

CANADA'S CONTROVERSIAL CRIME BILL

Introduction

Focus

Canada's Conservative government has introduced a bill that would make major changes to the way justice is administered in this country. Bill C-10 would stiffen penalties for young offenders and force judges to apply minimum mandatory sentences. Critics argue that instead of reducing crime, the bill will actually result in an increase in crime.

Prime Minister Stephen Harper's Conservative government has introduced a new crime bill that imposes harsher consequences for certain kinds of criminal behaviours than in the past. Supporters of Bill C-10 believe that the new bill will reduce crime, impose greater law and order, and improve justice for victims in Canada. Critics of the bill argue that Bill C-10 is not necessary because crime rates are down, that increased law enforcement and building more prisons will bankrupt the government, and that some criminals need rehabilitation not jail time.

There is some evidence that the critics are right. In other jurisdictions where a strict, punitive approach to crime has been taken, crime rates have not dropped. Take Texas, for example. That state has the highest number of executions and the highest incarceration rate in the United States—but crime rates have continued to climb. How is that possible?

It is very expensive to build prisons. And it is very expensive to keep people in prison. If money is being spent on incarceration, it has to be taken from somewhere else—often treatment

programs for addiction, violence prevention programs, anger management classes, treatment for mental health disorders, and even the education system. So the quality of education drops, and people who are from marginalized groups—the poor, those who have experienced violence, those who suffer from a mental illness—have less access to services that can help them. This results in an increase in crime.

Why then is the Canadian government trying to toughen the punishment system in Canada? Many commentators believe it is because it is popular to do so. People like governments to be tough on crime because they mistakenly believe it will make communities safer. Governments try to pass bills that will make them popular and get them re-elected.

Good governance means that the needs of the majority are met. This involves striking a balance between helping the most needy in a society, creating safe communities, and punishing those who violate the personal or property rights of others. Time will tell if Bill C-10 helps the government strike this balance.

To Consider

1. Do you think that criminal punishment acts as a deterrent to crime? (That is, does the fact that murder carries a mandatory life sentence in jail stop people from committing murder?)
2. Why do you think people continue to feel fearful of crime and criminals even though crime rates continue to drop?

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Video Review

Further Research

Go to www.parl.gc.ca to read the bill and the resulting parliamentary debates.

Did you know . . .

Each additional day a female inmate stays in jail cost taxpayers \$556. For men the cost is \$292 a day.

Before Viewing

By yourself or with a partner consider the questions below and record your responses in the spaces provided.

1. What images do you predict you may see in a news report on a controversial crime bill?

2. What voices do you think should be heard in a balanced news report on a new crime bill and why?

3. What are three reasons that you can predict as to why any new crime bill could be controversial?

Video Questions

As you watch the video, record your responses to the questions in the spaces provided.

1. State two reasons why Texas is considered to be tough on crime.

2. State one reason why funding treatment for drug addiction is cheaper than sending people to jail.

3. What statistical proof is there that Texas's new attitude toward justice is working?

4. According to Dr. Teresa May-Williams, why is the war on drugs not effective?

5. Why did Katherine Griffin view the new idea of drug court as supportive?

6. How long did some offenders have to wait for treatment in the Texas system?

7. What is the cost of keeping one person in jail in Texas?

8. In what two ways is Canada's new crime bill the opposite of what Texas is doing in its justice system?

9. How much has prison spending increased in Canada in the last three years?

10. What is the main reason that crime rates increase with harsher and longer sentencing?

After Viewing

Return to the pre-viewing questions. Debrief them as a class now that you have had a chance to view the video. Do you think the news report was balanced? Do you think all appropriate voices were heard? Whose voices were left out (if any)?

In three or four sentences, summarize the controversy.

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Bill C-10: The Omnibus Crime Bill

Definition

An omnibus bill is a bill that contains many separate parts and that, if passed, will change a number of different laws at one time.

Reading Prompt

As you read the information in this section, consider the strengths and weaknesses of the bill.

The newly tabled crime bill is officially called: “An Act to enact the Justice for Victims of Terrorism Act and to amend the State Immunity Act, the Criminal Code, the Controlled Drugs and Substances Act, the Corrections and Conditional Release Act, the Youth Criminal Justice Act, the Immigration and Refugee Protection Act and other Acts.”

