resilience Against Terrorism*, Public Safety 2013)

Focus on community policing, developing trust and increasing cooperation at local levels

But local level cooperation is shaped by the national policy and legislative frameworks

Research in Australia finds that cooperation on counter terrorism is shaped by the perceived legitimacy of the way in which law and policies are shaped than by actions of local officers

Legitimacy and procedural fairness

Legitimacy is critical to effective and efficient governance: supports greater compliance and cooperation.

Where policies face significant opposition from groups whose cooperation is needed, government should be particularly attentive to measure and steps that enhance legitimacy.

Tom Tyler's research on why people obey the law, shows that 'procedural fairness' is fundamental to perception of legitimacy.

Three key features of procedural fairness

Voice: participation or representation in the decision making process; The value expressive effect of voice, even where it has no impact on the final decision, 'the ability to state your case is more important than influence over the decision' (Tyler 2006,126)

Neutrality: decision maker should not be biased, and should approach the decision with an open mind

Respect: being treated with politeness, courtesy, honesty and without discrimination, the explanations for a decision should reflect the actual reasons for that decision

Social/Group identities are important to evaluations of fairness

Procedural fairness and counterterrorism law and policy

Recent research suggests that the findings on the role of procedural fairness apply to counterterrorism policing and policies

In the UK, Muslim perceptions of the fairness of the implementation and formulation of counterterrorism law and policy was found to be a greater predictor of willingness of cooperate with authorities than political ideology, religiosity or instrumental calculation (Huq, Tyler and Schulhofer, 2011)

In Australia, among Arab communities, perceptions of 'law legitimacy' was the most important predictor of cooperation in counterterrorism policing, and more important than 'police legitimacy' (Cherney and Murphy, 2013)

The passage of Bill C51 in 2015

January: announcement of the Bill C51

February: Second Reading

March/April: Legislative Scrutiny of by Standing Committee on Public Safety and National Security and Senate Standing Committee on National Security and Defence (pre-legislative scrutiny)

May: Report and Commons Third Reading; Senate 1st, 2nd and 3rd Reading

Mobilisation of civil society outside Parliament,

Methodology and data collection

Semi-structured 'key informant' interviews with key actors involved in the debate on C51

32 interviews over four periods of fieldwork between August 2015 and February 2016.

31 face to face interviews, and 1 telephone interview; most interviews were around 1 hour

Interviews were recorded and transcribed and coded around the three key feature of procedural fairness: voice, neutrality and respect

Methodology and data collection

Starting point for identifying interviewees was the Bill committee hearings

Those who gave evidence, those who heard the evidence (MPs and Senators on the committee); government policymakers/advisors/ministers

Other Muslim civil society organisations/voices that did not participate in the Parliamentary process but were vocal/active on issues of counterterrorism law and policy (at the time of C51 or in the past)

Voice

Getting to the table, findings space of Muslim civil society voices in the Commons and Senate Committee

Supporting C51:

Raheel Raza, (President Council of Canadian Facing Tomorrow)

Salim Mansur, (Vice-President, Council of Canadian Facing Tomorrow), but identified as giving evidence in a personal capacity

Tahir Gora, (Canadian Thinkers Forum)

Opposing C51:

Ziyaad Mia (Canadian Muslim Lawyers Association)

Ihsaan Gardee (National Council of Canadian Muslims)

Zarqa Nawaz (writer, filmmaker)

The value of voice

Inscribing Muslim experiences into national conversation and public record

“I mean sure the government can do whatever they really want. So, in a majority government setting public deliberations of proposed legislation are always going to be somewhat at risk of being simply a white wash, or a legitimising exercise that serves the government’s interest more than anybody else. But it does produce a record and it is a record that I think is important for the historical value of it. Because one day we’re going to look back. People are already looking at C-51 as a travesty, and certainly there will be historians and scholars and hopefully...I think it’s important to be there and to contribute. I don’t think it made any bit of difference. I think it helped effect broader public opinion...So when we started, it was just on the pure principle of its going to be on the media and the historical parliamentary record of having shown up, so that 50 or 100 years from now somebody can say, look these guys came and they said something. Because, right now we go back and look at the Japanese internment, and you see very few voices that spoke against.”

