

# Briefing Note for the Heritage Committee on Motion M-103

By

Major (Ret'd) Russ Cooper

## BRIEFING NOTE FOR THE COMMITTEE ON CANADIAN HERITAGE

### WITNESS TESTIMONY ON MOTION M-103 BY MAJOR (RET'D) RUSS COOPER

Reference: My email to CHPC, 20 Apr, 2017 @ 1212 PM

#### AIM

1. The purpose of this Briefing Note is to provide the Heritage Committee with a record of the discussion points and recommendations that will be presented to the Committee by Major (Ret'd) Russ Cooper on the subject of Motion M-103. Additionally and as stated at reference, it relates the results of a national petition drive that attracted nearly 27,000 signatures from Canadians across the country. This petition, along with related signatures and comments, is enclosed in CD format with this submission.

#### BACKGROUND

2. Motion M-103 calls for the “quelling” of a public climate of fear and hate while condemning “Islamophobia”. These sweeping objectives are subject to “study period” deliberations dedicated to reducing or eliminating “systemic racism” and “religious discrimination”. The Motion offers no substantiation for such objectives and charges other than a reference to Parliamentary “E” petition 411 (Islam). This petition was the subject of an in-depth analysis which determined that it was founded on baseless assumptions and popular misconceptions<sup>1</sup>. Additionally, the Motion failed to define the term “Islamophobia” thereby leaving it open to any number of interpretations including those that would censure the criticism of a faith doctrine itself rather than the faith practitioner. This potential development presents a danger to fundamental and hard-won Canadian Charter rights that protect the individual from “religious discrimination” even as they preserve the right of the individual to make fair comment in the public square on any ideology, tradition or faith doctrine. This latter freedom is in accordance with current Canadian “hate law” legislation which states, in Section 319(3)(b) of the Criminal Code, that such criticism is acceptable “if, in good faith, the person

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<sup>1</sup> Cooper, Russ, “Analyzing Petition “e”-411 (Islam) - A Letter to All Canadian Members of Parliament”, 16 March, 2017, available on the world wide web at [http://www.stambler.net/C3RF/Analyzing-Petition-e-411-\(Islam\)-A-Letter-to-All-Canadian-Members-of-Parliament.pdf](http://www.stambler.net/C3RF/Analyzing-Petition-e-411-(Islam)-A-Letter-to-All-Canadian-Members-of-Parliament.pdf)

expressed or attempted to establish by an argument an opinion on a religious subject or an opinion based on a belief in a religious text".<sup>2</sup>

3. The tabling of Motion M-103 in December, 2016 was accompanied by assurances from the Motion's author, MP Iqra Khalid from Mississauga Erin-Mills, that the term "Islamophobia" meant "an irrational fear of Muslims that leads to discrimination against Muslims"<sup>3</sup>. This assertion was seen as both nonsensical and misleading by many as the term, on the face of it, literally means an irrational fear (phobia) of Islam – not of Muslims. It was at this point that I decided to test the Motion in the court of Canadian public opinion through a petition that provided everyday citizens an opportunity to register their disapproval of the ambiguous term "Islamophobia" and the insults that the Motion laid at their feet. The response and results of the petition were truly staggering.
4. My petition was kicked off in the January, 2017 time frame<sup>4</sup>. It was the first of several like-minded initiatives that called up the need to challenge Motion M-103. Two of these followed in rapid succession and used the Rebel.Media<sup>5</sup> and Change.org<sup>6</sup> petition venues. All told, these three petitions have been signed by more than 200,000 Canadians from coast-to-coast. I can say with certainty, after reviewing all of the nearly 10,000 comments associated with my petition, that a wide cross-section of Canadians have three major areas of concern that the Committee needs to be aware of. These are:
  - a. the use of the ill-defined, over-stated and unsubstantiated term "Islamophobia" in Motion M-103;
  - b. the potential for the interpretation of this term to adversely impact the ability of Canadians to speak their minds freely in matters related to ideologies and faith doctrines; and
  - c. the fact that their Canadian political representatives seem so inclined to elevate the sensibilities of a collective above the rights of all individuals who were heretofore "equal under the law".

