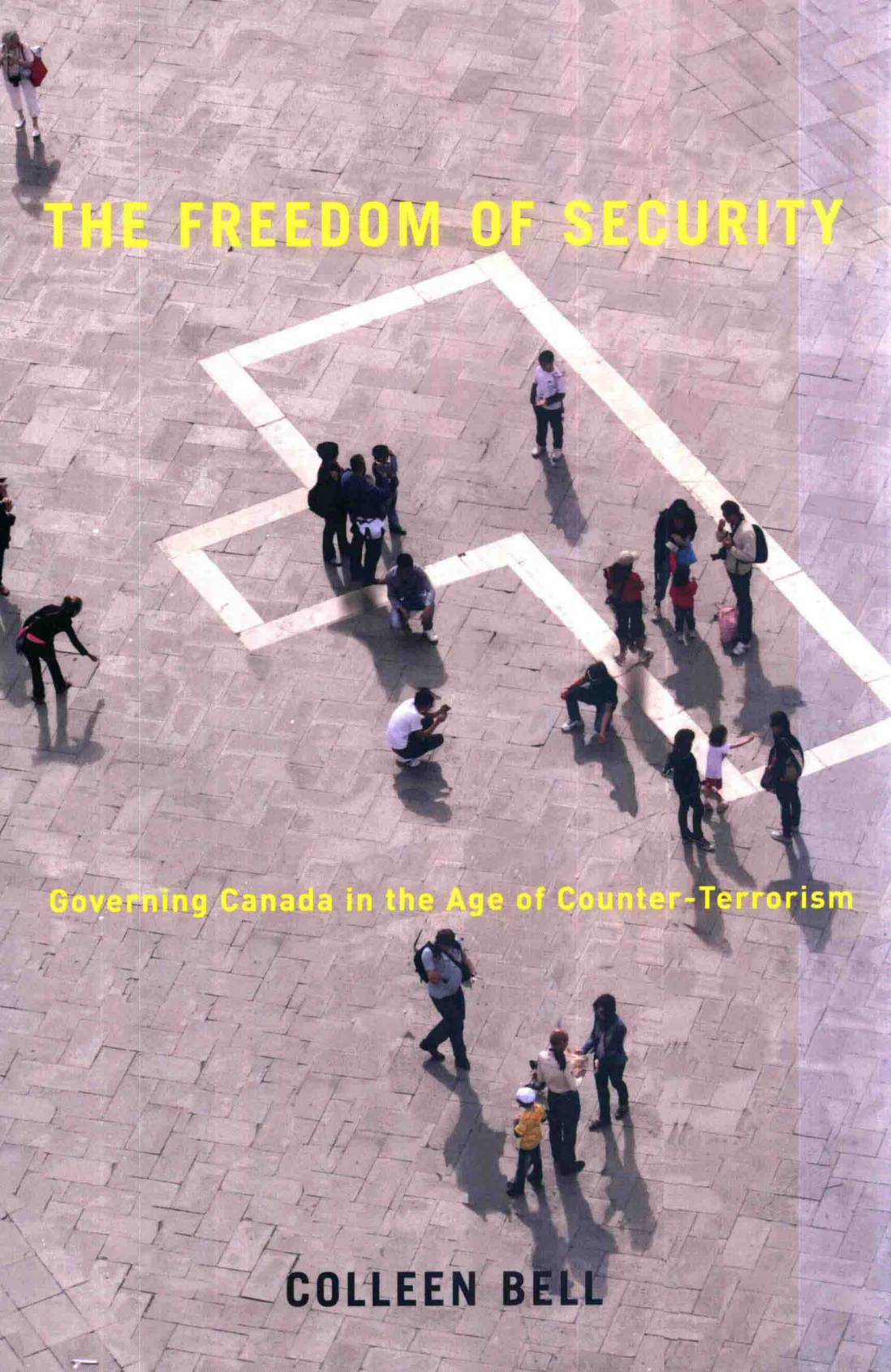
THE FREEDOM OF SECURITY



Governing Canada in the Age of Counter-Terrorism

COLLEEN BELL

Colleen Bell

The Freedom of Security
Governing Canada in the Age of Counter-Terrorism

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Preface

I began this work at York University. It had originally been my intention to study the politics of security and identity in the anti-globalization movement. The response of Western governments to the terrorist attacks of 11 September 2001 in the United States derailed that plan. Although I was interested in understanding how expressions of political resistance are disciplined internally by debates over "diversity of tactics" and externally by representations of protesters as violent and of state actors as merely responsive to that "violence," the climate of fear that ensued after 9/11 proved to be profoundly effective in quashing much of that movement. The euphoria and momentum that came with the growing number of people from Seattle to Genoa to Quebec collectively demanding social change were suddenly deflated when large components of the political left (particularly organized labour) withdrew active support. A "new security environment" supposedly called for more restrained opposition.

This turn of events made apparent to me that asking questions about the politics of security was more important than ever. I wanted to know how ideas about security shaped political action – in this case leading some people to believe that it was suddenly inappropriate to confront political leaders and economic power holders over the state of global politics. Although the discipline of international relations has devoted remarkable resources to formulating paradigms of security, conceptualizing security in relation to political freedom has received less serious attention. Similarly, investigations of freedom in relation to security have rarely moved beyond a civil liberties paradigm. Yet, as debates over counter-terrorism have developed, it has become evident that opposing sides are working with different assumptions about the security-liberty power relation. With few exceptions, when people oppose a security

policy, they approach it as an infringement on liberty, while those who advocate that policy treat it as a means of protecting freedom. Whereas the latter take a position that reaffirms the overwhelming authority of the state and status quo, the former merely question a symptom of that power.

