

UNDER LAYERED SUSPICION

A REVIEW OF CRA AUDITS OF
MUSLIM-LED CHARITIES

EXECUTIVE SUMMARY

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Muslim-led charities have for years expressed concerns about the selection, frequency, and reasoning behind audits of their organizations.

The findings from *Under Layered Suspicion* suggest that there is a basis for these concerns. The report identifies whole-of-government policies and patterns of audit practices that together evince potential biases in Canada Revenue Agency (CRA) audits of Muslim-led charities

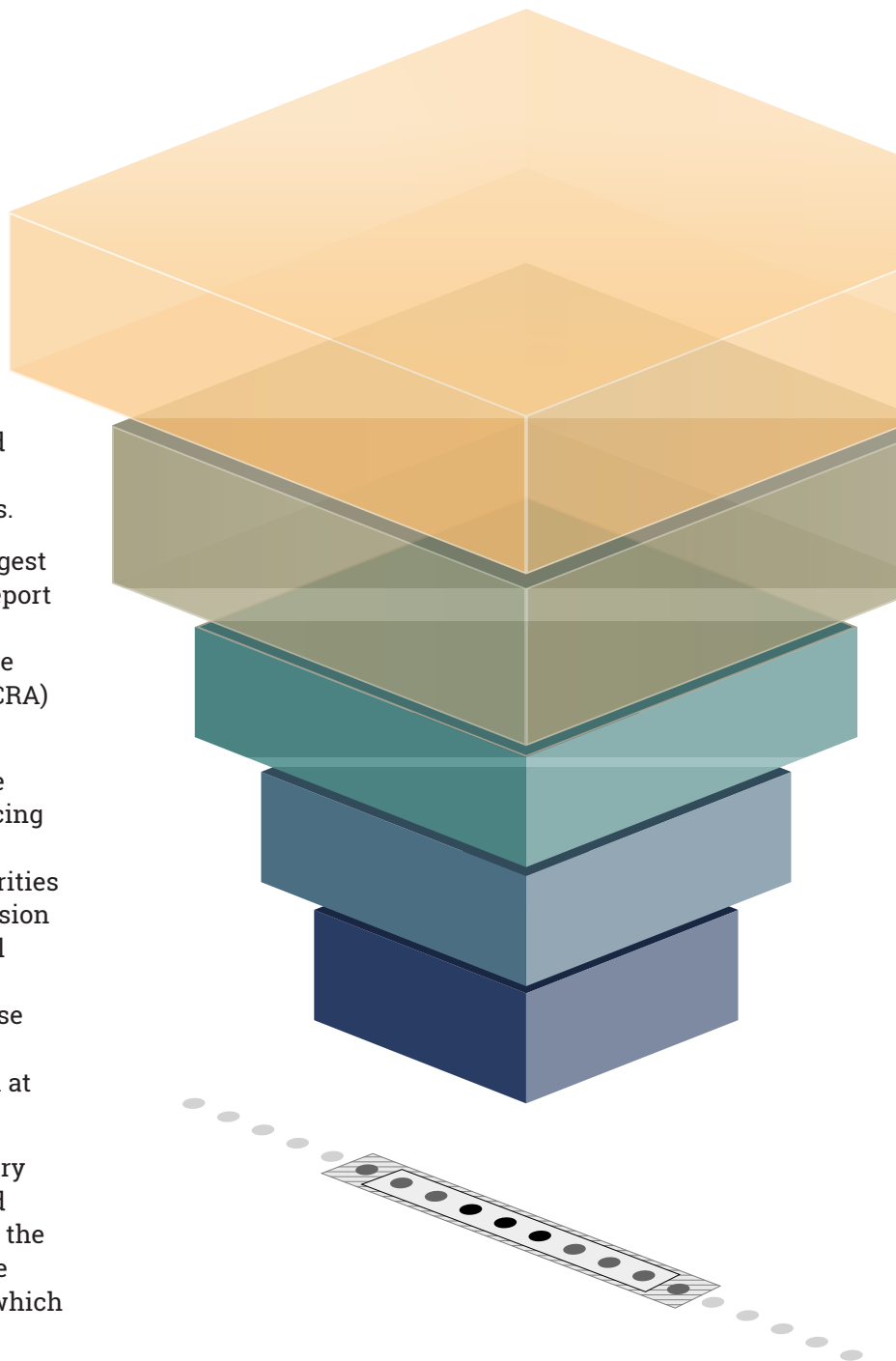
Under Layered Suspicion draws attention to the Government of Canada's anti-terrorism financing and anti-radicalization policies. When these policies are operationalized by the CRA's Charities Directorate and the Review and Analysis Division (RAD), they create the conditions for potential structural bias against Muslim-led charities. The study shows that in the crosshairs of these policies, Muslim-led charities are uniquely vulnerable to penalties or even deregistration at the hands of the CRA.