## DISCUSSION

The problem with the term "Islamophobia"

***"Islamophobia is a fabrication. Period."***

*Joseph N., petition signatory 12 December, 2016*

***"Charter of rights and freedoms is enough protection. However I do object to the specific mention of Islamophobia especially as there is no definition of that term!!!"***

*Melville O., petition signatory, 14 March, 2017*

5. An archival newspaper search of the term "Islamophobia" reveals its use in the contemporary era as early as 1994. It was used then by Dr. Richard Stone of the Runnymede Foundation in a letter to the Guardian newspaper. In it he wrote that "...Islamophobia is alive and well. Prejudiced talk about

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<sup>2</sup> Government of Canada Justice Laws web site, Section 319 – Public Incitement of Hatred, available on the world wide web at <http://www.laws-lois.justice.gc.ca/eng/acts/C-46/section-319.html>

<sup>3</sup> Harris, Kathleen, "5 things to know about the Commons motion on Islamophobia", CBC News article, 17 Feb, 2017 available on the world wide web at <http://www.cbc.ca/news/politics/iqra-khalid-islamophobia-motion-1.3987668>

<sup>4</sup> Cooper, Russ, "Your Canadian right to free speech is at risk - it is time to act now!" Ipetition, Jan, 2017, available on the world wide web at <https://www.ipetitions.com/petition/protecting-canadian-free-speech-rights-from>

<sup>5</sup> Goldy, Faith, "FREEDOM TO OFFEND: Support free speech, not sharia!" Mar, 2017, available on the world wide web at <https://www.therebel.media/freedom-to-offend-free-speech-not-sharia>

<sup>6</sup> ChangeGo, "Stop the speech restrictive "anti-blasphemy" Motion M-103! Mar, 2017, available on the world wide web at <http://www.citizenngo.org/en-ca/pc/41042-stop-speech-restrictive-anti-blasphemy-motion-103>

Muslims and Islam is widespread”<sup>7</sup>. It is here we begin to see that the term, in its original usage, was intended to identify speech critical of Islam itself - not just the individuals who practice it. This understanding is intuitive given the constituent parts of the term. After all, “Phobia” speaks to an irrational or unfounded fear of, in this case, Islam - not Muslims. Indeed, the attempt to conflate speech critical of Islam with an act that discriminates against the individuals who practice it is disingenuous.

6. The term was quickly picked up by the Organization of Islamic Conference (later to become the Organization of Islamic Cooperation (OIC) in 2011) in a bid to bolster its goal of implementing Islamic human rights codes throughout the Muslim and non-Muslim world. The OIC, as the collective voice of the world wide Muslim community of 56 states plus the Palestinian Authority, desperately sought to supplant the United Nations Universal Declaration of Human Rights of 1948 with an Islamic human rights code. The resulting Islamic code came in the form of the OIC’s “Cairo Declaration on Human Rights in Islam” of 1990. This “Declaration”, in articles 24 and 25, established Sharia as the “only source of reference” for human rights in Islam.<sup>8</sup> It is this stated intent that should be of concern to those in Western jurisdictions who appreciate the freedoms of speech and conscience that are endemic to their societies. Sharia, after all, has a very different understanding of such Western concepts as it censures speech critical of Islam through its blasphemy and slander provisions. These provisions, as detailed in Islamic canonical texts and the authoritative Sharia handbook; the *Reliance of the Traveller*, “are antithetical to current Canadian ‘hate’ legislation as they go beyond the protection of the faith practitioner from discrimination to include the faith, its doctrine and its ideology as well”<sup>9</sup>.
7. The question needs to be asked, what does the OIC, as the most prolific user of the term “Islamophobia”, mean by it? This is an important question as the organization has gone to considerable lengths in the post 911 era, through global bodies such as the United Nations, to bring universal attention to it. Indeed, the OIC was so smitten by the term that they made it the subject of an annual, dedicated reporting process in the form of “OIC Observatory Reports on Islamophobia”. This process and related publication have been in place since 2008 and are consistent in portraying the OIC’s understanding of the term “Islamophobia”. This understanding sees “Islamophobia” as “a kind of fear, or more precisely an excessive fear against Islam and anything associable with Islam i.e. Muslims, mosques, Islamic center, minarets, the Holy Qur’an, Hijab and so on”<sup>10</sup>. It is quite apparent that the OIC sees the criticism of “anything associable with Islam”, including Islamic blasphemy and slander provisions, as being out of bounds. It is this understanding that the OIC has brought to international deliberative agencies and it is this understanding of the term that Canadians believe is in play with Motion M-103. Given the fact that Canada is a dutiful player on the international scene and obliged to follow through on related consensus-based recommendations, are Canadians wrong in assuming that the OIC understanding of the term “Islamophobia” wont wind up embedded in their national legislation?

