

Time to tear down last of the Tory crime agenda

Justin Trudeau should move quickly to do away with what's left of the Harper government's disastrous tough-on-crime policies



e Harper government misused crime statistics in order to stoke public fear, then
tered to these fears with vindictive measures and a costly prison-building program,
ites Daniel Brown. (JOEL SAGET / AFP/GETTY IMAGES)

By **DANIEL BROWN**

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Week by week, one legislative brick at a time, the courts are tearing down former prime minister Stephen Harper's tough-on-crime agenda.

It was bound to happen. Even as the Harper regime's legislative excess was in full bloom, legal experts were predicting the inevitable demise of the wave of punitive measures it had created.

This is what happens when ideological zeal overtakes reason; when sound advice is filtered out and ignored; when rhetoric rules the day.

In the past two weeks alone, several mandatory minimum sentencing laws have been ruled unconstitutional by Canadian appellate courts because they removed a judge's ability to tailor a fair sentence to the unique circumstances of the offender before them. Judicial discretion has always been at the root of sound sentencing policy, so the provisions were doomed from the start.

A fundamental question now faces the Trudeau government. Does it intend to stand by and wait for the courts to systematically dismantle every last plank of regressive legislation left behind by our last government? Or, will it move proactively to undo the damage?

There are powerful arguments in favour of taking timely action. They range from the high cost of fighting constitutional battles to the destructive effects that these laws have on offenders caught up in the court system.

Striking down legislation in a piecemeal fashion takes years to accomplish and comes at great expense. Few offenders are in a position to pay the mounting legal bills involved in obtaining a trial decision and then advancing up the appellate ladder.

In order to reverse the damage done by the Harper regime, the Trudeau government has the option to undertake a rapid review of provisions that are constitutionally suspect, rescinding the worst of them. It could commence with those one-size-fits-all mandatory minimum sentences that still remain in force.

Jail does not make people better citizens. Instead, at a cost of almost \$120,000 per year, offenders are packed into a brutalizing prison system that crushes the spirit and hold out precious little hope for rehabilitation. Impressionable young offenders who comprise the largest segment of the prison population come into contact with career criminals who can warp their perspective on life. Moreover, if anything, having a prison record makes an ex-offender virtually unemployable after release.

Since a disproportionate number of prisoners are aboriginal, indigent or members of some other minority group, there is no mystery as to who pays the highest price for the legislative folly of mandatory minimum sentences.

Exacerbating this problem, the previous government took pains to erect hurdles for ex-offenders seeking a pardon once their sentence was complete. Quadrupling application costs and doubling waiting time to as much as ten years before a criminal record can be expunged runs counter to notions of common sense and reintegration.

When an offender has served his time and is striving to live a clean and productive life, why wouldn't we make every effort to enhance his prospects for rehabilitation and finding a job?

Another target ripe for reform is the contentious "mandatory victim surcharge," which requires all offenders to pay hundreds of dollars after being convicted regardless of their financial situation. Those who fail to pay these hefty fines are thrown back into jail creating a modern day debtors' prison. We must give judges the discretion to once again waive this surcharge where appropriate.

In a similarly harsh vein, the Harper government passed legislation permitting the swift deportation of anyone convicted of an offence that carries a maximum term of imprisonment of ten years or more even if they weren't actually sentenced to a single day in jail for the crime. How many families have been torn apart by the effect of this unforgiving sanction?


These and other comparable measures typified the world view of a government that misused crime statistics in order to stoke public fear, then catered to these fears with vindictive measures and a costly prison-building program.

Criminologists who tried to blow the whistle on this cavalcade of folly were ignored. So, too, were criminal lawyers and legal scholars who warned that the new laws could not withstand constitutional scrutiny.

It is up to the Trudeau government now to prove its commitment to sound justice policy by erasing these monuments to penal delusion.

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