My objective in writing this book is to offer a perspective on security as a liberal strategy of rule. It is to demonstrate that the categories usually drawn on to frame the meaning of security practices for politics, or indeed to distinguish the realm of politics from that of security, are inadequate for coming to terms with the realities, as Foucault suggested, of living in a society of security. The title of this book, *The Freedom of Security,* is inspired by this very claim. It draws attention to how we live in a society in which freedom is defined in the most pervasive ways by logics and practices of security. It explores the serious limitations inherent in the claim that the central value of Western ways of life is the commitment to freedom. It prompts us to ask how our commitment to freedom is shaped, instead, by the relentless search for security. The times that we live in have not only shored up this reality but also offer us an opportunity to challenge its terms and conditions.

I was fortunate to be immersed in a number of vibrant intellectual communities during the formulation of this work. I am thankful to the Department of Political Science and Centre of International and Security Studies at York University; the Department of Politics at the University of Bristol; the Centre of Criminology at the University of Toronto; and the Department of Politics at Birkbeck, University of London.

A remarkable number of people made this research possible. I am grateful to Sandra Whitworth, David Mutimer, Anna M. Agathangelou, Mark Duffield, and Mariana Valverde, who were excellent sources of guidance and support. I also thank Simon Dalby, Shannon Bell and Wenona Giles, Peter Nyers, Mark Salter, Kyle Grayson, Tina Managhan, Sarah Whitaker, and Joan Broussard. I very much thank the manuscript reviewers; my editors, Emily Andrew and Megan Brand; and the people at UBC Press for their swift professionalism. I am grateful to David Dewitt, who offered much-needed support in my field research, and to many people in the Canadian government who took time out of their busy schedules to share the particulars of their work. Activists in the social justice community were invaluable in deepening my critical analysis. I especially thank Mohamed Harkat and Sophie Lamarche, Abdullah Almalki, Michael Bhrens, Paul Copeland, and Hyder Masum for bringing into sharp focus the devastating consequences of Canada's security practices. I am also thankful to CKLN 88.1 FM and the crew of *Saturday*

Morning Live for giving me a platform to ask hard questions about state repression and resistance. I will be eternally grateful to CUPE 3903, where the meaning and location of politics were always sources of lively debate.

I thank the Social Sciences and Humanities Research Council and the Security and Defence Forum for financial support. Part of Chapter 1 was published as "Surveillance Strategies and Populations at Risk: Governing through Security in Canada's National Security Policy," *Security Dialogue* 37, 2 (2006)147-65; part of Chapter 2 was published as "Subject to Exception: Security Certificates, National Security, and Canada's Role in the 'War on Terror,'" *Canadian Journal of Law and Society* 21, 1 (2006): 63-83. I acknowledge with thanks the permission to reprint these portions here.