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<sup>7</sup> Zakalwe, Cheradenine, “The Origins of the Term Islamophobia in English-Language Discourse”, Islam versus Europe article, 28 Dec, 2011, available on the world wide web at <http://www.islamversuseurope.blogspot.ca/2011/12/origins-of-term-islamophobia-in-english.html>

<sup>8</sup> Organization of the Islamic Conference (OIC), “Cairo Declaration on Human Rights in Islam”, 5 August 1990, available on the world wide web at <http://www.refworld.org/docid/3ae6b3822c.html>

<sup>9</sup> Cooper, Russ, “Islamophobia: a Rose By Any Other Name?”, Canadian Citizens for Charter Rights and Freedoms article, 14 May, 2017, available on the world wide web at <https://www.canadiancitizens.org/single-post/2017/05/14/Islamophobia-A-Rose-By-Any-Other-Name>

<sup>10</sup> Ninth OIC Observatory Report on Islamophobia – May, 2015 – September 2016 (Presented to the 43<sup>th</sup> Council of Foreign Ministers, Tashkent, Republic of Uzbekistan, OIC Observatory, OIC 18-19 October, 2016, available on the world wide web at [http://www.oic-oci.org/upload/islamophobia/2016/9th\\_islamophobia\\_annual\\_report\\_en.pdf](http://www.oic-oci.org/upload/islamophobia/2016/9th_islamophobia_annual_report_en.pdf)

## The potential impact of “Islamophobia” on free speech rights

***“Our government can't tell us 'who not to be afraid of' (in the case of Islamophobia, for instance) and they also can't tell us who not to criticize, either. It is called 'free speech'. If you threaten a person or a group - that is dealt with under 'hate crimes' as it should be. But just discussing the doctrines or beliefs of another religion, or what is happening in the news, in the name of that religion is, AND SHOULD BE, fair game, the way it has ALWAYS been. Like ANY other topic of discussion. Anything less is extreme censorship, and brings Canada into a very dangerous Orwellian era, going forward”***

*Jane L., petition signatory, 02 February, 2017*

***This initiative threatens the right of free Canadians to criticize an ideology. "Islamophobia" is an agenda-driven neologism which defies any workable definition. The net effect of targeting, by means of government legislation, a purported incident of "Islamophobia" as a punishable offense would be to stifle all criticism of the ideology of Islam.***

*Jen J., petition signatory, 09 February, 2017*

8. Proponents of Motion M-103 are fond of saying that the Motion is not a “bill” and is not meant to become one. Canadians, as noted in their petition responses and comments, remain less than convinced. They might be forgiven for their reticence given the mounting number of Western nations that have embedded “Islamophobia” into their hate speech laws. These instances have followed fast on the heels of the success of the OIC in gaining a United Nations consensus on Resolution 16/ 18 in March of 2011. This resolution remains faithful to the intent of the Cairo Declaration and tracks the language of Article 20 of the International Covenant on Civil and Political Rights (ICCPR). This language calls on states to outlaw speech that "constitutes incitement to discrimination, hostility or violence"<sup>11</sup>. This vague wording is seen as problematic from a free speech viewpoint – so much so that the United States ratified the ICCPR in 1992 under condition that “it could not be interpreted as authorizing or requiring restrictions on freedom of speech and association in contravention of the U.S. Constitution or other laws.”<sup>12</sup> It is important to note that, as a United Nations consensus resolution, Canada is obligated to legislate hate speech laws that are in concert with 16/18’s vague stipulations. Indeed, in a Global Affairs Canada press summary it was formally noted that Resolution 16/18 provided a “practical action plan for governments” to follow<sup>13</sup>. Not to be satisfied with mere announcements, this same ministry moved forward with direct discussions between the Parliamentary Secretary of Global Affairs, Omar Alghabra, and the OIC. These deliberations centered on “Canada’s efforts on countering Islamophobia”<sup>14</sup> and were conducted at the 44th session of the Council of Foreign Ministers of the Organization of Islamic Cooperation. In doing so, Canada has signaled the fact that it is prepared to follow a long line of Western countries and dedicate itself to quelling “Islamophobia”. Is it not reasonable for Canadians to see Motion M-103 as the vanguard of such a Canadian initiative? As Motion M-103 moves

