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Report Slams Federal Government's Prison Reform Roadmap

Proposed new Corrections policies dismantle human rights protections and undermine not strengthen public safety

OTTAWA, September 24, 2009 – The federal government's blueprint for the transformation of Canada's prisons will dismantle a generation of progressive reforms by previous Conservative and Liberal governments, and severely diminish Canada's claim to leadership in the field of human rights says a new report by University of British Columbia law professor Michael Jackson and Graham Stewart, former Executive Director of the John Howard Society of Canada.

Their critique, *A Flawed Compass: A Human Rights Analysis of the Roadmap to Strengthening Public Safety*, was prepared in response to the federal government's self styled "Prison Roadmap" that would move the Correctional Service of Canada (CSC) away from an unequivocal commitment to respect and protect the human rights of prisoners, placing Canada on the same path that has proved so disastrously expensive and ineffective in the United States.

"It is a flawed moral and legal compass," says Professor Jackson. "It points in the wrong direction – a direction that, tragically and inevitably, will bring yet more chapters in an already overburdened history of abuse and mismanagement of correctional authority through disregard of human dignity."

In 2007, then Public Safety Minister Stockwell Day appointed a panel chaired by a former Ontario Minister of Corrections in the Conservative government of Mike Harris, and gave them the vast mandate to complete a review of the CSC's operational priorities, strategies and business plans.

After only six months, the panel produced a report which was then adopted by Corrections Canada and the federal government as a "Roadmap" for transformation. Without the benefit of public debate or legislative change, Corrections Canada has moved ahead with the panel's recommendations.

The report says the government's public policy in criminal justice is driven by narrow political ideology. According to Professor Jackson: "The *Roadmap* ignores historical experience, the volumes of evidence from Royal Commissions and government task forces, scholarly research, international human rights instruments, and judgments of the Supreme Court of Canada. It has instead charted a regressive path that is inconsistent with the best evidence, Canada's *Charter of Rights and Freedoms*, and the common law."

Jackson and Stewart argue that the proposed changes will not only bring huge costs by increasing the level of unnecessary imprisonment, but will also undermine – not strengthen – public safety. As well, the changes will escalate what the Supreme Court of Canada has called the "staggering injustice" of overrepresentation of Aboriginal people in Canada's prisons.

“All human beings hold certain fundamental rights,” says Jackson. “The mark of a civilized society is that even those who have committed serious crimes retain the right to have their human dignity and human rights respected by our criminal justice system.”

“The state must only impose conditions that are the least restrictive and necessary to ensure public safety, rather than conditions aimed only at greater punishment for punishment sake.”

“Good citizenship has never been the product of abuse and a prison system that is not committed to human rights is inevitably one that tolerates abuse” says Stewart. “Arbitrary and abusive conditions will teach only resentment, anger and contempt for those in authority. Most prisoners will one day be back on the streets. How we treat them while in prison largely determines whether they become a better risk than before they were incarcerated.”

In 1990, the federal government released a comprehensive plan for modernizing 150 years of corrections. Rather than the six months needed to produce the current transformation agenda, “Directions for Reform” was the product of 96 months of intensive consultation, study and analysis and pointed Corrections on a firm and fair path that has made Canada the role model for other countries.

“Corrections has now taken an off-ramp to a highway to nowhere that was closed years ago,” said Jackson

BACKGROUND Q and A

What is the Press Conference about?

This press conference is to announce the release of a detailed and comprehensive critique of the *Roadmap to Strengthening Public Safety* that is the basis for Correctional Service of Canada’s current “transformative agenda”.

Why be suspicious of the transformative agenda?

The CSC “transformative agenda” was prepared by a panel with a clearly partisan chair, which after only a few months of work, made comprehensive recommendations that reflected the government’s already announced policies. The policies serve the purpose of dismantling human rights protections that had become part of Canada’s correctional law after years of turmoil and abuse in the federal prison system. The Panel told the Government and Corrections Canada what they wanted to hear rather than what evidence, law and good practice would dictate.

Neither the *Roadmap* nor the “transformation agenda” has been subject to any serious public policy analysis or debate, yet Corrections is now being made over in its image. Makeovers – of faces, bodies and houses - may provide acceptable scripts for popular reality television shows, but this makeover of Federal Corrections affects not only the external façade of prisons but would also undermine the fundamental human rights of the men and women confined behind their walls and fences.

What is the key failure of the transformative agenda”?

The report dismantles key human rights protections for prisoners in Canada's federal prison system and would place Canada on the same path that has proved so disastrously expensive and ineffective in the USA. Human rights protections are what keeps prisoners from being abused in a system with virtually total control over all aspects of their lives.

What are the fundamental criteria for a correctional system for the 21st century

The first criterion is that in law, policy and practice the system must demonstrate its overriding commitment to the protection of human rights. The fact that nowhere in a report charting the future of the most coercive arm of the state, is there any reference to the long and difficult struggle in the history of Canadian imprisonment to entrench a culture of respect for human rights is unpardonable. For this reason alone the *Roadmap* must be repudiated as a blueprint for change.

Canadians do not have to labour over the hard lessons learnt from Abu Ghraib and Guantánamo Bay to understand the essential relationship between human rights and imprisonment. In Canada our own legacy of abuse, most recently exposed in the Correctional Investigators report on the death of Ashley Smith and in the continuing and increasing over-representation of Aboriginal prisoners, should make it clear that complacency has no place in our commitment to human rights.

The second criterion for a "correctional system" is that it must "correct." While the *Roadmap* makes very substantial recommendations for change, in major areas it provides a dearth of evidence for their likely effect, let alone benefit and they disregard the available evidence of what works. There are many recommendations of the *Roadmap* which reflect ideological and populist views that being "tough on crime" is a sufficient and defensible basis for public policy. Not only will implementation of many of the key recommendations undermine respect for human rights but they will do nothing to enhance and much to undermine public safety.

Don't we have to get tough on crime?

As US Attorney General, Eric Holder, told the American Bar Association last month, being tough on crime is one thing but "we must also commit ourselves to being smart on crime...We need to adopt what works"

What does "being smart" mean?

Being smart means that corrections policies and practices are based on a careful evaluation of the extensive literature on what works a field to which Canadian researchers have made important contributions, rather than relying on ideological beliefs.

Being smart also requires acknowledging that human rights and public safety are not opposing concepts. A correctional system that degrades human dignity can never achieve the goal of enhancing public safety.

Being smart, in the face of escalating deficits, also requires the most careful evaluation of how we spend correctional dollars. The *Roadmap's* proposals for building new super prison multiplexes comes at a price tag in the billions and will saddle future generation of Canadians with the costs of an ill-conceived model in which issues of human rights

are consigned to the periphery not the centre of a just, humane and effective prison system.

Why should the public care about prisoners' rights?

A prison system can never "correct" a person if it subjects them to abuse. Prison systems that permit abuse put the public at risk when those so abused are released.

Governments that do not carefully protect human rights are governments that tolerate abuse.

Prisoners are unpopular and, therefore, easy targets for those politicians who use fear and anger to avoid their responsibility to ensure that human rights are protected.

If we cannot trust politicians to protect and honour the human rights of all citizens, regardless of their popularity, then no citizen can count on their human rights to be respected. The human rights of prisoners' rights are our rights.

Who prepared the critique?

Michael Jackson, QC, Law Professor, University of British Columbia and Graham Stewart, recently retired Executive Director of the John Howard Society of Canada. Together they have seven decades of experience trying to promote and secure respect for human rights in prisons. Michael Jackson was this month named the inaugural recipient of the Ed McIsaac Award for Human Rights in Corrections.