This lengthy title highlights that

fact that Bill C-10 is an omnibus bill, so named because it affects 10 former crime bills—bills that Stephen Harper’s government failed to pass when it held a minority in Parliament. The bill passed second reading in Parliament September 28, 2011.

The chart below summarizes the main focus of each of the 10 previous bills and the proposed changes to Canadian law.

Title of New Law	Focus of Law	Major Changes
1. Penalties for Organized Crime Act	Mandatory minimum sentences for drug crimes	Anyone growing five or more marijuana plants for the purpose of trafficking would receive a minimum sentence of six months. Anyone growing more than 500 plants would be jailed for two years. Maximum penalty for marijuana production would increase from seven to 14 years.
2. Ending House Arrest for Property and Other Serious Crimes by Serious and Violent Offenders Act	Fewer criminals will be eligible for house arrest.	House arrest ended for those who caused bodily harm, used a weapon, or were involved in the drug trade
3. Eliminating Pardons for Serious Crimes Act	Fewer criminals will be eligible for a pardon.	Eliminate pardons for sex offenders against children and for those who have committed more than three serious crimes.
4. Cyber Investigation	Current laws will be updated to cover computer and Internet communications.	Allows police to demand that a telecommunications service provider preserve computer data even without a court order. Makes hate material illegal online and the possession of a computer virus “for the sake of committing mischief.”
5. Protecting Children from Sexual Predators Act	Update laws pertaining to the Internet and child sexual exploitation	Creates new offences and imposes increased or new mandatory minimum sentences for certain sexual offences against children.

6. Sebastien's Law (Protecting the Public from Violent Young Offenders)	New provisions allowing for adult sentencing	Prosecution attorneys can seek adult sentencing for young offenders. When a young offender has been found guilty of a violent offence, the court would have the option to lift the publication ban.
7. Increasing Offender Accountability Act	Changes in the Corrections and Conditional Release Act	Enshrines a victim's right to participate in parole hearings and addresses inmate accountability, responsibility, and management
8. The Keeping Canadians Safe Act	Changes rights of citizenship to Canadians convicted of crimes in other countries	Gives the Minister of Public Safety more leeway to deny a transfer to Canada of Canadians who are convicted of crimes abroad.
9. The Justice for Victims of Terrorism Act	New focus on terrorist crimes	Allows a victim of terrorism to sue perpetrators, including foreign states.
10. The Preventing the Trafficking, Abuse and Exploitation of Vulnerable Immigrants Act	Named the "anti-stripper" measure	Authorizes immigration officers to refuse work permits to vulnerable foreign nationals when it is determined they are at risk of humiliating or degrading treatment.

Sources: *The Globe and Mail*, September 21, 2011, "Tories unveil tough on crime legislation"; *Toronto Star*, "Tories roll nine bills into massive crime proposal," September 20, 2011

Follow-up

1. What is your overall impression of Bill C-10?
2. Rank what you think are the three most important changes and why.
3. Write three critical questions regarding one of the laws that you would like more information about.

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Bill C-10: Why So Controversial?

Did you know . . .

By making it harder for offenders to gain parole, it will cost \$60-million more a year to keep non-violent criminals behind bars longer.

Focus for Reading

In some ways you would think that any bill that cracks down on crime is a good thing. But many people are upset about Bill C-10. As you read the information that follows, ask yourself: "What are the potential problems with this bill?"

There are three major reasons that Bill C-10 is controversial:

1. People disagree on the bill's focus—which is on harsher punishment for certain crimes.
2. The economic costs of the bill
3. The potential effects of the bill on certain groups of vulnerable Canadians

Another point of contention regarding the bill is the number of changes that are proposed. Most people can agree that some changes are appropriate and warranted, while other changes provoke intense debate. By packaging all these laws into omnibus legislation, the Conservative government seems intent on passing an all-or-nothing approach to criminal justice that ignores statistical evidence on crime rates and evidence from the United States that similar tough-on-crime approaches have not been successful.

1. Harsher Punishments

Central to the new bill are mandatory minimum penalties (MMP) for certain crimes.

Critics of Bill C-10 point to the fact that there is little research to prove that MMPs deter crime. Even the Justice Minister's office stated that studies are inconclusive with respect to the question of whether MMPs deter crime. So if mandatory minimum penalties can't be shown as a deterrent, why are they central to the new bill?