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<sup>11</sup> United Nations Human Rights Council, “Resolution 16/18 - Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief, 16<sup>th</sup> session, agenda item #9, 12 Apr, 2011, available on the world wide web at

[http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.RES.16.18\\_en.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.RES.16.18_en.pdf)

<sup>12</sup> “Defamation of Religions”, The Legal Project article, 2011, available on the world wide web at <http://www.legal-project.org/issues/defamation-of-religions>

<sup>13</sup> Press Summary for Jan 17 High Level Forum on Combating Anti-Muslim Discrimination and Hatred, Global Affairs Canada press report, 17 Jan, 2017, available on the world wide web at <http://www.international.gc.ca/prmny-mponu/statements-declarations/2017/01/17a.aspx?lang=eng>

<sup>14</sup> Furey, Anthony, “When Canada meets with the Islamic world, who’s calling the shots?”, Toronto Sun article, 12 Jul, 2017, available on the world wide web at <http://www.torontosun.com/2017/07/12/when-canada-meets-with-the-islamic-world-whos-calling-the-shots>

forward to such a logical conclusion, is it not safe to say that Canadians can expect outcomes similar to those of experienced by other nations that have already enfolded the intent of “Islamophobia” into their judicial matrices? What are these outcomes?

9. The European Union took the “Islamophobia” controversy of the 1990’s very seriously. Indeed, it was a factor in the development of the Treaty of Amsterdam – the 1997 update to the original founding treaty of the Union in the form of the Maastricht Treaty of 1992. Article 13 of the amending treaty represented a significant departure from the original as it introduced a new framework for equal treatment in employment and occupation across the EU. One of the directives that devolved from the article was Council Directive 2000/78/EC<sup>15</sup>. This directive was tailor-made for accommodating the OIC’s objectives of using Sharia as a core reference for human rights and allowing for the incorporation of related speech codes. It did so not by using the term “Islamophobia” specifically but by formulating provisions that opened the way for the execution of Sharia blasphemy and slander dictates within the EU judicial system. These provisions included the introduction of the unique concept of “indirect discrimination” and the inclusion of “harassment” as a form of discrimination.
10. The use of indirect discrimination as a grounds for censure is worrisome as it is taken to occur where an “apparently neutral provision, criterion or practice would put persons having a particular religion or belief...at a particular disadvantage compared with other persons”.<sup>16</sup> In other words, the innocuous way of things associated with everyday life in a host nation can be deemed to be discriminatory if they place a person at an undefined disadvantage due to their religion or belief. This edict begs the question, if a person’s belief or religion sees the everyday and free exchange of ideas as problematic does that person suffer a disadvantage compared with others? The “harassment” provision of the Directive is even more concerning as it makes “unwanted conduct related to any of the grounds referred to in Article 1 (religion and belief) ...with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment”<sup>17</sup> a grounds for a claim of discrimination. The “unwanted” stipulation of this edict places the assessment of just what is discriminatory squarely within the mind of the offended person and very much influenced by the exigencies of the religion or belief system involved. Most certainly, if a person felt “harassed” by speech that his religion deemed to be offensive that person would be justified in filing a claim under this portion of the directive. Given the fact that the Directive also places the burden of proof on “the respondent when evidence of such discrimination is brought”<sup>18</sup>, we can begin to see how free speech that offends an individual’s religiously based sensibilities, even indirectly, can be seen as requiring proscription.
11. There can be no doubt that Directive 2000/78/EC accommodates the quelling of “Islamophobia” within the European context. As this legislation has unfolded in practice, it is interesting to note that related cases are more likely to deal with offenses against the religion or faith doctrine than the faith practitioner him or herself. Indeed, it seems that the OIC interpretation of “Islamophobia” is definitely in play. Examples include:

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<sup>15</sup> Document 32000L0078, Council Directive 2000/78/EC, Official Journal L 303, 12 Feb, 2000 P. 0016 – 0022, available on the world wide web at <http://www.eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32000L0078>