This vulnerability takes shape through ordinary auditing techniques that occur in complicated global times. *Under Layered Suspicion* analyzes the evidence and interpretive frameworks of three audits in light of the political context within which they took place.

This report questions whether Muslim-led charities can be treated fairly in the course of audits that occur under the shadow of Canada's anti-terrorism financing and anti-radicalization regimes.

The recommendations emphasize the need for the Government of Canada to formally investigate patterns of bias within the machinery of its agencies and bureaucracies, and create mechanisms of accountability.

Read the full report at layeredsuspicion.ca



"Risk Based Assessment"

The Government of Canada's "risk based assessment" model associates:



100% of all terrorist financing risk with racial minority communities



80% of all terrorist financing risk with identifiably Muslim organizations

FINDINGS:

Under Layered Suspicion uncovers suspicious patterns of potential structural biases and prejudicial policies that influence the selection of Muslim-led charities for audit, the practices within those audits, and their findings.



Structural Bias: Othering Muslims

A bias that casts Muslims, and their lifestyles and activities, as inherently foreign or outsider. It renders tenuous the very notion of a 'domestic Canadian Muslim'.

How this structural bias can affect audits: This bias enables suspicions that Canadian Muslim-led charities serve foreign interests.



Structural Bias: Formatting Religion

A bias that makes it hard to label as "religious" any activity that is not formatted along Christian ideals and practice.

How this structural bias can affect audits: This bias has the potential to create suspicion about the ways Muslim-led charities advance their religion for purposes of charities law in Canada. This bias can impose an added onus on non-Christian minority religious groups that organize themselves through charitable organizations.



Policy: Anti-Terrorism Financing

A whole-of-government policy that deploys a Risk Based Assessment (RBA) model, which as currently designed by Canada, can be used to suspect Muslim-led charities as especially vulnerable to terrorist financing.

How this policy can affect audits: This policy can unduly inform which organizations the CRA audits under the guise of national security and anti-terrorism financing, and how information obtained during the audit process is interpreted and construed. Shadowing audit processes without being express, this policy has the potential to erode Canadian citizens' expectations of objective and reasonable conduct by government agencies and bureaucrats, especially in relation to Muslim-led charities.



Policy: Counter-Radicalization

A whole-of-government policy that looks for, anticipates, and prevents radicalization and extremist violence before it happens.

How this policy can affect audits: This policy can bias audits based on little more than stereotypes about race, religion and proclivities to violence.



Mechanism: Tax Audits

Tax audits are tools used by the government to ensure that a charity is complying with the Income Tax Act.

How this mechanism gets used: The tax audit can be used to accomplish by way of ordinary compliance processes what might not be possible through more formal anti-terrorism, or counter-radicalization measures. Tax audits offer possible administrative cover for structural biases in the anti-terrorism financing and anti-radicalization policies, which in turn can shape the gathering, analysis, and interpretation of evidence in audits of Muslim-led charities.

CASE STUDIES:

The questions that emerge from the review of the audit record of three Muslim-led charities are summarized below, and expanded upon in detail within the report.

While these case studies are not statistically representative of all Muslim-led charities, they provide insight into how Muslim-led charities can get caught in the web of potential biases and policies that the CRA enacts.

Case Study: Ottawa Islamic Centre and Assalam Mosque

Suspensions within the audit:

The Ottawa Islamic Centre lost its charitable status for non-compliance with the Income Tax Act, but was at all times suspected of violating the 'public benefit' because of the mere possibility that its invited speakers' presumed, not substantiated, speeches may have promoted radicalization.