Interviewee 9

The value of voice

Participation was important for an organisation's legitimacy:

' a moral footing to continue to rail against the system. To be able to say, "we were there and you didn't listen to us" I think is a lot more powerful than to say we weren't there and yet we really disagree with this'.

Interviewee 9

'Your question was why would we participate. In part it was our civic duty, even if the people who are there are treating the institution as a joke; the institution, that is Parliament, remains important. So it was our civic duty.'

Interviewee 8

The value of voice

Important to contest and challenge the narrative of the other side, to ensure a broad picture of the views of Muslim communities

Participation was a mechanism for informing media and public debate

Participation as a way of raising awareness about C51 in Muslim communities and motivating their wider civic and political engagement:

“our focus was everyone should go out and vote in the next election. So, if you want to change this [C-51], we have an election coming up. We don't [normally] vote. We have to come out and vote....so that's why we took the step of first educating people about the legislation itself...so that people would understand that a lots at stake”.

Neutrality

The shadow of C36 and the expectations of C51

‘under the previous anti-terror bill, there was a lot of protest, there was a lot of opposition, so that they [the government] did change it, so that we didn’t step back complacently, we kept, going’

Interviewee 7

Neutrality

The absence of Muslim civil society from the wider civil society protest:

“And I can’t remember who said it, but it was a very true comment, that despite all the concern of these organisations everyone knew that the bill would pass and everyone who was there with the exception of the executive director [Muslim civil society organisation] who was there, none of it was an NGO or a representative from the Muslim and Arab communities. It was academics, and civil society organisations that were concerned about human rights...But the affected communities – is not that they weren’t invited to this...Everyone was agitating because of how [C-51] was a travesty; that the rights of Canadians going to be affected. But, we also knew that the people that are being targeted by this are not really here in this discussion.”

Neutrality: fear of hostility from government

Fear that the government and governing party would be hostile to opponents of C51 had a chilling impact on some Muslim civil society groups who chose to remain silent:

“I had a situation some of my board members they were concerned... that we shouldn't appear to go after the government...the fear factor was there...they said lets not go there it will hurt us. They felt very strongly about it, they said, ‘we're not ready. We're still a new organisation'. Besides whatever we say won't change anything.”

Interview 10

Neutrality: fear of hostility from government

‘a number of people who were there [on the board] said we want to do something, and we were ready to launch into a campaign and then everybody got cold feet and said you know this government is very unfriendly; they might penalise us. You know, we get funding for different projects from them, but also I’m sure they are keeping tabs on us all...we don’t have the kind of freedom of speech that we used to enjoy, because we are afraid that if we really express out opinion we will suffer consequences that will not be very good...if you criticise the government of Canada and its actions on terrorism and whatever they are doing, they will think we’re traitors...and they’re mean enough to think that, they really are. And we’re not alone, there are so many organisations that feel that way. They’ve already done that, they’ve already cut funding and maligned organisations that do not agree with them. They hate dissent.’

Neutrality: retreat as reaction to government hostility

Retreat by some into safe community spaces for debate on C51:

I think people are just afraid to come out in the wider spaces to voices the same opinions. I think people felt, like a white liberal can say certain things that Muslims can't, white privilege. The Muslim community was very much aware that this was not a conversation that was happening to them, but was happening to other communities...the bill is active, so we don't know whether we're being spied on right now. So there is still a level of fear already affecting us in ways liberals might not worry about.

Interviewee 15

Respect and Civility

For most participants and observers the conduct and experience was largely civil and courteous, but the questioning of the NCCM director Ihsaan Gardee by one committee member stood out for many interviewees

“The complete disrespect with which Muslims were treated in the committee was shocking. Something I’ve never seen in Parliament and hope to never see again...I’d never seen anything like it. I’d spoken to the National Council of Canadian Muslims and they expected it. They said, if we come we will be attacked. But the appalling part to me was the directness, the lack of civility, it was stunning”

Interviewee 2

Conclusions

The legislative process allowed a wide range of civil society voices to have a voice in the policy making process

The findings support the idea that voice has a 'value expressive effect'

Where government is perceived not only to lack neutrality but to be actively hostile to those who oppose it, this leads to withdrawal from the public democratic arena, and retreat into safer community spaces, undermining the quality of public discourse and support for policy

The role of social identity in procedural fairness means that disrespectful treatment of organisations has rippling effect and impact on others who share the groups identity.