<sup>16</sup> Ibid

<sup>17</sup> Ibid

<sup>18</sup> Ibid

- a. On the heels of the London Bridge terror attack, UK police issuing a warning to Facebook users that offensive comments will land them in jail;<sup>19</sup>
  - b. the Mayor of London setting up a task force to track down those who annoy persons on line;<sup>20</sup>
  - c. an Irish pastor being charged with offending the religion of Islam<sup>21</sup>;
  - d. France accommodating “Jihad by court” by charging several well-known French critics of Islam and Islamism with “hate speech” crimes<sup>22</sup>;
  - e. the homes of 36 Germans being raided over “hateful” postings on the internet<sup>23</sup>;
  - f. several European jurisdictions declaring to their citizens that criticizing migration policy or migrants is punishable by law<sup>24</sup>; and
  - g. the jailing of a German journalist for six months for posting a historical photo<sup>25</sup>.
12. These are but a few examples of how the battle against “Islamophobia” has impacted the free speech rights of Europeans. It is interesting to note that organizations dedicated to the identification and reporting of incidents of “Islamophobia” have formed throughout Europe. One such organization is the “Collective Against Islamophobia” with very active chapters in both France<sup>26</sup> and the Netherlands.<sup>27</sup> Interestingly, the “Collective” is active in Canada with a Quebec chapter.<sup>28</sup> It is clear that Canada, through its allegiance with the same international covenants that have informed the European experience and through the Motion M-103 initiative, is in a position to have its free speech rights similarly impacted. It is important to note that the slide of European free speech rights

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<sup>19</sup> Montgomery, Jack, “UK Police Warns Facebook Users ‘Offensive’ Comments May Land Them in Prison in Wake of Terror Attacks”, Breitbart London article, 02 Jun, 2017, available on the world wide web at <http://www.breitbart.com/london/2017/06/07/cheshire-police-warns-facebook-users-offensive-comments-prison-wake-terror-attacks/>

<sup>20</sup> Deacon, Liam, “London Mayor To Set Up Police ‘Online Hate Crime Hub’ In ‘Partnership’ With Social Media Firms”, Breitbart London article, 16 Aug, 2017, available on the world wide web at <http://www.breitbart.com/london/2016/08/16/london-mayor-to-set-up-police-online-hate-crime-hub-in-partnership-with-social-media-firms/>

<sup>21</sup> Rutherford, Adrian, “Belfast pastor James McConnell not guilty: ‘I want to assure Muslims I love them, what I am against is their theology’”, Belfast Telegraph article, 05 Jan, 2016, available on the world wide web at <http://www.belfasttelegraph.co.uk/news/northern-ireland/belfast-pastor-james-mcconnell-not-guilty-i-want-to-assure-muslims-i-love-them-what-i-am-against-is-their-theology-34335749.html>

<sup>22</sup> Mamou, Yves, “France: ‘Jihad by Court’”, Gatestone Institute article, 10 Jul, 2017, available on the world wide web at <https://www.gatestoneinstitute.org/10606/france-courts-jihad>

<sup>23</sup> David, Shimer, “Germany Raids Homes of 36 People Accused of Hateful Postings Over Social Media”, The New York Times – Europe article, 20 Jun, 2017, available on the world wide web at <https://www.nytimes.com/2017/06/20/world/europe/germany-36-accused-of-hateful-postings-over-social-media.html>

<sup>24</sup> Bergman, Judith, “Europe: Illegal to Criticize Islam”, Gatestone Institute article, 12 Dec, 2016, available on the world wide web at <https://www.gatestoneinstitute.org/9525/europe-illegal-criticize-islam>

<sup>25</sup> Nok, Egri, “Germany: Journalist Sentenced to Six Months Jail for Publishing Historic Photo”, Gates of Vienna article, 18 Aug, 2017, available on the world wide web at <http://www.gatesofvienna.net/2017/08/michael-sturzenberger-six-months-in-prison-for-posting-a-photo-of-hitler-and-the-mufti-on-facebook/>

<sup>26</sup> Spencer, Robert, “France: Jewish scholar prosecuted for hate speech for criticizing Islamic anti-Semitism”, Jihad Watch article, 23 Dec, 2017, available on the world wide web at <https://www.jihadwatch.org/2016/12/france-jewish-scholar-prosecuted-for-hate-speech-for-criticizing-islamic-anti-semitism>

