



True North In Canadian Public Policy

Commentary

June 2014

More Than Words

Enhancing the Proposed *Canadian Victims Bill of Rights* (Bill C-32)

Benjamin Perrin

1. Introduction

Heralded as “historic legislation” by Prime Minister Stephen Harper (3 April 2014), the *Victims Bill of Rights Act* (Bill C-32) was recently introduced in the House of Commons by the Honourable Peter MacKay, Minister of Justice and Attorney General of Canada. In announcing this proposed legislation that followed an extensive public consultation period, the Prime Minister (3 April 2014) said: “The new legislation being introduced in Parliament today aims to ensure that victims are at the heart of our judicial system . . . Victims will have enforceable rights in Canada’s criminal justice system, will be treated with the respect and fairness that they deserve, and will have a stronger voice.”

However, concerns have been expressed that Bill C-32 does not live up to the expectations of victims. While Sue O’Sullivan (13 May 2014), Federal Ombudsman for Victims of Crime, has applauded the proposed legislation, she has also said “the Bill fails to fully address the breadth and depth of victims’ needs and concerns”. Of the 30 recommendations made by the Ombudsman before the introduction of Bill C-32, only four have been implemented fully and 10 have been partly included. One of her primary concerns is about the lack of enforceability of the rights included in the *Canadian Victims Bill of Rights* – one of the main parts of Bill C-32 (2014).

The author of this document has worked independently and is solely responsible for the views presented here. The opinions are not necessarily those of the Macdonald-Laurier Institute, its Directors or Supporters.

Recent high profile cases in Canada have poignantly shown that an inadequate response by the criminal justice system from the perspective of victims can compound the impact of the initial crime. Canadians are all too aware of tragic cases like Rehtaeh Parsons in Nova Scotia where an allegedly dismal response from the police is claimed to have contributed to her suicide. The B.C. Missing Women Commission of Inquiry (2012) found that numerous complaints of missing victims were ignored or misinterpreted – they were treated as “nobodies” (2; 142–146). Victims are paying the price of the devastating effects of crime, far more often than their offenders.

This brief Commentary provides an evaluation of the proposed *Canadian Victims Bill of Rights* (a key part of Bill C-32), and recommendations aimed at ensuring that it meets the objective of meaningfully enhancing the rights of victims within the criminal justice system. Part 2 provides a synopsis of victimization in Canada, including both self-reported crime and police-reported crime. Groups of victims suffering disproportionately high levels of violent victimization are highlighted and reasons for under-reported crime related to the justice system are identified. Part 3 summarizes the key components of the *Canadian Victims Bill of Rights*. Part 4 evaluates this proposed legislation and recommends several amendments be made to it to better respond to victims and ensure its effectiveness, including: (1) broadening the definition of “victim” to ensure that organizations, including charities and non-profits, can claim rights when they are the victims of crime (such as fraud); (2) authorizing lawyers to act on behalf of victims; and (3) enhancing the status of victims in criminal proceedings and remedies available to them to ensure their rights are respected. Finally, Part 5 offers some closing comments on the way forward.

2. Victimization in Canada

Every year, millions of Canadians experience victimization due to criminal incidents. Statistics Canada studies have found relatively stable victimization rates over the most recent five-year study period. Perreault and Brennan (2010) report that annually, approximately one-quarter of Canadians 15 years of age and older (7.4 million people) report being the victim of a crime, with the following crimes being prevalent:

- Theft of personal property (34 percent)
- Assault (19 percent)
- Theft of household property (13 percent)
- Vandalism (11 percent)
- Sexual assault (8 percent)
- Break-ins (7 percent)
- Theft of motor vehicles/parts (5 percent)
- Robbery (4 percent) (6)

Almost 1.6 million Canadians report being victims of violent crimes annually, accounting for approximately 6 percent of the population (aged 15 years and older) (10).¹ However, there are certain groups that are more likely to be victims of these violent crimes. Young Canadians, between 15 and 24 years of age are disproportionately victims of such crimes, and are 15 times more likely than seniors (aged 65 and older) to be victims of violent crime. Female victims accounted for 70 percent of reported sexual assaults. Aboriginal Canadians are twice as likely as non-Aboriginal Canadians to be victims of violent crime. Persons who self-identify as homosexual report experiencing higher levels of violent victimization. Interestingly, immigrants and visible minorities experience less violent victimization than non-immigrants and non-visible minorities, respectively (10–11).

