



True North In Canadian Public Policy

Commentary

June 2013

Islam vs Islamism: Confronting the terrorist threat while preserving the free society

by Brian Lee Crowley

These remarks found their genesis in a conversation I had with my good friend Fred Litwin, head of the Free Thinking Film Society. Fred called me concerned about the increasingly illiberal reaction of some Canadians to the threat of radical Islam. Instead of focusing on the narrow problem of the radicalization of a small minority who distorted Islam for their own ideological purposes, this over-reaction too often put the blame on Islam itself. Both Fred and I felt that in a free society like Canada we had to be able to distinguish between freedom of conscience and religion on the one hand, and abuse of that right to cloak actions inimical to freedom. We agreed to organize a talk in Ottawa by Daniel Pipes on the theme of Islam vs Islamism on May 13th, 2013. The remarks that follow represent my response to Pipes's remarks during the panel discussion that followed.

Freedom at the intersection of rights and order

The starting point for any discussion about how to reconcile our deep commitment to freedom (including freedom of conscience and religion) with our enemies' willingness to use our freedom against us comes from these famous words of legendary American judge and Nuremberg prosecutor Robert Jackson.

Mr Justice Jackson dissented in *Terminiello vs. Chicago* (1949) where the majority overturned the conviction of a priest whose anti-Semitic and pro-Nazi ranting at a rally had incited a riot. The court held that Chicago's breach-of-the-peace ordinance under which the priest had been charged violated the First Amendment.

In his dissent Jackson famously wrote:

The choice is not between order and liberty. It is between liberty with order and anarchy without either. There is danger that, if the court does not temper its doctrinaire logic with a little practical wisdom, it will convert the constitutional Bill of Rights into a suicide pact.¹

The lesson Mr Justice Jackson was trying to impart is in no way limited to the American Constitution or the Bill of Rights. It is a meditation on the fact that the very freedoms that we enjoy, freedoms that are absolutely foundational to our way of life here in Canada as a western liberal-democratic society, have grown out of the great British tradition of liberty, and those indispensable freedoms expose us to dangers that we cannot wish away. It cannot have been the intention of the authors of those rights to have created a society that is incapable of protecting itself from those who find our values not merely wrong, but abhorrent, and who consider that any and all means to destroy us are not only allowed but are imperative.

As Jackson said, our precious freedoms exist at the intersection of rights and order. Liberty without order is mere anarchy. Order without liberty is authoritarianism or worse. But where to strike the balance is necessarily a matter of judgment. There is little in the way of hard and fast rules to guide us.

This implies that in thinking about the challenge posed by Islam and Islamism we must think, not in terms of absolutes, but of balancing competing but also complementary values. If we allow our legitimate fear of Islamism to outweigh our commitment to religious freedom, including for the tenants of Islam, one of the world's great religions, we become intolerant authoritarians and destroy the free society.

If, on the other hand, we kid ourselves that radical or militant Islam is not a serious threat to public order and public safety, we risk a serious decline in public trust, as fearful citizens lose confidence in the safety of their society and bullies have their way with us. Either way, freedom is deeply endangered.

Having the discussion of how to hold freedom and order together relies absolutely on our being willing to talk openly about the nature of the challenge that we face. This willingness was not evident in the initial reports of the arrests of the group that became known as the Toronto 18, when an RCMP officer described the arrested suspects as representing a "broad strata" of Canadian society, and the Toronto Star claimed that it was "difficult to find a common denominator" among them, even though all were radical Muslims and many attended the same mosque. Such behaviour from those in authority is just as likely to turn our rights into a suicide pact as the opposite illiberal and revolting reaction of extremists who, on the night following the arrests, vandalized mosques in both Rexdale and Etobicoke in Toronto.