<sup>27</sup> Pieters, Janene, “Rally brings hundreds to Amsterdam mosque in Islamophobia fight”, NLTimes.NL article, 06 Mar, 2017, available on the world wide web at <http://www.nltimes.nl/2017/03/06/rally-brings-hundreds-amsterdam-mosque-islamophobia-fight>

<sup>28</sup> “Quebec Muslim Women ‘Scared To Walk Alone’”, Huffpost Online article, 23 Jan, 2014, available on the world wide web at [http://www.huffingtonpost.ca/2013/11/06/quebec-muslim-women\\_n\\_4224966.html](http://www.huffingtonpost.ca/2013/11/06/quebec-muslim-women_n_4224966.html)

was abetted by implementing legal measures that were framed by the duplicitous notion of “Islamophobia” even as the term itself never shows up in these same conventions. Canadian authorities will need to keep this in mind as they recommend changes to the judicial system in the name of quelling “systemic racism” and “religious discrimination”. This is the case as the Canadian public most certainly will.

The smearing of Canada and the Canadian public – justified or not?

***“Many many Canadians have fought and died to defend the freedom of speech. This is an insult to all of them and every Canadian who believes that freedom of speech includes the right to say something that may offend someone else.”***

*Robert V., petition signatory, 09 February, 2017*

***“This is disturbing and unbelievable that the Government would not recognize our fundamental right to “free speech” by ALL Canadians. I expect our Government to stand up for all Canadians and to vote against the unfounded “Islamophobia” initiative. WOW!”***

*Robert C., petition signatory, 10 February, 2017*

***“I regret the loss of life in Quebec City as much as all victims of terrorism but this motion has a barely concealed agenda to silence debate and discussion. This motion is nothing more than virtue-signaling when what we need is more realism.”***

*Peter O., petition signatory, 24 February, 2017*

***“M103 is against our Charter of Rights & Freedoms and should not be allowed to be passed. It is an insult to the men & women who gave their blood and lives for our Freedoms”***

*Jacquie L., petition signatory, 11 March, 2017*

13. Motion M-103 assertions that Canada harbours “systemic racism” and that Canadians are purveyors of “religious discrimination” hit a raw nerve amongst my petition signatories. They saw these charges as unfounded and at odds with the truth as they saw it. How could a country that has welcomed so many immigrants, refugees, students and foreign workers to its shores, from all races and points of origin, be seen as “systemically” racist? After all, if the country was “systemically” racist would it not employ mechanisms within its governance structure to curtail such world-leading inflows of humanity? Certainly, this aspersion was seen to be nothing but absurd and a gross insult to the reputation of the country. Indeed and rather than accepting such allegations as true with little or no investigation, signatories called into question the motives of the purveyors of such codswallop and felt they should be called to account for their slanderous accusations.
14. The M-103 charge of “religious discrimination” has been justified in large part by stage-managed crime statistics and events that are clouded by unclear motives. The most popular event cited by political, media and religious elites as proof of this type of discrimination is the Quebec City mosque attack of 29 January, 2017. The event was horrendous and petition signatories were all of one mind in condemning it and offering sincere condolences and prayers to those effected. The fact remains, however, that many months after the commission of the crime there have been no “terror” or “hate” charges levelled against the alleged perpetrator.<sup>29</sup> Additionally, there has been a complete blackout on any information associated with the case with no motivations discussed or evident.

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<sup>29</sup> The Canadian Press, “Alexandre Bissonnette, accused in Quebec City mosque shooting, changes lawyer at court appearance”, CP24 Now article, 30 Mar, 2017, available on the world wide web at <http://www.cp24.com/news/alexandre-bissonnette-accused-in-quebec-city-mosque-shooting-changes-lawyer-at-court-appearance-1.3347378>

Here again we see a rush to judgement with inferences made at every turn that the mosque attack is proof positive of “religious discrimination” when, as of yet, there is no indication, let alone proof, that such is the case. It is felt that such accusations are reckless, irresponsible and need to be called out as misleading.