I am grateful to my friends and family for supporting my work. Jesika Joy Cameron, Gregory Bird, Alison Howell, Augustine Park, and Julian Manyoni were supportive and encouraging writing pals. I am also grateful to my mother, Juanita, who instilled in me, through simple gestures, indignation against injustice. It has carried me through waves of nihilism and compelled my most passionate if not overly dramatic writing. My furry housemates were always a needed source of amusement and friendship during the course of my writing. Most of all, I am deeply thankful to Jesse Payne, who provided immeasurable support and companionship in the formulation of this work.

Abbreviations

ANDS	Afghanistan National Development Strategy
ANSO	Afghan NGO Safety Office
CAF	Canadian Arab Federation
CAIR-CAN	Canadian Council on American-Islamic Relations
CATSA	Canadian Air Transport Security Authority
CBC	Canadian Broadcasting Corporation
CBSA	Canadian Border Services Agency
CCCE	Canadian Council of Chief Executives
CCTV	Closed-Circuit Television
CGSO	Canadian Governance Support Office
CIDA	Canadian International Development Agency
CLC	Canadian Labour Congress
CMLA	Canadian Muslim Lawyers Association
CSC	Correctional Service Canada
CSE	Communications Security Establishment
CSIS	Canadian Security Intelligence Service
CUPE	Canadian Union of Public Employees
CUPW	Canadian Union of Postal Workers
DFAIT	(Department of) Foreign Affairs and International Trade
DND	Department of National Defence
FAST	Free and Secure Trade
I-ANDS	Interim-Afghanistan National Development Strategy
ICLMG	International Civil Liberties Monitoring Group

ICISS	International Commission on Intervention and State Sovereignty
ICoS	International Council on Security and Development
IR	international relations (the discipline of)
IRPA	*Immigration and Refugee Protection Act*
ISAF	International Security Assistance Force
KIHC	Kingston Immigration Holding Centre
NACC	North American Competitiveness Council
NATO	North Atlantic Treaty Organization
NGOs	non-governmental organizations
NPB	National Parole Board
NTAC	National Threat Assessment Centre
PCO	Privy Council Office
PRC	permanent resident card
PRTs	provincial reconstruction teams
PSEPC	Public Safety and Emergency Preparedness Canada (renamed Public Safety Canada)
RCMP	Royal Canadian Mounted Police
SAT-A	Strategic Advisory Team – Afghanistan
SPP	Security and Prosperity Partnership
START	Stabilization and Reconstruction Task Force
UN	United Nations
UNDP	United Nations Development Programme

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Introduction: Relations of Freedom, Relations of Security

A little over a week after the terrorist attacks in New York and Washington on 11 September 2001, President George W. Bush announced the commencement of the War on Terror. From that moment forward, a new era of security protocols was ushered in to defend the United States and its allies from future terrorist attacks. The term "War on Terror," of course, is less than novel, and it would be inaccurate to claim that all of the practices with which it is associated were conjured up for the first time with its name. One of the early uses of the term in the latter part of the 1800s was by Russian, European, and American governments in programs to defeat widespread anarchist rebellions. It was also used by the British government in the 1940s in its efforts to end terrorist attacks by Jews seeking to bring down the British colonial mandate in Palestine (Rapoport 2002). Interestingly, these usages are consistent with contemporary and notably state-centric phrasing in articulating terrorism as a means of intimidating governments. Yet, we should also be reminded that the notorious brutality of the terror during the French Revolution articulated the opposite meaning, that of government through intimidation (Andress 2006). As today's War on Terror marks our contemporary political juncture in extraordinary ways, the debate that surrounds its means of operation, including war, violence, and rights infractions, might cause us to consider which meaning is most appropriate.[1]

