Closed courts and the media: The Toronto 18 case

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The Supreme Court of Canada is soon to rule on a media challenge to Section 517 of the Criminal Code, which requires a judge to grant a publication ban on bail hearings whenever an accused requests one. The challenge was launched by four media organizations – the Toronto Star, CBC, Associated Press and CTV – which sought to quash a publication ban relating to the notorious "Toronto 18" terrorism case. The publication ban was imposed in June 2006, just 10 days after the arrest of the first 17 suspects in the plot to bomb buildings in downtown Toronto.

Seven of those arrested have had the charges against them withdrawn or suspended, but the media are not allowed to report why. Toronto Star lawyer Paul Schabas claimed the ban lowered a "cone of silence" over the legal proceedings and prevented public scrutiny of a case that put the eyes of the world on Canada's anti-terrorism capabilities. "Why, the public may ask, are these men who the police described in their press conference as being dangerous terrorists, posing a real and serious threat to Canada, being released," he asked. Lawyers representing Ontario's attorney-general said Section 517 is essential to protect reputations and for the smooth operation of the justice system.

Leaving aside the legal merits of the challenge, this paper looks at the actual media coverage that resulted. It invites us to consider whether that coverage really served the public, or democracy, very well.

Amount of coverage: We examined the four main Toronto dailies (Star, Sun, Globe and Mail, National Post), the Ottawa Citizen and Maclean's magazine. All articles mentioning the case were selected during what we defined as the arrest period (June 3, 2006, to Aug. 5, 2006). We found 295 news stories and another 225 that were various types of opinion (editorials, columns, letters to the editor). The ratio of opinion to fact was high.

Scope of coverage: Competitive. It was the first apprehended case of domestic terrorism in Canada. Besides the large Toronto media, the case attracted print and broadcast media from the United States and elsewhere. It was a very big story.

Public interest in coverage: If the charges were true, it would be the first time Canada was targeted with terrorism because of its involvement in Afghanistan. It would also be the first evidence that younger Muslims and converts to Islam were being radicalized on Canadian soil. The charges were the first test of Canada's Anti-Terrorism Act, an aggressive response to 9/11 that was about to undergo its five-year review in Parliament.

Research questions about the opinion: How were the various types of opinion articles framed? How did this compare to the opinion articles you'd see if evidence was being discussed openly in court? Were there any differences between opinion written by writers for the newspapers and those written in response from readers?

Research questions about the news stories: Who was used as a source? If anonymous sources were used, were any reasons given for this? Were readers cautioned that the charges had not yet been proven in court? How often was the plot linked to actual cases of terror elsewhere (London, Madrid, Bali, 9/11, Oklahoma City)? To what extent was the plot linked to religion or the War on Terror?

Two main findings

(a) The majority of opinion was extreme in the way it was framed, pointing to wider plots or fundamental weaknesses in Canadian society that needed to be addressed, such as abandoning multiculturalism or cutting back on immigration. This was particularly true among columnists and editorial writers. A slight majority of readers' letters were a reaction against that. The following table highlights the four frames identified in the opinion articles, and highlights (in yellow) how little of it fit the frame of coverage that might be expected if this was about evidence presented in open court.

Table 1: How the opinion was framed

	Editorials	Columns	Letters
225 Total number	**24**	**90**	**111**
Moral panic	4.2% (1)	33.3% (30)	29.7% (33)
Homegrown terror	66.7% (16)	24.4% (22)	19.8% (22)
Crime suspects	4.2% (1)	20% (18)	17.1% (19)
Tolerance	25% (6)	22.2% (20)	33.3% (37)

(Figure in brackets is the actual number of articles in each frame)
(Criteria for frames is explained in Appendix A)

A good example of this harsh coverage was a front-page column by Christie Blatchford[1] that the Globe and Mail published on June 5, the day it first carried news of the arrests. The column began: "I drove back from yesterday's news conference at the Islamic Foundation of Toronto in

[1] Blatchford, Christie, "Ignoring the biggest elephant in the room," The Globe and Mail, June 5, 2006, page A1.

