

The “Tough on Crime Agenda” – Constitutional Concerns and Practical Impacts

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The Tough on Crime Agenda

Any fair critique of the Conservative Government’s “tough on crime” agenda must proceed from an acknowledgment that their intentions were made clear to the electorate from the outset. In the soon-to-be Prime Minister’s first federal election platform document in 2006, his party vowed that a central pillar of the Conservative Government’s agenda would be the policy that “Serious Crime Means Serious Time”:

A Conservative government will protect our communities from crime by insisting on tougher sentences for serious and repeat crime and by tightening parole. We will ensure truth in sentencing and put an end to the Liberal revolving door justice system. The drug, gang, and gun-related crimes plaguing our communities must be met by clear mandatory minimum prison sentences and an end to sentences being served at home. Parole must be a privilege to be earned, not a right to be demanded.¹

Following its first mandate, the Conservative Government also acknowledged that its new policies would increase prison populations, and promised to set aside funds to expand Canada’s correctional facilities. The Government warned that such costs were necessary since “Canadian streets and communities are increasingly threatened by gun, gang and drug violence.”²

At the urging of police, victim and prison guard associations, the Conservative Government made promises to examine the operation of the Correctional Service of Canada. Much of the pressure came through the “Club Fed” campaign that presented to the public the idea that life for those in our federal prison system was equivalent to a holiday resort. In one speech to the Canadian Professional Police Association one year before the CSC Review was announced then Minister of Justice Vic Toews espoused this idea in the following terms:

I believe that it is time to get tough when it comes to incarcerating violent offenders, and I applaud the efforts that have been made to put an end to what has been referred to as “Club Fed.”³

¹ *Stand up for Canada* (Conservative Party of Canada, Federal Election Platform), 2006, at p. 22.

² Budget 2006 (Department of Finance, Canada), Ch. 3, Security,

³ Speech for the Minister of Justice and Attorney General of Canada, Vic Toews, Q.C. Canadian Professional Police Association, 3 April 2006, Ottawa, Ontario. Quoted in Michael Jackson, Q.C. and Graham Stewart, *A Flawed Compass: A Human Rights Analysis of the Roadmap to Strengthening Public Safety*, September 2009, at p. 4.

Further to its “Club Fed” policy, the Conservative Government in 2007 commissioned the Report of the Correctional Service Canada Review Panel in 2007, called *Roadmap to Strengthening Public Safety*. Chaired by Rob Sampson (former Minister of Corrections under Premier Michael Harris’s Conservative government in Ontario), the hand-picked panel recommended tough measures which took virtually no notice of human rights and provided little rationale for its harsh recommendations.⁴ At the completion of its review, the Panel made recommendations consistent with the policies reflected in the 2006 Platform. Among other things, the Panel recommended that “*The principles of the Corrections and Conditional Release Act (CCRA) have to be strengthened to further emphasize offender responsibility and accountability*” and that prior to being released on parole “*offenders be required to earn their way back to their home communities: they should demonstrate to the National Parole Board that they have changed and are capable of living as law-abiding citizens.*” Further to these findings, the Panel recommended that Statutory Release and Accelerated Parole Review be abolished and replaced with an earned parole system.⁵

The *Roadmap* quickly came under fire from such leading academics as Professor Michael Jackson Q.C. (Canada’s leading expert on the subject of human rights in prisons) and Graham Stewart (former Executive Director of the John Howard Society) who together opined that the report’s conclusions were “seriously undermined by obvious politically partisan influences and ideology.”⁶ As Jackson and Stewart would go on to write, the *Roadmap* illustrates the “dangers of creating major ‘transformative’ policy virtually overnight by a largely unqualified group under a heavy cloud of political expediency.”⁷

The *Roadmap* was introduced by a brief two-paragraph analysis suggesting that violent crime in Canada was on the rise. While acknowledging that crime rates in Canada had just reached their lowest rates in over 25 years, the *Roadmap* attributed this phenomenon to decreases in property related crimes, which do not generally call for sentences of greater than two years. With respect to violent crimes however, the *Roadmap* focused on the selected two-year period of 2005-2006, and noted increases in certain violent crimes over that period.⁸

⁴ This description is taken from Paula Mallea, *The Fear Factor, Stephen Harper’s “Tough on Crime” Agenda* (Canadian Centre for Policy Alternatives), 2010.

⁵ *Roadmap to Strengthening Public Safety*, (Ottawa: Minister of Public Works And Government Services, Canada), 2007, at pp. vi – x.

⁶ Michael Jackson, Q.C. and Graham Stewart, *A Flawed Compass: A Human Rights Analysis of the Roadmap to Strengthening Public Safety*, September 2009, at p. iv.

⁷ Michael Jackson, Q.C. and Graham Stewart, *A Flawed Compass: A Human Rights Analysis of the Roadmap to Strengthening Public Safety*, September 2009, at p. xxxiv.

⁸ *Roadmap to Strengthening Public Safety*, (Ottawa: Minister of Public Works And Government Services, Canada), 2007, at pp. 1-2.