Questions that emerge from reviewing the audit:

- **What kind of speech is or isn't of public benefit in a democracy like Canada?**
- **Who can espouse conservative ideas freely, and whose conservative values attract the label of radicalization?**

Case Study: The Islamic Shi'a Assembly of Canada

Suspensions within the audit:

The Islamic Shi'a Assembly of Canada (ISAC) was suspected of having ties to Iran and financing terrorism.

Questions that emerge from reviewing the audit:

- **How do we understand and regulate religions that do not fit the Common Law framing of "advancing religion", which draws upon a Christian understanding of religion?**
- **To what extent do changing multilateral diplomatic relations influence the timing, targeting, and interpretive lens of domestic audits?**

Case Study: International Relief Fund for the Afflicted and Needy-Canada (IRFAN-Canada)

Suspensions in the audit:

IRFAN-Canada was suspected of having links to Hamas in Palestine.

Questions that emerge from reviewing the audit:

- **To what extent do domestic political debates about complex global affairs influence the timing, targeting, and interpretive lens of domestic audits?**
- **How does the CRA ensure the evidence it uses counters dominant and reductive frames that link Muslims, Arabs, and Islam to terrorism?**

RECOMMENDATIONS:

The findings from *Under Layered Suspicion* offer the following recommendations:

To the Canada Revenue Agency

- 1. Suspend the Review and Analysis Division (RAD) pending review of Canada's Risk-Based Assessment model and its National Strategy to combat extremism and radicalization.**
The CRA should suspend the Review and Analysis Division (RAD) until the Government of Canada revises its Risk-Based Assessment (RBA) model for combatting anti-terrorism financing in compliance with Financial Action Task Force (FATF) requirements, and Public Safety provides necessary explanatory guidance on its strategy against violent extremism and radicalization regarding what counts as an extreme idea justifying administrative disruption tactics.
- 2. Suspend discretionary use of revocation power in audits of Muslim-led charities where anti-terrorism financing or counter-radicalization policies inform the audit.** For as long as the anti-terrorism financing RBA and the counter-radicalization policies remain structured as they currently are, the Charities Directorate should suspend its discretionary use of its deregistration power when auditing Muslim-led charities in the shadow of the two whole-of-government regimes.
- 3. Enhance transparency between the Charities Directorate and charities audited under suspicion of terrorism financing and/or radicalization.** From an examination of testimony before the Senate, the report shows that organizations subject to audit may not be informed that the audit operates in the shadow of anti-terrorism financing and/or counter-radicalization policies. For as long as the Charities Directorate and RAD audit charities using standard audit practices while informed by these policies, it should adopt enhanced transparency measures between the Charities Directorate and the audited organization so that the organization has sufficient and meaningful notice of the nature of the audit and its potential scope of inquiry.

To Finance Canada

A review and revision of Canada's Risk-Based Assessment of terrorism financing in Canada. Convene a robust review, comprised of a diverse array of stakeholders, to review and revise Canada's anti-terrorism financing regime to better control against possible disproportionate effect on a subset of Canadian citizens and charitable organizations. The review and revision should also comply with the most recent guidance from the FATF.

To Public Safety

Provide greater guidance to government officers on how the policy is to be applied in a non-discriminatory fashion. Public Safety's National Strategy to combat radicalization centres "extreme ideas" as a key feature of analysis in radicalization. "Extreme ideas" is an ambiguous concept that ultimately grants agents, who enjoy discretionary authority under relevant legislation and regulations, the power to determine what constitutes an "extreme idea" and who might hold such an idea. While the current policy attempts to be neutral in how it identifies the conditions of radicalization, its approach is operationalized alongside an anti-terrorism financing regime that raises the suspicion of disparate impact on Muslim-led organizations. The two sets of policies operate in parallel, with anti-terrorism measures cast as prosecutorial, and counter-radicalization as preventative or pre-crime measures. As both tactics operate in tandem across the whole of government, policies and procedures against radicalization have the capacity to disparately affect certain communities over and against all others.

AUTHORS

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Read the full report at layeredsuspicion.ca