A significant number of criminal incidents are not reported to police, according to regularly conducted surveys by Statistics Canada. In 2012, there were 1.95 million total crimes reported to police (55,88 per 100,000 people), including 415,119 violent crimes (1,190 per 100,000 people) (Perreault 2013, 28). However, only one-third of assaults (34 percent) and a mere fraction of sexual assaults (12 percent) were reported to police. Among the reasons that people choose not to report violent and household crimes are that they didn't believe the police could do anything about it, they had no confidence in the justice system, and they feared publicity or news coverage (Perreault and Brennan 2010, 14–16).

Behind each of these statistics are, of course, real people whose lives have been affected, sometimes devastatingly, by offenders. In some cases, it takes years for them to recover from their ordeals. As just one example, this is how a teenage victim of sex trafficking described her life after police rescued her from Imani Nakpangi, Canada's first convicted human trafficker:

[I am c]onstantly looking over my shoulder afraid either Imani or his friends are going to come after me for putting him in jail. I don't feel safe at home. He knows where I live and what my family looks like, and where they live I have nightmares about him. I have low self-esteem. Feel like I'm only good for one thing, sex. I don't see why someone, a man, would be interested in me and try to get to know me because I feel unworthy, dirty, tainted, nothing; basically lost two and a half to three years of my life being with Imani.
(*R. v. Imani Nakpangi*, 3–4)

3. Overview of the *Canadian Victims Bill of Rights*

Bill C-32 (*Victims Bill of Rights Act*) is made up of two main parts. First, it creates a *Canadian Victims Bill of Rights* containing 29 clauses as a new stand-alone piece of legislation. Second, it includes numerous amendments to existing statutes.

The preamble of the *Canadian Victims Bill of Rights* is helpful in ascertaining its purposes and could be valuable for judicial interpretation.² These objectives include recognizing the harm of crime on victims and society; the need to treat victims with courtesy, compassion, and respect; the importance of considering victims throughout the justice system; realizing the rights of victims under the *Canadian Charter of Rights and Freedoms*; and acknowledging that the administration of justice is served by recognizing victims' rights.

The *Canadian Victims Bill of Rights* applies to victims of criminal offences in the criminal justice system (from when an offence is reported to investigations, prosecutions, corrections and conditional release processes, and determinations by mental disorder review boards and courts).³ The definition of a "victim" is "an individual who has suffered physical or emotional harm, property damage or economic loss as the result of the commission or alleged commission of an offence" (s. 2).⁴ If the victim is deceased or incapacitated, a family member or relative may exercise the victims' rights on their behalf (s. 3).⁵ For the *Canadian Victims Bill of Rights* to apply, the victim has to be present in Canada, or be a Canadian citizen, or permanent resident (s. 19(2)).

Sixteen rights for victims, organized under four categories, are set out in the *Canadian Victims Bill of Rights*, as summarized below:

1. **Right to Information:** every victim has the right, on request, to information about:

- the justice system and role of victims (s. 6(a));
- services and programs available to the victim (s. 6(b));

- their right to file a complaint for any infringement or denial of any of their rights (s. 6(c));
- the status and outcome of the investigation (s. 7(a));
- location of the proceedings, when they will occur, and their progress and outcome (s. 7(b));
- reviews related to conditional release of the offender, and the timing and conditions of release (s. 8(a)); and
- mental disorder review hearings related to the offender (s. 8(b)).

2. Right to Protection: every victim has the right to:

- have “their security considered by the appropriate authorities in the criminal justice system” (s. 9);
- have “reasonable and necessary measures” to protect them from intimidation and retaliation (s. 10);
- request their privacy be considered (s. 11);
- request their identity be protected if they are a complainant or witness in proceedings related to the offence (s. 12); and
- request “testimonial aids” (defined by Northcott [2009] as “[testifying by] closed-circuit television (CCTV), witness screens, a support person who may be present during the delivering of testimony, and the appointment of a lawyer to conduct the cross-examination of a witnesses when the accused is self-represented”) when appearing as a witness (s. 13).

