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By latching onto victimhood, bill of rights is just cruel political calculus

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The government of Stephen Harper has stood accused of a multitude of offences against reason and good sense during its tenure in Ottawa, but inconsistency is not among them.

True to form, its proposed Victims Bill of Rights joins a growing body of legislation that is long on ideological flag-waving and short on meaningful content.

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The bill, a hodge-podge of aspirational cant and window-dressing, will do little overt damage to the delicate balancing of rights that characterizes the Canadian justice system. In fact, most of the provisions mirror practices that are already in place in courtrooms across the country.

Rather, its real harm lies in the realm of opportunities lost and the consolidation of false perceptions. Of these, the most damaging is its underlying belief that victims can, and should, play a central role in our court system.

For reasons that go directly to the presumption of innocence, this notion is erroneous and creates cruelly unfair expectations. It is the state – through well-funded police forces and prosecution offices – that contests the innocence of a defendant. The trial process, in fact, does not even recognize the existence of a victim until a crime has been proved.

Not surprisingly, prominent victim advocates have expressed disappointment with the proposed Bill of Rights. Their disillusionment speaks to a deeper reality; the exploitation of their misery.

In latching onto victimhood as a central pillar of its justice policy, the Harper government offers victims a role they can never truly play if the justice system is to remain fair and balanced. In holding out the promise of being an influential counterpoint to the Crown and defense, it turns victims into props in a cruel political calculus.

Crime victims are not alone in being misled. By misrepresenting the role of victims in the justice system, the government invites the public to develop a skewed understanding of how the system works.

To be fair, a handful of provisions in the proposed bill have merit, such as ones that promise victims ready access to the progress of a criminal case and an offender's post-incarceration release conditions.

Others are mere gobbledygook that will not alter the status quo, such as a provision that compels bail and sentencing judges to consider the effects of their decisions on victims. With few exceptions, judges and justices of the peace already do so.

Under a curious change to the Canada Evidence Act, spouses would be compelled to testify against one another. Since spousal testimony is already permitted in domestic abuse cases, this provision will have little application.

How the spousal testimony change falls under the rubric of a victims' bill is never explained. Nor, is the efficacy of ending a provision rooted in maintaining harmony in the home. If the government has studies that justify this change, it should produce them. Failing that, the proposal smacks of both the much-maligned federal omnibus crime bill and recent voting legislation; insidious exercises in law-making that hide significant change amid a confusing welter of provisions.

It is also worth noting that the federal government is not plowing virgin terrain. Several provinces, most notably Ontario, already have similar rights regimes for victims. Whatever merit the new federal bill possesses lies mainly in standardizing these rights from province to province.

Parsing the provisions further, one finds subtle language favouring the use of punitive measures, while at the same time, downplaying the value of rehabilitating offenders. This may have little effect in the short term, yet could well flavor regressive judicial interpretations in years to come while simultaneously fostering public misunderstanding about the true goals of the system.

And what of the opportunities squandered?

Day after day, month after month, victims and defendants alike are traumatized by inordinate delays that plague the trial process. A sincere government would recognize one, superordinate right – the guarantee of a prompt and fair court. Yet, the Victims Bill of Rights is conspicuously silent when it comes to a court system that is notoriously bloated and underfunded; where victims wait interminably as the machine of justice grinds on.

Every crime creates a new set of victims, yet the proposed bill does nothing to tackle the structural roots of crime – poverty and unequal opportunity. Moreover, absurdly low thresholds for access to legal aid programs guarantee that those accused of crimes and families in domestic trouble will be further

impoverished as they try to sort out their legal problems.

The bill also proposes rights to restitution which, in some cases, are already in existence, and in others, create the fictional notion that impecunious offenders can eventually make their victims whole.

Were it serious about aiding victims, the government could ensure that Criminal Injury Compensation Boards have sufficient funding to act as a genuine source of relief. It would also ensure that those victims who require counseling are able to obtain it.

At the other end of the justice juggernaut, government failures are equally abysmal. Incarceration remains a brutalizing experience that engrains anti-social attitudes, fails to either rehabilitate offenders, and offers few meaningful, post-release alternatives.

Should the federal government discover a genuine interest in helping victims – and society – before its mandate comes to a close, opportunities for it to do so abound. It needs only to find the will.

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