Critics point to Justice Minister Rob Nicholson's aim to ensure victims feel that justice has been done and that the amount of time served is proportional

to the gravity of the offence. These objectives are tied to the current belief that victim's rights are not being upheld and to society's view that the system is too soft on criminals.

This is a difficult argument to oppose; however, there is no evidence that the sentences being handed down now are too light and that changing them will make Canadians safer or victims feel that justice has been served in a more appropriate way.

Conservative strategists admit that tough-on-crime policies are very popular among voters. Even the opposition parties find it difficult to criticize the proposed measures since they fear they will be labelled as being soft on crime. It seems that the Canadian public may be more interested in punishment for criminals than rehabilitation of criminals—and the government is responding to that sentiment.

2. Economic Costs

Each of the 13 000 inmates in federal prisons cost the Canadian government \$93 000 a year. Another 22 000 prisoners are in provincial jails. The government knows that its crime bill will cause the number of federal inmates to rise. But by how much is unclear.

Plans have been released to expand and build new jails to accommodate the anticipated increase in the number of prisoners. Public Safety Minister Vic Toews projects that the bill will cost an extra \$2-billion over five years. The Parliamentary Budget Office says that the increase would more likely be

Did you know . . .

Statistics suggest that only a tiny minority of offenders commit new crimes while on parole—about 1.3 per cent.

Did you know . . .

Research shows that the longer a person is in prison the higher the chance that they will reoffend.

\$1-billion a year. This estimate does not include the additional costs to provinces that will also be faced with longer sentences for criminals.

Critics of the new crime bill also argue that money needed to build more prisons or house more prisoners for longer periods could be better spent on education and health care to help deal with some of the problems that result in people turning to crime.

3. Criminalizing Vulnerable Canadians

A more punitive penal system keeps people in prison for longer periods of time. The majority of prison inmates are from vulnerable communities: people with mental illness, people who are poor, Aboriginal peoples, people who come from dysfunctional families, and/or those who have grown up surrounded by violence. When vulnerable people are kept in prison longer and do not receive adequate rehabilitation or support, the cycle of crime is perpetuated in communities already at a disadvantage.

Mandatory minimum sentences would worsen an already problematic situation for women in federal prisons. Forty-five per cent of these women are classified as non-violent and eligible for accelerated parole under previous rules. Sixty-six per cent of women serving time in federal prisons suffer from substance abuse. Thirty per cent have serious mental

health concerns (compared with 14.5 per cent of male offenders). And 25 per cent engage in self-harming behaviour. Mandatory-minimum-sentence legislation may only make things worse.

For decades Aboriginals have been disproportionately represented in prisons. The reasons for this are rooted in an ongoing legacy of colonialism and racism. One in three federally sentenced women is Aboriginal, despite representing only three per cent of the female population in Canada. Shoshana Pollack, associate professor at Wilfrid Laurier University states, “The main function of the prison is to maintain the security. They’re not treatment centres, and although there’s been a lot of rhetoric about prisons for women being therapeutic and treatment-oriented, the fact is the main purpose of prison is to punish and control” (*Macleans*, January 17, 2011). It seems that existing programs and services are ineffective and insufficient to keep up with general demand.

The elimination of conditional sentences for a range of offences will eliminate the flexibility that, for example, enables judges to allow single mothers to continue working while serving their sentences and preventing the break-up of families. Conditional sentences allow judges to give those with underlying mental health issues the community treatment they need.

Analysis

1. Summarize in your own words the two main arguments in support of and against Bill C-10.
2. In your opinion, which argument do you find the most persuasive and why?
3. Why do you think Prime Minister Harper packaged all the previous bills into one omnibus bill?
4. Send your informed questions/comments regarding Bill C-10 to your local MP.

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Lessons from Texas

Before Reading

Discuss in a small group your knowledge of another criminal justice system either in a different country or that existed in a different period in history. Rank these systems from “toughest on criminals” to “more lenient on criminals.” Explain why attitudes toward criminal justice have changed over time and/or why you think attitudes toward criminal justice are different in different countries.