Canadians, of course, have no monopoly on ignorant and illiberal sentiments in the face of such radical Islamist outrages. Congressman Peter King for instance was reported to have said that "there's a large *al-Qaeda* presence in Canada...because of their very liberal immigration laws, because of how political asylum is granted so easily".ⁱⁱ Of course the thing that shakes so many of us about these incidents is the extent to which their authors often are not recently-arrived and poorly-assimilated immigrants. On the contrary: they are people either born here or who arrived at a young age and who benefited from everything that Canadian society had to offer more or less throughout their entire lives.

The essential idea underlying a free society

A robust freedom knows how to protect itself without losing its precious essence, but such self-protection means knowing how to hold together the seeming opposites of freedom and order. An understanding of how this has traditionally been done will command the agreement or at least the assent of everyone who thinks freedom matters.

Remember that in the free society we are committed to a vision of inner-directed human flowering. In other words, we as individuals make our own choices about what is good for us and we live with the consequences of our own choices. No one, no policeman, legislator, religious authority, or philosopher is entitled to make us do what we do not choose for ourselves. We are not required to worship at a common shrine, or to vote for a compulsory candidate or to hew to a single line about the economy, the environment, the human soul, or anything else.

But there is a corollary. That corollary is that we may *believe* whatever we want, and what goes on in our minds is private and not the province of legislators or police. But we are not entitled to *act* on beliefs or ideas that impinge on the protected sphere of rights and personal security that we promise to all other members of society. It cannot be stated too strongly: it is not illegal, nor should it be illegal, to be a radical Muslim, to believe that infidels are a disgrace in the eyes of God, or to believe that the Quran supersedes human-made law.

What is and must be illegal is to act on these beliefs. Why? It is not first and foremost because of the practical impossibility of living in a society in which people are free to kill or enslave each other because they disagree about beliefs. That is true, and an important supplementary argument, but it is not the foundational argument.

The foundational argument, the one that has dominated our thinking since it was given its modern formulation by Immanuel Kant is quite simple: in the free society we are not entitled to use each other as means to our own ends. Individuals are ends in themselves. This means that we are forbidden to use any kind of coercive means to impose our views on others, up to and including murdering people who disagree with us as a means of intimidating members of our society and of undermining our institutions. Robbing or defrauding or assaulting someone is to use them for your own ends without their consent. And so too is blowing them up with suicide bombs or derailling trains in which they are passengers, or releasing anthrax in the air. The thing all these acts have in common that makes them morally reprehensible is that they take human beings who are entitled to rights, respect, and autonomy and treat them as playthings, as objects to be bent to your will, or casually destroyed. We do not allow this, and we punish severely those who do not follow this most basic rule of civilized behaviour in liberal democratic society. This is the foundation stone of such societies.

Religious beliefs as a justification for such behaviour are no more acceptable than any other such justification. Indeed, in our tradition the idea of toleration of differences of values and beliefs comes straight out of Britain's experience of the conflict that arose when people of different religious persuasions sought to seize the power of the state as a means of making others behave as if they shared the beliefs of the victorious creed.

As Thomas Hobbes taught us in *Leviathan*, the problem with basing public policy on beliefs about what God enjoins us to do is that even if we were all agreed we *should* do what God wants us to do, there is no agreed upon means of *determining what that is*, since God is not available to be questioned. There is no objective test of God's will, so in the face of competing and mutually contradictory holy books, all purporting to describe God's will for humanity, there are only two choices compatible with social order.

One is the choice of radical Islamists, to use violence and coercion to force people to behave as if they agreed with the tenets of Islam even if they do not. This, of course, is the illiberal option.

The liberal option, the only one compatible with a free society, says that all forms of coercion over beliefs are forbidden. Only the use of reason and argument, leading to voluntary conversion, are permitted to get people to change their minds about what they believe. In a truly liberal society we must be just as protective of religious minorities who live according to the liberal-democratic rules as we are protective of the majority's right to live free from intimidation. That is why radical Islamic terrorism and retaliatory attacks on law-abiding Muslims are equally abhorrent and unacceptable. And that includes attempts to, for instance, restrict the freedom of law-abiding Muslims to practise their religion or to build their houses of worship or to dress as they wish in accordance with the rules I have described.