the northeastern part of the city, but honestly, I could have just as easily floated home in the sea of horse manure emanating from the building." She sarcastically ridiculed the notion that faith and religion had nothing to do with the terror plot:

> "The accused men are mostly young and mostly bearded in the Taliban fashion. They have first names like Mohamed, middle names like Mohamed and last names like Mohamed. Some of their female relatives at the Brampton courthouse who were there in their support wore black head-to-toe burkas (now there's a sight to gladden the Canadian female heart: homegrown burka-wearers darting about just as they do in Afghanistan), which is not a getup I have ever seen on anyone but Muslim women."[2]

That column prompted an outpouring of letters from readers who objected to her extreme tone. The paper published eight, most of which criticized her for insinuating that Islam was the root cause of the plot. But another letter writer reflected the racist hatred that such opinions can spark:

> "Kudos to Christie Blatchford for having the courage to state the obvious, and congratulations to the Globe for putting her article on the front page. If one of your children were bitten by a spider, would you not be suspicious of spiders?"[3]

(b) Of the 295 news stories, a surprisingly large number, 46 percent, contained anonymous sources. This varied widely between publications as this shows:

Table 2: Use of anonymous sources

	# of stories published	# containing anon sources	% using anon sources
Globe and Mail	71	45	**63%**
National Post	32	15	**47%**
Ottawa Citizen	26	12	**46%**
Toronto Star	109	45	**41%**
Toronto Sun	51	17	**33%**
Maclean's	6	1	**17%**
TOTAL	**295**	**135**	**46%**

Journalistic standards, not only in Canada but in all Western democracies, stress accuracy, independence and the discipline of verification. Newspapers are thought to fail in their responsibilities to the public if they act as megaphones for government or other vested interests. Information is expected to be put through a rigorous process of corroboration before it is published. Journalists in Canada, like those elsewhere, have devised common ethical principles to guide their work, and some are relevant to this study.

A Statement of Principles adopted by the Canadian Newspaper Association expresses the commitment of Canadian daily newspapers to seek the truth and operate in the public interest. In

[2] Letter, "Insightful or inciteful?" Paul Kennedy, The Globe and Mail, June 6, 2006, page A16.

particular, it says a newspaper "should guard its independence from government, commercial and other interests seeking to subvert content for their own purposes."[4]

Canada's largest journalists' organization, the Canadian Association of Journalists, has an even more extensive set of principles and accompanying ethical guidelines that also stress the discipline of verification. They say this about identifying sources:

> We will identify sources of information, except when there is a clear and pressing reason to protect anonymity. When this happens, we will explain the need for anonymity. We will independently corroborate facts if we get them from a source we do not name. We will not allow anonymous sources to take cheap shots at individuals or organizations. [5]

Newspapers like *The Globe and Mail* have additional standards:

> When sources are unnamed, they must be characterized as clearly and accurately as possible without actually identifying them, so as to give the reader an idea of their motivations for speaking. Reasons must be given why they cannot be named.... Official spokesmen are rarely, if ever, entitled to anonymity, and it is better to specify their titles or job functions than to call them spokesmen. Information should almost never be attributed merely to 'sources' or 'reliable sources'....[6]

However, none of this was done. Anonymous sources outnumbered or equalled named sources in 68 of the 295 stories. And despite journalistic guidelines to "explain the need for anonymity," that was only done in eight of the 135 stories that used unnamed sources. Few other details were given to enable readers to gauge the credibility or motivation of these sources. They were most often described as "sources" or "police sources."

The sensational nature of the story is not enough to explain why the newspapers disregarded their own policies and relied so heavily on anonymous sources. A better explanation is that it was the only way the facts of the case could get out. Barred from reporting what they heard in court, reporters scrambled to confirm it independently outside of court. In some cases, they already knew it, but the quality of information secured so surreptitiously is often suspect, and it proved so in this case.

When all sources used in the 295 stories were categorized, the reliance on unnamed sources stands out. They were by far the most popular providers of information, making up 28 percent of

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[4] Canadian Newspaper Association (1995) Statement of Principles, <http://www.cna-acj.ca/en/about/principles> (19 December 2009).

