

Security, Civil Liberties and the 2008 U.S. Election

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On February 12, 2008, a number of events took place in the United States that offer conflicting clues about future directions that our southern neighbour may be taking and the implications for Canada.

Three Presidential primaries saw Democratic victories for Barak Obama over Hillary Clinton; for the Republicans, John McCain solidified his grip on the nomination. Obama is a charismatic young post-9/11 figure who opposed the Iraq war from the start and preaches the politics of hope. McCain is a Vietnam War hero who says the US may have to stay in Iraq for a hundred years, and continues to promote the Bush-era politics of fear.

The same day the Senate, despite its Democratic majority, gave a lopsided 68 to 29 sanction to President Bush's warrantless surveillance of Americans, voting to broaden the government's spy powers and give legal protection to phone companies that cooperated in Bush's illegal eavesdropping program. Amendments that would have imposed greater civil liberties checks on the government's intrusive powers were rejected one after the other.

The Politics of Security

Canadians, predominantly pro-Democratic, are fascinated with the larger than life Obama-Clinton struggle. But what are the implications for the North

American security agenda that Canada will face after the November elections? The Bush-Cheney White House will finally be gone, but the record of that Administration in relation to the Canada-US border and security cooperation since 2001 may not disappear with him. Indeed it may linger on and even take new virulent forms post-Bush. Obama offers the appeal of rhetoric that sounds compelling to Canadian ears but is untested by any experience of executive power. As the Senate vote suggests, the mere fact of Democratic control over both White House and Congress may not signal any sharp change in direction. Senator Clinton has repeatedly alleged that the northern border represents a risk to American national security. McCain campaigned by singing “Bomb, bomb, bomb Iran” to an old Beach Boys’ tune.

Canadian Resistance to the Security Perimeter

In the wake of 9/11, serious consideration, in addition to public agitation, was being given to the idea of a North American security perimeter. This would have mirrored Schengen-era Europe where internal European boundaries have virtually disappeared but have been replaced by a common set of controls on entry and exit from the European continent. Unfortunately, there is one very big difference between North America and Europe: there are no common political institutions here to oversee economic integration under NAFTA. With a unilateralist White House and Congress dictating terms of a common set of immigration and security controls with no Canadian voice, ‘harmonization’ would inevitably mean the direct imposition of American standards – in effect, taxation without representation. Despite powerful backing from business, the security

perimeter idea was successfully resisted, but indirectly, by clever cooptation. The Smart Border agreements, initiated by Canada, took the US eye off the larger picture, instead concentrating attention on specifics to facilitate an efficient but secure cross-border relationship without requiring any overarching perimeter framework. Although some have criticised the Smart Border arrangements as diminishing Canadian sovereignty, they were really part of the second front: quietly limiting damage while publicly participating in the first front.

This small triumph of Canadian statecraft has however been increasingly called into question. The 'Security and Prosperity Partnership' offers little concrete follow up on the Smart Border plans. In practice, US Homeland Security has grown into an out-of-control bureaucratic monster. Even as the Bush Administration has sunk to record lows in public approval, hyper security thinking seems to have increased. Passport requirements at land crossings are only the tip of the iceberg. Demands for detailed advance passenger information for air travelers – even including flights that merely pass over corners of US airspace have caused endless headaches for Canada, and raise questions about violations of Canadian privacy protection law. Sensible proposals for facilitating border traffic, such as Windsor-Detroit, languish in the face of a US obsession with security narrowly, and self-servingly, defined.

The Economics of Security

There is little prospect that post-Bush Washington will reverse these trends, even if some of the more egregious irritants are removed. Security is often a convenient cover for economic interests. The success of the US softwood

lumber lobby in beating Canadian producers as well as successive Canadian governments is not unnoticed by politicians using protectionism to lure votes – especially in the Democratic party with its rustbelt working class constituencies. Tough security measures that happen to impede Canadian competition pack a double electoral bonus.

Canada and Mexico, America's NAFTA partners, did declare political independence from the American agenda over Iraq. But in the longer run, the Bush doctrine ("fight the terrorists over there to avoid fighting them over here") has won out in Canada's Kandahar quagmire. The Martin Liberals got the Canadian military into Kandahar, the roughest neighbourhood in Afghanistan, mainly as an attempt to balance the books with the Americans for Iraq. The Harper Conservatives are neither able nor willing to extricate the country from a commitment that has already taken 78 Canadian lives (the highest relative toll among all forces fighting in Afghanistan) and bizarrely turned this marginal Third World country into Canada's leading foreign policy priority. Yet even a Democrat in the White House committed to withdrawal from Iraq will likely increase the US presence in Afghanistan (the "good intervention") and increase pressure on allies for more, not less commitment.

The Challenge to Canadian Liberties

Another defensive battle Canada has had to fight on its second front is limiting the threat to Canadian liberties posed by American direction of the war on terror. Vice-President Dick Cheney spoke about the US having to go over to the 'dark side' to combat terrorism, and in Guantanamo, Abu Ghraib, torture,

extraordinary rendition, warrantless surveillance, etc., the rest of the world has seen just what the dark side may conceal. Canadians saw a chilling snapshot of this with the case of Maher Arar, the innocent Canadian kidnapped by the US in New York and shipped to a nightmarish torture cell in Syria. The Arar affair raised serious issues of what intelligence Canada should share with a country that cannot be trusted to respect the human rights of those that fall, even innocently, into its blacklists. Yet the war on terror demands more, not less, sharing: a dilemma for this and future Canadian governments.

The US expects its allies to do as it does with regard to fighting terrorism within their own borders. Canada has had to fight a defensive battle here as well. Special anti-terrorism legislation was rushed into law in the fall of 2001, including unprecedented powers of investigative hearings and preventive arrest. These have now lapsed, although probably only temporarily, but neither power has ever actually been invoked.

Similarly, a modest Canadian no-fly list has been implemented, preempting the importation of the notorious US no-fly list that nabs two year-old terrorists and the likes of Senator Edward Kennedy. Yet to date, no one has actually been prevented from boarding a plane as a result. This Canadian reticence represents reasonable balance in fighting terrorism with due respect for civil liberties, rather than going overboard as the Americans have often done, with no better results. Yet no doubt Canada will continue to receive criticism in the future about being an alleged weak point in counter terrorism.

Towards the 2008 Election

The politics of Canadian-American relations in Canada are unclear. The Harper Conservatives often sound like the Bush Republicans, and Stephen Harper stands to lose a close ideological ally when Bush steps down (he has already lost John Howard in Australia). Yet it is difficult to discern any striking difference in practice between the Conservatives and their Liberal predecessors in managing the North American security file. The Conservatives too have had to 'stand up for Canada' –even against their ideological lookalikes – on Maher Arar, on the endless border irritants, and for Canadian economic interests trumped by 'security'.

Perhaps the prospect of a President Obama might offer glimmers of change. His 'politics of hope' may subtly change the narrative from the fear-driven story of the Bush agenda, and begin to turn the page toward a post-9/11 era. That should certainly be Canada's hope.