3. Right to Participation: every victim has the right to:

- convey their views about decisions in the criminal justice system that affect their rights under the *Canadian Victims Bill of Rights* and to have those views considered (s. 14); and
- present a victim impact statement and have it considered in the criminal justice system (s. 15).

4. Right to Restitution: every victim has the right to:

- have the court consider making a restitution order against the offender (s. 16); and
- if such an order is made and it is not paid, to have the order entered as a civil court judgment that is enforceable against the offender (s. 17).

There are a number of conditions or limitations related to these rights. First, they are to be interpreted and applied in a manner that does not “interfere with the proper administration of justice” (such as interfering with police or prosecutorial discretion, or causing excessive delays) (s. 20).

Second, these rights are “to be exercised through the mechanisms provided by law” (s. 19(1)). Victims are expressly denied the ability to launch private lawsuits or seek damages on the basis of an alleged infringement or denial of their rights under the *Canadian Victims Bill of Rights* (s. 28). Victims are also unable to appeal any decision or order based on an alleged violation of these rights (s. 29).

Instead, the *Canadian Victims Bill of Rights* would create an administrative “complaint” process where victims go to the relevant “federal department, agency or body” (s. 25(1))⁶ if they believe their rights have been infringed or violated. These governmental organizations are required to develop a complaints mechanism that includes a process to review alleged infringements or denials of victims’ rights, authority to make recommendations to remedy violations of these rights, and an obligation to notify victims about the outcome of the complainant and any recommendations (s. 25(3)). If the victim is not satisfied with the response to their complaint, then they can seek a review by “any authority that has jurisdiction to review complaints in relation to that department, agency or body” (s. 25(2)).

Third, section 27 of the proposed *Canadian Victims Bill of Rights* related to the “status” of victims states: “Nothing in this Act is to be construed as granting any victim or individual acting on behalf of a victim the status as a party, intervenor or observer in any proceedings.”

To give further effect to the various rights in the *Canadian Victims Bill of Rights*, Bill C-32 contains numerous proposed amendments to existing statutes, including the *Criminal Code*, *Corrections and Conditional Release Act*, *Canada Evidence Act*, and *Employment Insurance Act* that give specific effect to these proposed rights. These are summarized on the Parliamentary website (Parliament of Canada 2014) and are discussed in a report by the Federal Ombudsman for Victims of Crime, and will not be examined in detail below. Some examples of the range of these amendments are:

- An expanded definition of “victim”
- Victims will be allowed to access the offender’s bail and/or probation order
- Standardized forms for victim impact statements with clear instructions for victims
- Judges will be required to consider ordering restitution for victims in all cases
- Victims will be able to obtain information about incarcerated offenders progress in their correctional plan and information about conditions of their release
- The Parole Board of Canada must take the victim’s protection and safety into account and notify victims of any changes to the offender’s release conditions
- Victims will be informed about restorative justice opportunities

4. Evaluation and Recommendations

The advantages of the proposed *Canadian Victims Bill of Rights* include its broad applicability to the various phases of the criminal justice system, recognition of a range of harms that victims suffer, interpretive force and primacy over general criminal justice legislation (including the *Criminal Code*), and enshrinement in law of many important general “rights” for victims. However, as discussed below, there are some limitations in this proposed legislation that could threaten the realization of meaningful implementation of these rights for victims.

MAJOR POSITIVE ASPECTS OF THE PROPOSED CANADIAN VICTIMS BILL OF RIGHTS

At the outset, it is notable that the *Canadian Victims Bill of Rights* encompasses the “criminal justice system” broadly and not simply what happens during a criminal trial (ss. 5, 18). Additionally, the definition of “victim” in section 2 of the *Canadian Victims Bill of Rights* is framed broadly enough to explicitly include various forms of “harm” that the courts may or may not be minded to recognize in the existing definition of “harm” or “loss” (as in section 722(4)(a) of the *Criminal Code*), particularly economic losses. The structure of this definition is similar to this existing *Criminal Code* definition such that it should encompass individuals beyond the “direct-victim” of the offence to include others who also suffer harm or loss as a result of the commission of the offence.⁷ However, there is a shortcoming in the proposed definition that is discussed below.