15. The charge of “religious discrimination” has also been supported by suspect data culled from crime statistics. The most prevalent of these deal with the rate of increase of hate incidents against the Muslim population in Canada. These declarations are stage-managed and take advantage of the “law of small numbers” and “judgmental bias” as an audience is led to believe that “the characteristics of a sample population can be estimated from a small number of observations or data points”.<sup>30</sup> A clear example of this is the claim that hate crimes against Muslims in Canada have increased greatly in recent years. While it is true that latest Statistics Canada reports indicate that these instances have increased some 61% over a two year period what is not stated is the fact that the actual numbers increased from 99 in 2014 to 159 in 2015.<sup>31</sup> Given a Muslim population of over 1,000,000 in Canada, this level of events represents a negligible amount that is subject to wide variances with a small number of increases or decreases either way – if we had one case one year and two the next we could say that we have seen a doubling of cases even though the gravity of the situation is stable or unremarkable. A much more representative and truthful way of presenting the hate crime situation is to look at instances per 100,000 of the population in question. When we look at these numbers in the same report we see that the rate of such crimes against Muslims in Canada is 15.1/ 100,000 while it is 54.0/ 100,000 for the Canadian Jewish population.<sup>32</sup> Given the fact that the situation is almost four times worse for Jews in Canada than it is for Muslims should we really be quelling “Islamophobia”?
16. Another consideration related to the use of statistics in making determinations on “religious discrimination” is the seemingly large instances of hoax claims. This has clearly been demonstrated to be the case in the British context as the whole issue of false and misleading reporting of “Islamophobic” events has become an organized endeavor. Such has been the case with the organization “Tell Mama” in the UK. This organization is dedicated to fighting what it calls a rising tide of “Islamophobia” by collecting data on related events and happenings. Their work has been found by the British government to be unreliable thereby necessitating a removal of government funding of its operations.<sup>33</sup> It is important to note that like-minded reporting and data collection organizations have stood up in both the United States<sup>34</sup> and Canada.<sup>35</sup> These efforts are organized or supported by the Council on American Islamic Relations (CAIR) and the National Council of Canadian Muslims (NCCM) respectively. It is also important to note that these two organizations have been

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<sup>30</sup> “Law of small numbers”, Business Dictionary item, retrieved 19 Aug, 2017 from <http://www.businessdictionary.com/definition/law-of-small-numbers.html>

<sup>31</sup> Leber, Ben, “Police-reported hate crime in Canada, 2015”, Statistics Canada report, 14 Jun, 2017, available on the world wide web at <http://www.statcan.gc.ca/pub/85-002-x/2017001/article/14832-eng.htm>

<sup>32</sup> Ibid

<sup>33</sup> Gilligan, Andrew, “Muslim hate monitor to lose backing”, The Telegraph article, 09 Jun, 2013, available on the world wide web at <http://www.telegraph.co.uk/journalists/andrew-gilligan/10108098/Muslim-hate-monitor-to-lose-backing.html>

<sup>34</sup> “CAIR Launches New Civil Rights App Allowing Reporting of Bias Incidents”, CAIR.Com, 23 Jun, 2017, available on the world wide web at <http://www.cair.com/press-center/press-releases/14428-cair-launches-new-civil-rights-app-allowing-reporting-of-bias-incidents.html>

<sup>35</sup> D’Amours, Jillian, “Islamophobia hotline to help victims of anti-Muslim hate crimes in Canada”, Middle-East Eye article, 10 Mar, 2016, available on the world wide web at <http://www.middleeasteye.net/news/islamophobia-hotline-help-victims-anti-muslim-hate-crimes-canada-574385457>

shown to be linked in the past<sup>36</sup> and that CAIR has been identified as an unindicted co-conspirator in the Holy Land Foundation terrorism funding case of 2009.<sup>37</sup>