[5] Canadian Association of Journalists (2002). Statement of Principles, <http://www.eagle.ca/caj/principles/principles-statement-2002.htm> (22 January 2010).

[6] J.A. MacFarlane and Warren Clements, *The Globe and Mail Style Guide*. (Toronto: McClelland and Stewart, 2004), 470.

the total, more than double the number of citations for the second most popular choice, named politicians.

Table 3: Total sources

June 3 to Aug. 5, 2006

Total unnamed	346
Total named	883
Named by category	
Politicians	148
Muslim leaders	120
Defence lawyers	79
Terror experts	75
Investigators	69
Muslim community	61
Neighbours	40
Legal and Human rights experts	32
Business/tourism	31
Family members	28
British/Euro Sources	23
Crown/documents	23
Mass Media Reps	19
Bureaucrats	17
Military	16
Judge/Justice of Peace	12
Other Academics	12
Suspects	12

Smaller categories (fewer than 10 each) are not listed.

Many of the 346 unnamed sources appear to have been police or members of the Canadian Security and Intelligence Service (CSIS) who had some knowledge of the case against the suspects.

There was a political context to the Toronto 18 case, and the federal government certainly had an interest in stressing the success of Canadian security, the need for strong laws against terrorism, and justifying Canada's military role in Afghanistan. The Anti-Terrorism Act, passed into law in 2001 after the attack on the World Trade Center, was undergoing its 5-year review; Canada was involved in sensitive negotiations with the United States on measures the U.S. wished to impose to beef up border security; there was a lingering impression in the United States that Canada's liberal immigration and refugee laws made it a potential haven for terrorists; and public opposition to Canada's prolonged military mission in Afghanistan was mounting as the death toll increased.

The government`s script was conveniently written four days before the Toronto 18 arrests when Jack Hooper, Canada's number two spymaster, testified before the Senate Committee on National Security and Defence in Ottawa. The gist of his testimony was that terrorist activities inspired by the "Al-Qaeda ideology and operational doctrine" are the most immediate security threat facing Canada:

> We are seeing phenomena in Canada such as the emergence of homegrown, second- and third-generation terrorists. These are people who may have immigrated to Canada at an early age and become radicalized while in Canada. They are virtually indistinguishable from other youth. They blend into our society well, they speak our language and they appear, for all intents and purposes, well assimilated."[7]

It took more than 15 months for the media to learn what was behind this. Within hours of the first arrests and working closely with the Prime Minister's Office, top bureaucrats were putting together briefing notes for politicians and security officials, approving all media requests for interviews, and carefully monitoring whether coverage fell in line with what the government wanted Canadians to believe -- that "homegrown" terrorism inspired by Al-Qaeda was a real and present threat, that young Muslims were being radicalized in Canadian mosques and on the Internet, and that Canada's security forces and anti-terror laws had narrowly prevented another London or Madrid or Oklahoma City.

It was a classic example of a government attempting to manipulate the media, since at the time none of the charges had been proven in court and many details of the alleged plot were subject to the publication ban. To demonstrate the seriousness of the threat, security forces put on an unusual show of force when the young suspects, accompanied by their families, were arraigned. Heavily armed sharpshooters patrolled the rooftops, combat helicopters hovered overhead, and the suspects were tightly bound in chains. Such images in the media reinforced the idea of a city under siege.

Federal documents obtained by *The Globe and Mail* in September 2007 spelled out the full extent of the government's behind-the-scenes micromanaging. By that time, charges against seven of the 18 suspects had been dismissed for lack of evidence and media coverage of the case had become more sceptical. The *Globe* wrote:

> This detailed picture of the government's reaction to the arrests is contained in more than 1,700 pages of correspondence and other documents obtained by *The Globe and Mail*. The records, obtained through an Access to Information request to Public Safety and Emergency Preparedness Canada, reveal scenes of controlled chaos -- a small army of communications officers crafting talking points, hurriedly updating speeches and correcting their bosses' miscues.
>
> They also reveal meticulous government monitoring of virtually every media account of the arrests, as well as a consistent focus on getting all key players in Ottawa to echo the same talking points about the Conservative government's dedication to fighting terror.[8]

