

Canada to revive anti-democratic “counter-terrorism” powers

Vic Neufeld**14 January 2012**

Canadian Prime Minister Stephen Harper has repeatedly vowed that in the coming year he will use his Conservative Party’s parliamentary majority to push through major changes in socio-economic policy. His government has also made no secret of the fact that it is determined to strengthen the coercive powers of the state.

Although the press has accorded it little attention, the Conservatives have proclaimed their intention to push through legislation reviving the police’s power to detain terrorism suspects without charge and compel persons deemed of “interest” in a terrorism investigation to provide them information.

Both these measures were included in the Chretien Liberal government’s Anti-Terrorism Act, which was rushed through Parliament in the weeks immediately following the September 2001 terrorist attacks in the US.

That legislation broke with several key tenets of British-Canadian jurisprudence—tenets historically developed through the struggle against arbitrary and unfettered executive power. It created a new category of political crime subject to significantly harsher penalties, included a catch-all definition of terrorism that could potentially be used to suppress strikes and other forms of political protest, and eliminated important restrictions on the police’s use of electronic eavesdropping.

The Anti-Terrorism Act also imposed a pro-active legal obligation on all persons in Canada to inform the police of any information they have about financial transactions involving a government-designated “terrorist organization,” whether the information pertains to themselves, a friend or an acquaintance. Failure to do so makes one liable to a ten-year prison-term.

But it was preventive detention and the police’s new power to coerce suspects and witnesses into providing information through “investigative hearings” that were especially criticized by civil liberties groups and sections of the legal establishment as an unjustified expansion of the powers of the state—one that could soon be extended to cover other sorts of crimes.

The police have long been able to detain a person without charge for only 24 hours. Under the 2001 Anti-Terrorism Act, police were empowered to detain persons for up to 72 hours without charge, and could do so based on “suspicion” as opposed to “reasonable grounds to believe” that the detainee was in some way involved in an impending terrorist act.

In the name of the “war on terror,” the Liberals also overturned the right to silence—a right rooted in opposition to torture and other forms of coerced testimony. They granted the police the power to convene an “investigative hearing” to compel, under the threat of imprisonment, anyone they deemed of interest in a terrorism investigation to answer their questions and turn over any documents or other material the police considered relevant.

Because of the public concern over the preventive detention and investigative hearing provisions, the Liberals amended the 2001 Anti-Terrorism Act prior to its adoption, making these provisions subject to a “sunset clause.” If parliament did not expressly vote to extend them, the provisions would lapse after five years.

In 2007, the newly-elected minority Conservative government did introduce legislation extending the two controversial provisions, but the opposition parties balked.

By 2007 there was growing public anger over how the Canadian and US governments had used the so-

called “war on terror” to justify the invasion and occupation of Iraq and Afghanistan and a vast expansion of the coercive powers of the state. Canadians, moreover, had been shocked and outraged to learn that the Royal Canadian Mounted Police (RCMP) and Canadian Security Intelligence Service (CSIS) had colluded in the US rendition of Maher Arar to Syria for interrogation by torture.

The opposition parties, including the social-democratic New Democratic Party (NDP), refused to mount a campaign to expose Canada’s complicity in torture. Under the direction of first the Liberals and then the Conservatives, Canada’s national security agencies had fingered Canadians traveling abroad for prolonged detention and torture by Mid-East dictatorships, then participated in their “muscular” interrogations.

But the Liberals, NDP and Bloc Quebecois did believe it in their interests to oppose the extension of the sunsets provisions. Canada’s principal dailies, including the *Globe and Mail* and the *National Post*, have gone on record as supporting the Harper government in reviving these antidemocratic provisions.

The Conservatives, meanwhile, have declared that they intend to make the lapsed provisions permanent.

While the NDP has said it will oppose their revival, the Liberals have indicated that they may well support the government in overturning the right to freedom from detention without charge and the right to silence. The retired Liberal cabinet ministers who played the principal role in stampeding the Anti-Terrorism Act through Parliament in 2001—then-Justice Minister Anne McLellan and Foreign Minister John Manley—have both voiced their support for reviving preventive detention and investigative hearings.

In Canada, as in all the major capitalist countries, the terrorist attacks of September 2001 have been used to justify imperialist war abroad, a vast expansion of police powers and the national security apparatus, and the criminalization of dissent.

On the tenth anniversary of the 9/11 attacks, the liberal-social Rideau Institute issued a report, titled *The Cost of 911: Tracking the Creation of a National Security Establishment in Canada*, that documents the explosive growth of state expenditure on Canada’s military and national-security apparatus.

According to the report, expenditure on CSIS has tripled, rising from \$170 million in 2000-01 to \$509 million in 2011-12. Expenditures at the Department of Public Safety and Emergency Preparedness (formerly the Solicitor General) have quintupled in size since 2000-01 (290 percent inflation-adjusted), from \$83 million in 2000-01 to \$415 million currently. Overall, the cost of Security and Public Safety programs have nearly tripled in size, from \$3.9 billion in inflation-adjusted dollars to \$8.7 billion in the current fiscal year.



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