During Reading

The state of Texas in the United States has a history of being tough on crime. While you read, complete a chart like the one below, based on the information in the article:

Lessons From Texas
Evidence that Texas is tough on crime • • •
Results of the Texas criminal justice system • • •
Recent changes to the justice system • • •
Results of changes to the system • • •

A Dubious Reputation

For years, Texas had the greatest number of prisoners behind bars and performed the greatest number of executions of any state in the U.S. Texas currently has hundreds of prisoners on death row awaiting execution. Up until 2005, Texas had the highest rate of incarceration in the world, with one in 20 of all its residents locked up in a jail cell. In fact, jails were so crowded that 30 men at a time were often crammed into a single bunkhouse.

The state paid billions of dollars to build prisons and to house prisoners. And

when the U.S. began its war-on-drugs policy, the prison population quadrupled as drug users became more directly targeted for prison time.

In 2005, the state realized it was facing a crisis. It cost too much money to put all criminals in jail—and the crime rate was still increasing.

Turning Point

New ideas and laws emerged that aimed to keep many criminals out of prison.

Thieves, addicts, drunk drivers, and offenders with drug or alcohol problems would often get probation instead

of prison on the condition that they participate in a drug treatment program.

The positive results could not be disputed. Thousands of people were sent to treatment instead of being required to serve a jail sentence. After years of drug abuse and committing crimes to pay for drug habits men and women became clean and sober. People got the care they needed.

The cost of putting someone in drug treatment was about one-tenth of what it cost to put them in prison. If they hadn't been ordered into drug treatment some might have gone to jail for life. Drug treatment is not only cheaper than incarceration, it is also more effective, because graduates are less likely to commit new crimes than if they went to prison. Data show that 60 per cent of individuals charged with drug-related crimes would commit a new crime in about 11 months. For those who receive drug treatment, that number drops to around 15 per cent.

Over five years the rate of incarceration in Texas dropped by 9 per cent at the same time that the crime rate dropped by nearly 13 per cent. What was surprising to some about the changes in the Texan criminal justice system was the fact that very conservative, tough-on-crime politicians were supporting the changes. Why? Because the changes saved taxpayer dollars. If Texas needed \$2-billion to build new prisons, for a fraction of that price, drug treatment could make those prisons virtually unnecessary.

The state of Texas still has very tough sentences for violent crime. The death penalty still exists, but the state has stopped sending people to prison automatically for minor parole violations, such as missing a parole appointment. That change alone is keeping 5 000 people out of prison at a savings of \$300-million per year. Are there lessons for Canada to learn from Texas?

Follow-up

1. Based on what you just read, write a short statement to the Canadian government about the direction they should be taking toward crime and punishment.
2. Conduct a survey to see where young people and older Canadians stand on the proposed changes to Canadian law.

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Activity: *Fear of Crime, Need for Safety*

Feeling safe is an important psychological condition in our lives. Fear, distrust, and anxiety related to being a victim of crime or a potential victim of crime is an obstacle to leading a productive and happy life.

In addition to affecting our sense of personal security, fear of crime also impacts our communities—in particular, limiting our interactions and trust of others. A 2008 Statistics Canada study reported that 18 per cent (or about three million) Canadians indicated that they experienced fear of crime while walking alone in their community after dark, while 83 per cent reported that they did not experience fear of crime in these conditions.

Research shows that on average women and older Canadians report higher levels of fear in their local communities. Fear of crime also differs considerably across Canada. A 2000 Gallup survey found respondents who expressed fear while walking at night varied from a low of 14 per cent in Atlantic Canada to a high of 39 per cent in British Columbia. Levels of fear in Canada are also lower than in many other Western nations.

Despite differences in how safe people feel, most agree that one of the government's main jobs is to keep them safe and secure. But there are different beliefs on how governments can maintain safety without taking away rights and freedoms. Most Canadians do not want the country to become harsh and punitive—where people's mistakes are judged harshly by the law and where punishments focus on retribution more than rehabilitation.

How does society balance punishment with rehabilitation? And why is this important?

In a group, think about where you get your “feelings” of safety. Consider how your perceptions of safety are influenced by the following groups: the media, your friends, your family, your neighbours, law enforcement officials, and politicians. For each of these groups record their influence on your personal feelings of safety (how and why do they make you feel safe or unsafe?).

Record your answers on chart paper. Have a “dotmocracy” walk where other students walk around the room to read your groups' responses and vote on what you believe are the main factors in making them feel safe and unsafe. Consider as a class what the two most significant changes could be to make the people in your community “feel” safer.