#### CONCLUSIONS AND RECOMMENDATIONS

17. It is readily apparent that the term “Islamophobia”, by the meaning of its component parts and its usage in the international milieu, clearly includes “all things associable with Islam” as warranting protection from critical speech. This meaning is not only clear but has been acceded to by the Canadian Government by virtue of its participation in, and approval of, international consensus arrangements such as the United Nations Resolution 16/ 18 of 2011 - arrangements that are known to have devolved from Islamic human rights codes that place Sharia Law as “the only source of reference”<sup>38</sup> for these rights. This being the case, the Heritage Committee, by allowing the term to go forward as a condition warranting the censure of speech, will put itself in the position of recommending measures antithetical to the Charter rights of all Canadians. It is therefore recommended that:
- a. the term “Islamophobia” be removed from any and all recommendations that the Committee might send forward to the Government for consideration.
18. In those jurisdictions where the term “Islamophobia” has been allowed to influence the modification of “hate speech” laws the evidence is clear – one faith doctrine is elevated above all others in opposition to the concept of “equality before the law”. This has been demonstrated in the European Union where, although the term itself does not appear in related treaty articles or directives, the intent of “Islamophobia” has been incorporated into them nonetheless. This has been accomplished by introducing the novel notions of “indirect discrimination” and “harassment”. These innovations allow for the feelings of the victim of “unwanted” speech or behavior to be determinative and leave the respondent with little in the way of a defense. Canada is proceeding down the same path, marked by the same international understandings that have impacted the European situation and can expect the same outcomes. These outcomes include the censure of speech critical of certain faith doctrines and a concomitant “libel chill”. Accordingly, it is recommended that:
- a. in shaping Heritage Committee findings, the Committee should ensure that facts, rather than emotions, are determinative in any judicial or quasi-judicial proceedings they recommend and that “equality before the law” is maintained as a sacrosanct principle; and
  - b. given the potential impact of introducing measures that “quell” the free speech rights of Canadians, the Heritage Committee needs to consider absolving itself from such deliberations and passing same onto a more germane, deliberative body. Such a body might be the House of Commons Standing Committee on Justice and Human Rights.
19. The Motion M-103 charges of “systemic racism” and “religious discrimination” are insulting to Canada and Canadians respectively. Support for these charges comes by way of stage-managed crime statistics and events whose motivations remain clouded. It is therefore recommended that, as

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<sup>36</sup> “The Islamist background of the National Council of Canadian Muslims, missing from a recent La Presse article”, Point de Bascule article, 26 Sep, 2016, available on the world wide web at <http://www.pointdebasculecanada.ca/islamist-background-national-council-canadian-muslims-missing-recent-la-presse-article/>

<sup>37</sup> Ibid

<sup>38</sup> Organization of the Islamic Conference (OIC), “Cairo Declaration on Human Rights in Islam”, 5 August 1990, available at: <http://www.refworld.org/docid/3ae6b3822c.html>

a prime consideration and as an activity that precedes the formation of any recommendations or findings, the Heritage Committee:

- a. call forward those who have made these charges with a mind to substantiating same as an investigative matter;
- b. as an investigative matter, allow their testimony to be rebutted and cross-examined by known credible, expert authorities; and
- c. in the event of discerning inconsistencies and lapses in the truthfulness of these charges, terminate their deliberative proceedings until such time as better information and assumptions are made available. After all, formulating recommendations and findings on the basis of potentially false narratives stands to do the country and the cause fighting discrimination more harm than good.

20. In line with promoting a better understanding of racism and discrimination within the Canadian context, much more due diligence needs to be applied to the process of collecting and interpreting related statistics and data. As it stands now, the process is subject to manipulation by entities that may very well be executing egocentric agendas. Accordingly, it is recommended that the Heritage Committee:

- a. cull the data made available to it to filter out that which is suspect or developed through unknown or partisan processes;
- b. seek data that is sourced by reliable, non-partisan agencies; and
- c. have resultant data analyzed and interpreted by competent authorities.

21. For the consideration of the Heritage Committee.

Major (Ret'd) Russ Cooper

25 August, 2017

Russ Cooper is retired from both the Royal Canadian Air Force and Air Canada. In his military career, he was a decorated CF18 combat pilot and served in several staff positions as a Director of major capital acquisition projects and the overall coordinator of the Air Force Capital Equipment Program. In the civilian aviation sector, he complemented service as an international airliner pilot with national responsibilities in the field of post 9/11 civil aviation security. He is published internationally in this latter area.

He now pursues an active career as a Human Factors Engineer and a Transport Canada Flight Test Pilot delegate. He has recently developed an abiding interest in the preservation of fundamental Canadian Charter rights. This latter pursuit has been prompted by his sense that these rights, hard-won by the sacrifice of countless Canadians past, are under attack and on the verge of being lost.