To be sure, today's Western-led War on Terrorism (also referred to as the Global War on Terror) is at the centre of controversy over what enhanced security powers mean for the human rights and civil liberties that liberal democratic states claim are uniquely central to their values at home and to their role in the world. Even in the post- George W. Bush era and shift toward more moderate policy rhetoric, the War on Terror persists in media and political commentary as a ubiquitous maxim for

a spate of measures that engenders new policing powers of search and seizure and curtails mobility and privacy rights in ever more sophisticated ways. The War on Terror signals the intensification of border and transport surveillance, the development of biometric technology, and the imposition of "no-fly" lists. In its wake are new anti-terrorism legal codes that authorize parallel legal frameworks for non-citizens, substandard trial proceedings, and nebulous justifications for charges of guilt by association. The War on Terror also appears to be unabated alongside references to the Taliban, to Al Qaeda, and to individuals, such as Osama Bin Laden and Ayman al-Zawahiri, who are accused of precipitating terrorist attacks from the so-called sheltered havens of failed states. In an effort to gain the upper hand in this war, soldiers are sent to combat, civilian locales in Afghanistan and Iraq are transformed into battle zones, and many people continue to lose their lives and livelihoods. Inquiries and controversies a decade old point mostly to a destructive legacy showing staggering human costs, persistent instability in the global borderlands where it has reared its militaristic face, and disquieting questions about the commitment of North Atlantic states to democracy and human rights. At the least, its dubious efficacy hinges on legal transgressions, a litany of "errors," and questionable motives. Yet, amid all of this controversy, when Western leaders refer to a "new security environment," the policies associated with the War on Terror are presented as its antidote.

The United States also figures as the central actor in the War on Terror. Pre-emptive war, an ominous term first deployed in the 2002 Bush Doctrine,[2] not only denotes the US-led invasion and occupation of Iraq (and smaller-scale counter-terrorism operations in the Philippines, Somalia, and the Sahara region of Africa) but also remains a vital concept in strategic discussions over how nations seen as hostile to the United States or alleged to be "terrorist havens" ought to be dealt with. Even with the end of the Bush administration and the election of a new Democratic president, the United States continues to be connected to the controversial practice of and the subject of accusations of torture against suspected terrorists.[3] Despite the planned closure of the Guantánamo Bay detention centre, it remains at the forefront of a high-profile yet poorly monitored patchwork of incarceration camps populated by "enemy combatants" and other individuals marked as security risks. Special legal codes associated most acutely with the *Military Commissions Act* continue to be connected to human rights infractions of individuals who languish in detention and are denied due process and public trials. Consequently, many have fairly argued not only that the War on Terror points to an

alarming retraction of civil liberties under the banner of security but also that the United States is its commander in chief.

Although both the prominent role of the United States and the reduction of human and civil rights are fundamentally important to any analysis of contemporary counter-terrorism, the purpose of this book is to move beyond these two ways of making sense of it. First, although Canada does not always figure in the central story of this war, the analysis presented here concerns how successive Canadian governments have enacted policies that significantly inform how security and terrorism are addressed in global politics. Some analysts have tried to explain Canada's participation in the War on Terror as a consequence of various pressures, such as its shared border with the United States – a cornerstone of Canada's economic exports – or the influence of Canada's business class, whose interests lie in continued access to the privileged quarters of the G8 club (Andreas and Biersteker 2003; Barlow 2005). Although such explanations certainly have merit, some tend to be reductive in characterizing Canada as a participant of circumstance or overdetermining the influence of business elites at the expense of deeper points of political confluence. Other perspectives are notably celebratory of Canada's shift to the right of the political spectrum in its national and international security policies. They note an ascending profile for the Canadian Forces and a swelling nationalism in which Canada seeks to strengthen its presence as a committed ally to the vision of international security offered up by the United States (Carmet, Osler, and Hillmer 2004; Sloan 2005; Welsh 2004). Although not sharing such political enthusiasm (quite the opposite!), this book begins from the perspective that important aspects of Canada's security architecture demonstrate a weighty investment and sustained (rather than sporadic) engagement in this war. The lifespan of the War on Terror and contemporary counter-terrorism in general are dependent on more than elite influence or US hegemony. They are made possible by the active investments of many actors in global politics much beyond the United States and not least of all Canada.