It is admirable that the *Canadian Victims Bill of Rights* would have interpretative force and primacy over general federal legislation, notably including key criminal justice statutes such as the *Criminal Code*, *Corrections and Conditional Release Act*, and *Evidence Act* (ss. 21–22). This means that judges and administrative decision-makers would be required to give practical effect to victims’ rights. However, the

Canadian Victims Bill of Rights would be subordinate to the *Canadian Charter of Rights and Freedoms*, which has constitutional status, and the *Canadian Bill of Rights*, *Canadian Human Rights Act*, *Official Languages Act*, *Access to Information Act* and *Privacy Act* (ss. 22(2)). It would be valuable for the Federal Ombudsman for Victims of Crime to monitor the implementation of the *Canadian Victims Bill of Rights* on an annual basis, and to suggest any further improvements that could be made to it. For example, the exemption of the *Privacy Act* from its scope could be problematic with respect to fully realizing the rights to information for victims.

The rights themselves that are created in the *Canadian Victims Bill of Rights* have the potential to give victims a greater and more fitting role in the criminal justice system. Victims have been uniquely harmed by the criminal offences at issue and have a legitimate interest in the process and its outcome. Their involvement may also improve decision-making and promote confidence in the administration of justice at a time when violent crime, in particular, is vastly under-reported, as discussed above, in part due to a lack of confidence in the justice system.

RECOMMENDATIONS FOR AMENDING THE PROPOSED CANADIAN VICTIMS BILL OF RIGHTS

Despite the many positive aspects of Bill C-32, there are some flaws in it that must be amended in order to ensure that victims actually benefit from this legislation and the criminal justice system is improved. The following recommended amendments to this proposed legislation would help ensure it meets its objectives, and would not interfere with the role of the Crown prosecutor.

BROADEN DEFINITION OF “VICTIM” IN CANADIAN VICTIMS BILL OF RIGHTS

The definition of “victim” in section 2 of the *Canadian Victims Bill of Rights* is too narrow in at least one aspect: it refers to “an individual” instead of “a person”. This indicates that it only applies to natural persons (human beings) and does not also include legal persons (including corporations, charities, organizations, institutions, and public agencies). There are numerous reported cases where victims of crime are organizations and are recognized as coming within the existing definition of victim in section 722(4)(a) of the *Criminal Code*, which refers to “a person”.⁸ It would be counterproductive to realizing greater recognition of victims’ rights to limit the *Canadian Victims Bill of Rights* to natural persons only, particularly since many major financial crimes are perpetrated against organizations (including non-profit organizations and government departments/agencies), but the impact may extend to many individuals.

Recommendation #1: The definition of “victim” in section 2 of the Canadian Victims Bill of Rights should be changed from “an individual” to “a person” to encompass natural persons and legal persons (corporations, charities, organizations, institutions, and government departments/agencies).

AUTHORIZING LAWYERS TO ACT ON THE VICTIM’S BEHALF

Some victims will wish to hire their own lawyers, or rely on *pro bono* counsel or law students under the supervision of a lawyer, to assist them in having their rights under the *Canadian Victims Bill of Rights* realized. This possibility should be made explicit in this proposed legislation.

Recommendation #2: Section 3 of the Canadian Victims Bill of Rights should be amended to expressly authorize a lawyer, or law student acting under the supervision of a lawyer, to appear and act on behalf of a victim.

ENHANCING THE STATUS OF VICTIMS AND REMEDIES

While victims should not be parties to criminal justice proceedings because this would fundamentally alter our adversarial system of criminal justice and very likely violate the constitutional rights of accused persons and offenders, section 27 of the proposed *Canadian Victims Bill of Rights* goes beyond denying their role as parties. It also denies their ability to use the proposed rights as a basis for participating (through intervening) or even observing proceedings. This provision has the potential to emasculate many of the rights in the *Canadian Victims Bill of Rights* and should be amended. It is not adequate to rely exclusively on Crown prosecutors or judges to be mindful of all of these rights in all cases. Victims should be able to raise their rights and have them respected.

Victims have a legitimate interest in observing proceedings related to their alleged offenders, including bail hearings, preliminary inquiries, trials, sentencing proceedings, parole hearings, and so on. Doing so would allow them to actually implement the rights created under the *Canadian Victims Bill of Rights*. In short, victims should have a right to observe relevant proceedings as a general rule. Exceptions should obviously exist where required by the proper administration of justice, such as a court exercising its inherent jurisdiction to exclude persons from the courtroom (for instance, witnesses who are to be called in a trial are typically properly excluded from hearing the testimony of witnesses who precede them in order to prevent tainting their testimony).