The plot, which consisted of two training camps in Ontario and plans to bomb key buildings in downtown Toronto, was real. Six men eventually pleaded guilty and were sentenced to prison

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[7] Proceedings of the Senate Committee on National Security and Defence (SCONSAD) for Monday, 29 May 2006 . <http://www.parl.gc.ca/39/1/parlbus/commbus/senate/Com-e/defe-e/02eve.htm?Language=E&Parl=39&Ses=1&comm_id=76> (10 January 2010)

[8] Omar El Akkad, "PM's office kept tight rein on terror file following Toronto arrests," *The Globe and Mail*, 17 September 2007, p. A1.

terms, one of them for life. Two others were found guilty at trial, and three others are facing trial as we speak. That said, there was never any evidence of direct ties to Al-Qaeda, no other cases of "homegrown" terrorism have come to light, none of the suspects expressed hatred of democracy, and if these Muslim youth were ever radicalized at mosques we don't know by whom. The plotters seemed to be motivated by political opposition to Canada's role in Afghanistan.

So the government's "spin" on the Toronto 18 case was exaggerated. But it seems to have formed the basis for the media reporting on the case, and also seems to have shaped much of the opinion.

Possible questions for discussion:

- Whose rights were protected by this unusually lengthy ban? Aspects of the case are still under wraps, nearly four years later.
- Did the public need to know details of the plot in 2006?
- What role do we expect the media to play in cases like this?
- Did the publication ban help or hinder that role?

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Appendix A: Explanation of frames

The 225 opinion articles were carefully read to determine how they were "framed," and a framing model was designed to give the researchers ways of determining how much opinion fit the four recurring themes. Framing can be defined as "consistent patterns of selection, emphasis and exclusion that furnish a coherent interpretation and evaluation of events."[9] Analyzing those frames requires researchers to examine what facts are included, what facts are left out, how the problem is defined, how the key players are portrayed, and what solutions are proposed.[10]

Moral Panic: Call for some wider action to defend our way of life (question multiculturalism, clamp down on immigration, change foreign policy, etc.). We are under threat, and this is a wake-up call to re-evaluate ideas about authority, control, policy and race. Plot tied directly to religion. Islam depicted as monolithic, violent, irrational, unpatriotic, sexist, undemocratic. Toronto 18 linked to actual terrorism cases abroad. Uses extreme language and descriptors (beheading PM). This was the position of certain Canadian experts and U.S. politicians.

Homegrown terror: This plot is proof that Canada is not immune from the war on terror. Our role in Afghanistan brought this on. Lack of assimilation and Islamist radicalism are the realities here, especially among young men. Reference to other cases, but Project Thread, Arar and other failed cases of RCMP/CSIS are not raised. Questions raised about the responsibilities of Muslim community to speak out against terrorism, curb hate in mosques and prevent radicalization of youth. Fits discourses of "otherness" and "national unity" (actions are outside the boundaries of Canadian values and behaviour). Tends to treat allegations as fact and presumes homegrown terror is a reality here. This was the position of CSIS, the police and the Canadian government.

Crime suspect: Always couched as a suspected criminal conspiracy to commit terror, not a plot against Canadian values. Treats this as a crime, with no specific link to Islam, or jihad, or fundamentalism. Stresses due process, and examines facts of case and terror laws sceptically. Suspects are real people (details of their lives described) not just faceless symbols of something broader. This was the position of lawyers and some readers who questioned the facts or wanted more.

Tolerance: Generally, a reaction against the "moral panic" discourse. Reaffirms Canadian values of multiculturalism, fair trial, defends our foreign policy and our levels of immigration. Cautions against "group guilt" and excesses of media coverage. Message is respect for each other and questions how harshly the suspects are treated in custody. Includes Muslims pledging to uphold Canadian values. This was the position of some Muslims and others who questioned the extremist line of "moral panic."

[9] Norris, P. and Kern, M. (2003) *Framing Terrorism: The news media, the government and the public*. New York: Routledge.

[10] Kitzinger, J. "Framing and frame analysis" in *Key Issues and Debates in Media Studies*, ed. Devereux, E. London: Sage Publications, p. 134-161.