Most importantly, however, this book departs from analyses of contemporary counter-terrorism as simply denoting a reduction of rights and freedoms. It is well documented that the surge of security measures in the past several years has impinged on civil liberties.[4] Yet, the view that security measures have simply meant a reduction in freedom casts a limited image of liberty as simply the casualty of security or its "balancing" counterpart. Liberty is superficially posited in distinctively

negative terms; it is the absence of state intrusions and the right to be free from arbitrary treatment. To be sure, these are often the forms of freedom curtailed in moments of "crisis" when the security of a state is called into question. Yet, it is naive to assume that these forms of liberty are all that is at stake in increasing state power. Even while it might be possible to increase security against terrorism, diminishing liberty can also diminish the security of people against state power (Waldron 2003, 195). Security is thus not merely a counterweight to or denial of rights but can itself be claimed as a right. Moreover, to approach liberty as simply a negative counterweight to security measures cannot account for how the reduction of freedoms almost always affects people differently. Diminishing liberty is very much about reducing access to forms of protection that people, such as activists, migrant workers, and racialized communities, rely on in different ways and to varying degrees (Waldron 2003, 194). The common image of security and liberty as occupying discrete and counter-posing realms masks the pressing reality that certain communities might have the very rights that offer them security diminished for the security of the majority or even that some communities are denied access to those human rights that are purportedly guaranteed to everyone in the first place. Too often, arguments that approach the problem of security as simply an erosion of freedom skip over the differential, empirical realities of accessing and using liberty to begin with.

Even more profoundly troubling is that the reduction of security and liberty to a dyadic relation is derived from a much older, recurrent narrative in classical liberal thinking in which the establishment of and possibility for political community are claimed to be founded on a social "compact." This compact has functioned according to what Roland Barthes (1957) referred to as a myth – a symbolic, though not entirely false, narrative that shapes our worldview in often subconscious ways. It was Thomas Hobbes (1651) who constructed the first and most influential account of the myth of a compact in *Leviathan,* in which the possibility of escaping the insecurity that characterized the "state of nature" was contingent on the willingness of people to cede certain freedoms to a centralized, sovereign authority. The extension of this logic is that in times of "crisis" it is the sovereign prerogative, indeed responsibility, to curb freedoms to preserve the security of the state as a whole. A testament to the pervasiveness of the myth of the social compact is the central image of the state in international relations (IR) as structuring order within and chaos without. Allegiance to this narrative stretches from realist to liberal internationalist perspectives that

hold the basic view (whatever their varying remedies) that beyond the sovereign relation lies a condition of anarchy that can only be mediated on the basis of a statist account of political life (Bull 1977; Waltz 1959). Here international space is conceptualized in terms of the classical liberal vision of the state of nature, leaving the only possibility for security contingent on the presence of the sovereign state, which, like Hobbes's "rational individual," does what it must for self-preservation. Yet, the idea of the international realm (outside) as a state of nature and the idea of sovereign authority (inside) as derived from the capacity to enact what John Locke (1689) referred to as prerogative power – to declare, in other words, a state of exception – are more than parallel claims. They are two facets of the same process (Agamben 1998; Bartelson 2001). The possibility of moving beyond either state (of crisis) – that is, the possibility of political order – requires the submission of freedom. Neither is simply a stage in the attainment of security but conditions what freedom can mean in relation to the venerable quest for security that has come to shape our worldviews, our fears, and even our aspirations.

The centrality of security to the myth of the compact should not, however, be taken as denoting a lack of genuine concern for the importance of freedom within early liberal and later conventional thinking in politics and international relations. The virility of the compact narrative, rather, is derived from the seemingly intractable authority, pervasiveness, and centrality that security is afforded in the Western political imagination. It points, in other words, to the persistent fluidity of security within Western strains of dominant political thought. Indeed, the connection between security and liberty has long formed a central question in the governance of society. For Adam Smith, security formed the foundation for the motivation of economic liberty among industrial workers, whereas, for Jeremy Bentham, liberty was first and foremost an aspect of security (Dean 2007, 25; also see Neocleous 2008). By contrast, security "was the legal assurance of freedom," according to Alexander von Humboldt (Neocleous 2000, 8-9). As the development of liberal political thought attests, security has never been a one-dimensional form of engagement. Today its conceptual elasticity is apparent in how basic sensibilities are constructed within its framework. Gone are the days when it made sense to speak only of state security. Today we speak of community and neighbourhood security, food security, social security, transport security, communications security, environmental and ecological security, human security, and so on.

One way to think about the discursive economy of security is to consider the difference, as Michel Foucault outlines in *Security, Territory,*

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