Several rights created in the *Canadian Victims Bill of Rights* speak of victims having a “right” to “request” things related to courts or administrative tribunals (such as identity protection in section 12 and testimonial aids in section 13) or “convey their views” (ss. 14, 15). Again, it is difficult to see how this can occur if victims cannot address those bodies. In other instances, victims will have information that is necessary for judges or administrative decision-makers to hear in order for their rights to be given meaningful effect (security in section 9, protection from intimidation and retaliation in section 10, privacy in section 11). Accordingly, rather than denying victims the ability to participate in section 27 as it currently reads, judges should be given the discretion to decide when it is appropriate for victims to participate in order to give effect to their rights.

Additionally, while the complaint mechanism under the *Canadian Victims Bill of Rights* is potentially valuable when the affected rights fall within the scope of a federal department, agency, or body, there is no recourse for victims’ rights related to judicial proceedings. In short, a “right” without a remedy in the event of its breach is no right at all.

It is notable that the lack of a meaningful remedy in Ontario’s *Victims Bill of Rights* has resulted in the courts finding that it created no rights for victims. In *Vanscoy v. Ontario*, Justice Day held: “The Act is a statement of principle and social policy, beguilingly clothed in the language of legislation. It does not establish any statutory rights for the victims of crime” (paragraph 22). It would be tragic if the *Canadian Victims Bill of Rights* were to suffer the same fate because of a lack of legal remedies for the “rights” it creates.

Accordingly, it is recommended that victims be entitled to request that a relevant court give effect to their rights related to judicial proceedings in that court. Section 20 of the *Canadian Victims Bill of Rights* already provides sufficient protection to ensure that such requests from victims do not result in excessive delays or otherwise undermine the proper administration of justice, and section 29 denies any right of appeal. These provisions provide sufficient internal safeguards to ensure that the requests of victims do not unduly interfere with the judicial system.

Finally, section 27 of the *Canadian Victims Bill of Rights* is inconsistent with section 17, which provides that “Every victim in whose favour a restitution order is made has the right, if they are not paid, to have the order entered as a civil court judgment that is enforceable against the offender.” As it stands now, it is difficult to

see how a victim could rely on section 17 as a party in a civil proceeding given that section 27 prohibits them from being a party based on any of these rights. Accordingly, section 27 should be amended to give effect to section 17.

Recommendation #3: Section 27 of the Canadian Victims Bill of Rights on the status of victims should be replaced with a new provision based on the following:

Subject to section 20:

- (i) Nothing in this Act is to be construed as granting any victim or individual acting on behalf of a victim the status as a party in any proceedings, except for civil proceedings related to section 17 of this Act;***
- (ii) Victims have a general right to observe proceedings related to the accused and offender, as the case may be, subject to the discretion of the court or administrative decision-maker to exclude them if it is required for the proper administration of justice;***
- (iii) Victims may make their views or concerns known in relation to their rights under the Canadian Victims Bill of Rights, as appropriate in the discretion of the court or administrative decision-maker; and***
- (iv) Victims should have standing to request that a court give effect to their rights where the victims' rights under the Canadian Victims Bill of Rights relate to judicial proceedings in that court.***

5. Conclusion

The proposed *Canadian Victims Bill of Rights* has the potential to be transformative, making a lasting positive contribution to our criminal justice system. Victims should have legal rights in a system that is supposed to achieve justice for the crimes they've suffered. As introduced, the proposed *Canadian Victims Bill of Rights* is a major step forward for victims of crime. The force it would have and rights it would recognize are important and meaningful.

However, these new rights for victims would not be enforceable in law, as Bill C-32 is presently worded. For this to occur, this proposed legislation must be amended. Otherwise, the proposed *Canadian Victims Bill of Rights* will not achieve its true potential, particularly in Canadian courtrooms. There are already adequate safeguards built into this legislation to prevent participation by victims from excessively delaying proceedings, and ensuring their involvement is consistent with the proper administration of justice. Denying victims any ability to actually rely on these rights in a courtroom risks the creation of "rights" without remedies – something that has undermined previous victims' rights legislation in our country already.

