

Security certificate a draconian piece of law

By BILL DUNPHY

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Imagine this: you're an immigrant from an oppressive regime or a war-torn country, trying desperately to start a new life in Canada, a land of freedom and opportunity. It's a place of great economic opportunity, but also a place where the rule of law is paramount, where the weak and oppressed are given some succour — and are granted all the same rights as the powerful.

But before you can gain that precious citizenship, lawyers from the federal government appear at your refugee hearing and shut it down. Or armed men come and tear you from your home and family, and throw you into solitary confinement. They can hold you there almost indefinitely. You have just been labelled a threat to the security of Canada. Good luck finding out why.

You are jailed, your citizenship or refugee application process is instantly derailed, and you are one brief step from deportation. The only thing left is for a federal judge to review the certificate to see if it is "reasonable." It's a judicial hurdle so low he won't

have to hike his robes to clear it.

Your lawyer will never be given anything more than a bare summary of the evidence against you. You and your lawyer will likely never confront, cross-examine or even see the people who are giving evidence against you. You will have to answer charges without even knowing the substance of those charges.

And when that federally-appointed judge rules on the reasonableness of a federally-issued certificate, the odds are greater than 20-1 that you will be thrown out of the country and never be permitted to enter again. There is no appeal possible from that federal court judge's decision.

Welcome to Canada and goodbye. You've just been hit with one of the most powerful tools in the country's security toolbox — the security certificate.

If your intentions are evil, say if you're a terrorist or mob chieftain, then this law stands as a powerful and essential line of defence for Canada, one which gives our security services and the cabinet the ability to quickly and decisively deal with real threats to our national security.

But what if you're simply hateful, or

odious? What if you zealously promote and support unpopular ideas?

Not too long ago, people named in security certificates had a number of appeal options, even if they were still operating in the legal dark about the evidence against them. And not too long ago the definition of a security threat was fairly strict.

No longer.

The relevant section of the Immigration and Refugee Protection Act, 34(1), says permanent residents or foreigners are inadmissible on security grounds for, among other things:

- Engaging in terrorism.
- Engaging in acts of violence that might endanger Canadians.
- Belonging to a group that does or may engage in terrorism.
- Being a danger to the security of Canada.

In the late '90s, the law was amended to incorporate the broad definition of a security threat contained in the CSIS Act, the law that governs the Canadian Security Intelligence Service.

In the CSIS Act, the definition of threat ranges from the clear, such as acts of espionage or sabotage, to the ludicrously vague, deceptive foreign-

influenced activities that are detrimental to Canada's interests. Arguably, anyone from Rene Levesque to a Mafia foot soldier could be slapped with the "security threat" label. Happily there's no evidence government officials have perverted the act to that extent.

More recently the appeal process was shortened to a single, mandatory review by a Federal Court judge.

Once the assessment is determined to be reasonable, the certificate becomes a removal order and the only thing that will stall a deportation is the completion of a bureaucrat's de-termination that the person is being deported to a country where they aren't likely to be immediately put to death. Imprisonment is OK, and so, in some instances, is the possibility of torture.

Nazi apologist and Holocaust-denier Ernst Zundel has become the latest target of this remarkably severe law. But he is not the only one. In the past decade, published reports suggest, 26 people have received these security certificates — three last year alone. They have been used against alleged members of terrorist cells, and against modern war criminals.

Only once has the certificate been overturned on review — when a judge found Egyptian refugee claimant Mahmoud Jaballah's character witnesses more believable than the secret evidence provided by CSIS. However, in August 2001, Jaballah achieved another "first": he became the first target to be hit with a second security certificate. The father of six has been held in solitary confinement ever since.

It's important to note that these 26 "security threats" represent a microscopic proportion of the nearly 2,000,000 people who arrived during that same 10 years, looking to make Canada their home. This strongly suggests the power is used sparingly.

But critics say the new law, which has a looser definition of a security threat and prevents any meaningful appeal, is draconian and an offence to constitutional principals, even if it is rarely used.

Jaballah's lawyer, Rocco Galati has described the certificates as "blank arrest warrants."

"If you know your history, they're lettres de cachet, pre-revolutionary France. They're pre-Magna Carta. They're ... medieval."