

Over 60% of the world's top brands have gone Google.

Learn about Google at Work



Economist.com

WORLD
THE AMERICAS

Canada's terrorism laws

Dead certs

Oct 22nd 2009 | OTTAWA

From The Economist print edition

One succeeds, another hits problems

CANADA'S top judges have never been comfortable with the government's use, since the attacks on September 11th 2001 in the United States, of "security certificates" to detain and expel, without disclosing evidence, non-citizens suspected of terrorism. In 2007 the Supreme Court declared this use of security certificates unconstitutional and gave the government a year to come up with something resembling a fair judicial process. In the eyes of the judges, it has not succeeded. (Britain's judges have likewise had qualms about the government's use of "control orders" to restrict terror suspects' movements.)

On October 14th a judge quashed a certificate against a Moroccan suspect issued under the revamped law, after government lawyers refused on grounds of national security to provide information the court had requested. Six days later another judge ordered Canada's intelligence agency to hand over secret evidence it had used to obtain a security certificate against an Algerian man. Should the agency refuse, that certificate too is probably in doubt. Unless the government rewrites the law again, which the justice minister says it will not do, this particular tool is unusable.

Fortunately, the government is having more success with another weapon in its counter-terror arsenal, the Anti-Terrorism Act passed in 2001. Mohammad Khawaja, the first person charged under the act, for his involvement in a bomb plot in Britain, was found guilty a year ago of financing and facilitating terrorism and sentenced to 10½ years in jail.

On October 20th, as the judge was dealing the latest blow to the certificates in Ottawa, the sentencing process began in Toronto for Zakaria Amara, one of the "Toronto 18" arrested in the summer of 2006 and charged with various offences under the Anti-Terrorism Act, including plotting to behead the prime minister and blow up the CN Tower, in Toronto, and other buildings. Mr Amara pleaded guilty on October 8th, the fourth member of the group to do so in the past two months (a youth deemed to have had peripheral involvement was convicted in 2008).

When seven of the initial 18 were released early in the investigation, some Canadians wondered if this outrageous conspiracy was real, or fanciful. The five convictions secured so far have ended such talk. Six others await trial. Further underlining the seriousness of the plot, this week the court allowed the publication of video evidence gathered for the trial, including a clip Mr Amara recorded of himself successfully testing a bomb trigger activated by mobile phone.

The setbacks the government encountered with the use of security certificates will probably prompt it to rely more on the Anti-Terrorism Act in future. That would be no bad thing, says Wesley Wark, a security specialist at the University of Toronto. Unlike security certificates, the act has survived legal challenges claiming it breached Canada's Charter of Rights and Freedoms, he says, so convictions are less likely to be struck down by the senior court.

This is not a government that admits its mistakes, so there will be no public repudiation of the certificate programme for use in catching terrorists. It will be quietly discarded. But that may not be the last Canadians hear

of it. One of the former detainees has publicly mused about suing the government now that he is free.

Copyright © 2009 The Economist Newspaper and The Economist Group. All rights reserved.