Victims deserve a bill of rights that works for them in our courtrooms. This requires that the *Canadian Victims Bill of Rights* be amended to broaden the definition of victims, ensure they have a right to have their own legal counsel act on their behalf if they wish, and, most importantly to give them the general right to observe proceedings, make their views known in relation to their rights (within the discretion of the court), and have standing to ask that the relevant court actually implement their rights. After a long history of being largely unseen and unheard, victims need to have a real voice in our justice system.

Biography



Benjamin Perrin is an Associate Professor at the University of British Columbia, Faculty of Law and a Senior Fellow at the Macdonald-Laurier Institute. He previously served as Special Adviser, Legal Affairs & Policy in the Office of the Prime Minister and was a Law Clerk at the Supreme Court of Canada. He is a member of the Law Society of Upper Canada and Law Society of British Columbia. Professor Perrin is the author of *Invisible Chains: Canada's Underground World of Human Trafficking* (Penguin, 2011) and co-editor of *Human Trafficking: Exploring the International Nature, Concerns, and Complexities* (CRC Press, 2012).

References

- B.C. Missing Women Commission of Inquiry. 2012. *Forsaken: The Report of the Missing Women Commission of Inquiry*, Vol. IIA. British Columbia.
- Bill C-32, *An Act to Enact the Canadian Victims Bill of Rights and to Amend Certain Acts* (“Victims Bill of Rights Act”), 41st Parl., 2nd Sess. (Introduction and First Reading: April 3, 2014). Available at <http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&DocId=6510370>.
- Criminal Code* R.S.C., 1985, c. C-46.
- Harper, Stephen. April 3, 2014. “PM Announces Historic Legislation to Create a Canadian Victims Bill of Rights.” Office of the Prime Minister. Available at <<http://www.pm.gc.ca/eng/news/2014/04/03/pm-announces-historic-legislation-create-canadian-victims-bill-rights>>.
- Interpretation Act*, R.S.C., 1985, c. I-21.
- Northcott, Melissa. 2009. “Facilitating Testimony for Child Victims and Witnesses.” *Victims of Crime Research Digest* (Department of Justice). Available at http://www.justice.gc.ca/eng/rp-pr/cj-jp/victim/rd09_2-rr09_2/p3.html.
- O’Sullivan, Sue. May 13, 2014. “Canada’s Federal Ombudsman for Victims of Crime issues response to the Victims Bill of Rights.” Federal Ombudsman for Victims of Crime. Available at <http://www.victimfirst.gc.ca/media/news-nouv/nr-cp/2014/20140513.html>.
- . 2014. *A Cornerstone for Change: A Response to Bill C-32, the Victims Bill of Rights Act, from the Federal Ombudsman for Victims of Crime*. Federal Ombudsman for Victims of Crime. Available at <http://www.victimfirst.gc.ca/vv/vbra-cdv.html>.
- Parliament of Canada. 2014. “Bill C-32: Background Documents.” Parliament of Canada. Available at <http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6503398&View=7>.
- Perreault, Samuel. 2013. “Police-Reported Crime in Canada, 2012.” *Juristat* (Ottawa: Statistics Canada). Available at <http://www.statcan.gc.ca/pub/85-002-x/2013001/article/11854-eng.pdf>.
- Perreault, Samuel and Shannon Brennan. 2010. “Criminal Victimization in Canada, 2009.” *Juristat* (Ottawa: Statistics Canada). Available at <http://www.statcan.gc.ca/pub/85-002-x/2010002/article/11340-eng.pdf>.
- R. c. Villeneuve*, [2002] J.Q. no 1839.
- R. v. Bogart* (2002), 61 O.R. (3d) 75, 167 C.C.C. (3d) 390 (O.C.A.) leave to appeal refused, [2002] S.C.C.A. No. 398, [2003] 1 S.C.R. VI, 171 C.C.C. (3d) VI.
- R. v. D.*, [2000] O.J. No. 4850, 40 C.R. (5th) 350 (Ont. S.C.J.).
- R. v. Granada*, [2013] A.J. No. 1259, 2013 ABCA 404.
- R. v. Greenhalgh*, [2011] B.C.J. No. 745, 2011 BCSC 511.
- R. v. Imani Nakpangi* (24 June 2008), Brampton AG 0087 (Ont. Ct. J.).
- R. v. Menard*, [2007] O.J. No. 629, 73 W.C.B. (2d) 136 (Ont. S.C.J.) sentence varied by [2008] O.J. No. 2440, 2008 ONCA 493.
- Vanscoy v. Ontario*, [1999] O.J. No. 1661, 99 O.T.C. 70, 42 W.C.B. (2d) 358.