Conclusion

Only the weak-minded cannot — or fear to — distinguish between protected religious freedom and the unacceptable and illegal acts described above that are incompatible in principle with the free society. Note that those unacceptable and illegal acts include conspiracies to incite people to break the law.

Doing so under the cover of legitimate religion cannot be an excuse for us failing to recognise the corrosive and destructive nature of such acts, which by their nature deprive themselves of the protection of the right to religious freedom. Imams who counsel criminal acts within the safety and sanctity of the mosque or the confines of the madrassa, for example, cannot and must not expect the protection of freedom of religion to extend to such utterances. They are illegal, they are wicked, they are unacceptable and no genuinely liberal-democratic society can tolerate them, because they endanger the very essence of such a society.

If our freedoms are not to become a suicide pact in which we are unable or afraid to protect ourselves from our enemies, we must accept that occasionally we will have to act in ways that make us uncomfortable. We must be prepared to take steps to ensure that our houses of worship, our schools, our prisons, and other institutions are not being used to proselytize for illegal activities, no matter what thin veneer of religious respectability their proponents may fashion for them, and we have to do this for exactly the same reasons that we take vigorous steps to ensure that anti-Muslim extremists are not permitted to act on their beliefs.

We may have to engage in covert surveillance of institutions we fear may be safe havens for such illiberal activities, such as mosques, Islamic schools, and prisons (which have been demonstrated to be fertile ground for recruitment of inmates to radical Islam). We may have to be more stringent about security checks on potential immigrants from areas of the world where radical Islam is a threat. We may have to be more prepared to strip people of Canadian citizenship when they misrepresent themselves to acquire that citizenship. We may have to be more forceful in enquiring into the provenance of money sent from outside the country to finance institutions where illegal acts are counselled and conspiracies hatched. We may have to recruit members of, say, the Islamic community to denounce offenders within their midst. But then this is part of the price we all pay for living in a society committed to individual freedom. We must also shoulder the responsibility of protecting those freedoms, including denouncing those who threaten them.

If we are serious about the free society, if we do not want our list of freedoms to become our suicide note, we must police the frontier between thought and act without fear and without apology. To repeat, it is not illegal to be a radical Islamist or an anti-Muslim bigot. What is illegal and must not be tolerated is to step over the line between belief and action, including speech counselling illegal acts. Not to police the line is to prove ourselves unworthy of the heritage of freedom we enjoy and for which so much has been sacrificed.

Terminello v. City of Chicago, 337 U.S. 1 (1949).

Quoted in David Crary's Associated Press article published on June 9, 2006.

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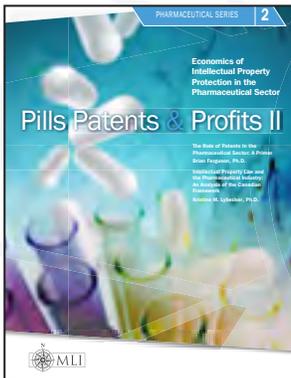
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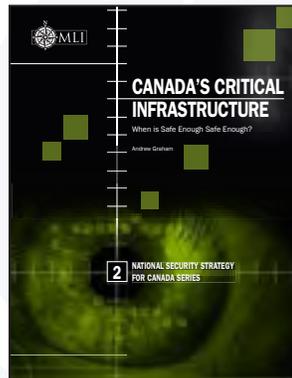
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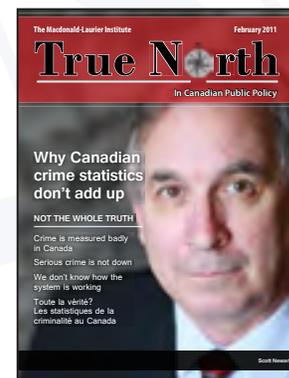
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