Endnotes

- 1 This includes assault, sexual assault, and robbery.
- 2 *Interpretation Act*, R.S.C., 1985, c. I-21, s. 13.
- 3 Bill C-32, *Canadian Victims Bill of Rights*, s. 2 “offence” (including offences in the *Criminal Code*, *Youth Criminal Justice Act*, *Crimes against Humanity and War Crimes Act*, and certain offences under the *Controlled Drugs and Substance Act* and *Immigration and Refugee Protection Act*) and ss. 5, 18. It does not apply to “service offences” under s. 2(1) of the *National Defence Act*.
- 4 Section 4 clarifies that the accused cannot claim to be a “victim” with respect to the offence, in order to avoid an absurd situation.
- 5 Five categories of such persons are identified in this section.
- 6 Section 26 also envisages the potential for victims to make a complaint to a “provincial or territorial department, agency or body ... in accordance with the laws of the province or territory.” It is unclear whether any provincial or territorial laws would presently recognize a complaint based on the *Canadian Victims Bill of Rights*. To give effect to this possibility may require provincial and territorial amendments to each of their own existing victims’ legislation.
- 7 See *R. v. D.*, [2000] O.J. No. 4850, 40 C.R. (5th) 350 (Ont. S.C.J.); *R. v. Greenhalgh*, [2011] B.C.J. No. 745, 2011 BCSC 511.
- 8 See, e.g., *R. v. Menard*, [2007] O.J. No. 629, 73 W.C.B. (2d) 136, para. 13 (Ont. S.C.J.) sentence varied by [2008] O.J. No. 2440, 2008 ONCA 493 (secret commissions victim was Service Canada); see also, e.g. *R. v. Bogart* (2002), 61 O.R. (3d) 75, 167 C.C.C. (3d) 390 (O.C.A.) leave to appeal refused, [2002] S.C.C.A. No. 398, [2003] 1 S.C.R. VI, 171 C.C.C. (3d) VI (fraud victim was the Ontario Ministry of Health); *R. v. Granada*, [2013] A.J. No. 1259, 2013 ABCA 404 (mischief and trespass victim was Co-op grocery store and its employees); *R. v. Greenhalgh*, [2011] B.C.J. No. 745, 2011 BCSC 511, para. 33 (sexual assault and breach of trust by a Border Services Officer; in addition to the complainants subject to improper strip searches, the supervising officer of the offender and the Canada Border Services Agency were victims). However, there is some case law in Quebec where legal entities have been found not to be “victims”, as in *R. c. Villeneuve*, [2002] J.Q. no 1839, para. 28 (the *Centre de recherche-action sur les relations raciales* was found not to be eligible to submit a victim impact statement in a criminal harassment case).



MACDONALD-LAURIER INSTITUTE

True North in Canadian Public Policy

Critically Acclaimed, Award-Winning Institute

The Macdonald-Laurier Institute fills a gap in Canada's democratic infrastructure by focusing our work on the full range of issues that fall under Ottawa's jurisdiction.

- The Macdonald-Laurier Institute fills a gap in Canada's democratic infrastructure by focusing our work on the full range of issues that fall under Ottawa's jurisdiction.
- One of the top three new think tanks in the world according to the University of Pennsylvania.
- Cited by five present and former Canadian Prime Ministers, as well as by David Cameron, the British Prime Minister.
- First book, *The Canadian Century: Moving out of America's Shadow*, won the Sir Antony Fisher International Memorial Award in 2011.
- *Hill Times* says Brian Lee Crowley is one of the 100 most influential people in Ottawa.
- The *Wall Street Journal*, the *Economist*, the *Globe and Mail*, the *National Post* and many other leading national and international publications have quoted the Institute's work.



"The study by Brian Lee Crowley and Ken Coates is a 'home run'. The analysis by Douglas Bland will make many uncomfortable but it is a wake up call that must be read."

FORMER CANADIAN PRIME MINISTER PAUL MARTIN ON MLI'S PROJECT ON ABORIGINAL PEOPLE AND THE NATURAL RESOURCE ECONOMY.

Ideas Change the World

Independent and non-partisan, the Macdonald-Laurier Institute is increasingly recognized as the thought leader on national issues in Canada, prodding governments, opinion leaders and the general public to accept nothing but the very best public policy solutions for the challenges Canada faces.



About the Macdonald-Laurier Institute

What Do We Do?

When you change how people think, you change what they want and how they act. That is why thought leadership is essential in every field. At MLI, we strip away the complexity that makes policy issues unintelligible and present them in a way that leads to action, to better quality policy decisions, to more effective government, and to a more focused pursuit of the national interest of all Canadians. MLI is the only non-partisan, independent national public policy think tank based in Ottawa that focuses on the full range of issues that fall under the jurisdiction of the federal government.

What Is in a Name?

The Macdonald-Laurier Institute exists not merely to burnish the splendid legacy of two towering figures in Canadian history – Sir John A. Macdonald and Sir Wilfrid Laurier – but to renew that legacy. A Tory and a Grit, an English speaker and a French speaker – these two men represent the very best of Canada's fine political tradition. As prime minister, each championed the values that led to Canada assuming her place as one of the world's leading democracies.

We will continue to vigorously uphold these values, the cornerstones of our nation.



Working for a Better Canada

Good policy doesn't just happen; it requires good ideas, hard work, and being in the right place at the right time. In other words, it requires MLI. We pride ourselves on independence, and accept no funding from the government for our research. If you value our work and if you believe in the possibility of a better Canada, consider making a tax-deductible donation. The Macdonald-Laurier Institute is a registered charity.

Our Issues

The Institute undertakes an impressive programme of thought leadership on public policy. Some of the issues we have tackled recently include:

- Getting the most out of our petroleum resources;
- Ensuring students have the skills employers need;
- Aboriginal people and the management of our natural resources;
- Controlling government debt at all levels;
- The vulnerability of Canada's critical infrastructure;
- Ottawa's regulation of foreign investment; and
- How to fix Canadian health care.



MACDONALD-LAURIER INSTITUTE

True North in Canadian Public Policy

CONTACT US: Macdonald-Laurier Institute
8 York Street, Suite 200
Ottawa, Ontario, Canada K1N 5S6

TELEPHONE: (613) 482-8327

WEBSITE: www.MacdonaldLaurier.ca

CONNECT WITH US:



Scan this QR code to get your copy of our iPhone app or to visit our mobile website



@MLInstitute



www.facebook.com/MacdonaldLaurierInstitute



www.youtube.com/MLInstitute

What people are saying about the Macdonald-Laurier Institute

I commend Brian Crowley and the team at MLI for your laudable work as one of the leading policy think tanks in our nation's capital. The Institute has distinguished itself as a thoughtful, empirically-based and non-partisan contributor to our national public discourse.

PRIME MINISTER STEPHEN HARPER

As the author Brian Lee Crowley has set out, there is a strong argument that the 21st Century could well be the Canadian Century.

BRITISH PRIME MINISTER DAVID CAMERON

In the global think tank world, MLI has emerged quite suddenly as the "disruptive" innovator, achieving a well-deserved profile in mere months that most of the established players in the field can only envy. In a medium where timely, relevant, and provocative commentary defines value, MLI has already set the bar for think tanks in Canada.

PETER NICHOLSON, FORMER SENIOR POLICY ADVISOR TO PRIME MINISTER PAUL MARTIN

I saw your paper on Senate reform [Beyond Scandal and Patronage] and liked it very much. It was a remarkable and coherent insight – so lacking in this partisan and anger-driven, data-free, ahistorical debate – and very welcome.

SENATOR HUGH SEGAL, NOVEMBER 25, 2013

Very much enjoyed your presentation this morning. It was first-rate and an excellent way of presenting the options which Canada faces during this period of "choice"... Best regards and keep up the good work.

PRESTON MANNING, PRESIDENT AND CEO, MANNING CENTRE FOR BUILDING DEMOCRACY