Safe Streets and Communities? Public Discourses on a Canadian "Tough-on-Crime" Legislation

by

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ABSTRACT

A great deal of the academic literature regarding the mass media seems to take for granted that it is responsible for a variety of “problems” that increase public support for tough-on-crime policies. For example, the mass media is blamed for popular misconceptions about crime, declining confidence in criminal justice institutions, and an increasing fear of crime and overestimation of risk. Consequently, many academics are encouraging their peers and students to engage in “public criminology” and use the mass media to educate an ignorant and misguided public. However, the results of this paper suggest that the mass media is far more critical and complex. Relying on a discourse analysis of non-fictional media relating to Bill C-10, this paper argues that many media sources are already actively engaged in this process and are seeking to educate the public about the ‘realities’ of legislations like C-10 and the criminal justice system in general.

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TABLE OF CONTENTS

Abstract.....	i
Acknowledgements.....	ii
Table of Contents.....	iii
Introduction.....	1
Literature Review.....	2
Cultural Criminology.....	2
Social Constructionism / Social Problems Theory.....	6
Mass Media.....	8
Emotions and the Mass Media.....	12
Mass Media and Perceptions of the Justice System.....	14
Populism.....	16
Populism and Canadian Politics.....	20
Penal Populism.....	22
Mass Media and Penal Populism.....	25
The Punitive Turn / New Punitiveness.....	28
Origins of the Punitive Turn as a Global Trend.....	30
Regional Explanations for Punitiveness.....	33
Punitiveness in the Canadian Context.....	38
Bill C-10.....	42
Methods.....	44
Results.....	53
Authorship.....	53
Costs of Bill C-10.....	56

Carceral Hyperinflation / Prison Expansion.....	59
The Conservative Agenda.....	61
Public Safety / Crime Prevention.....	63
Victimization.....	66
Political Strategizing.....	68
The Canadian Public.....	71
Facts and Evidence.....	74
Judicial Discretion.....	77
Discussion.....	78
Conclusion.....	93
References.....	104

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INTRODUCTION

For the last decade, researchers of varied academic backgrounds have claimed that the criminal justice policies of many Western nations, most notably the United States and the United Kingdom, are becoming increasingly punitive (Moore & Hannah-Moffatt, 2005; Snacken, 2010). This has drawn a great deal of attention within the academic community and generated new research and debate. A rich academic conversation has developed involving diverse groups such as legal scholars, sociologists, political scientists, and many more. It is precisely this academic conversation that I wish to enter into with my MA thesis. I explore this issue through a discourse analysis of media relating to Bill C-10, also known as the *Safe Streets and Communities Act*, which has been cited as evidence of Canada’s own “punitive turn”. By exploring this issue through a qualitative methodology, I hope to contribute to our understanding of how punitive political discourses interact with media discourses to construct meaning about crime and how this interaction in turn influences criminal justice policies.

This thesis consists of four main chapters: Literature Review, Methods, Results, and Discussion. First, in the literature review I engage in a critical discussion of the academic literature which is most relevant to my topic and upon which I base my own contribution. Second, the methods section provides an overview of discourse analysis as a research methodology, including its uses, advantages, and limitations. In addition, this chapter provides a step-by-step

account of how this methodology was implemented and the exact procedure that was followed in order to acquire the sample of texts and perform the data analysis. The third chapter presents the results of the data analysis and provides a detailed description of the various themes that emerged within the discourses. Finally, the fourth chapter discussed the results of this analysis in greater depth based on contemporary academic literature and research. In addition, the potential implications of these findings are discussed and potential avenues for further research are explored.

LITERATURE REVIEW

The purpose of this chapter is to explicate the theoretical ideas and research that I intend to build upon, the conceptual tools I will employ, and how I situate my own contribution within the existing academic literature. This chapter will be presented as follows. Firstly, I begin by discussing theoretical works on cultural criminology and social problems theory in order to situate my own project within these perspectives. Secondly, I will discuss the role of the media as a cultural product which shapes the public's understanding of criminal justice issues and the social problem of crime. Thirdly, I will discuss how political discourses, and penal populist discourse in particular, interact with media discourses to further retributive penal policy formation. Finally, I will discuss this retributive penal policy trend in light of research on the global punitive turn thesis.

Cultural Criminology

Cultural criminology's essential premise is that both crime and crime control are cultural products which cannot be understood apart from their social and

cultural contexts (Ferrell, Hayward, & Young, 2008). According to this perspective, crimes emerge “out of social processes and [...] from within social life” (Presdee, 2000, p. 11). Rather than focusing on the crime and the criminal, cultural criminology looks at everything that precedes the criminal act and how they erupt out of social processes (Presdee, 2000). Instead of using statistical data, cultural criminology relies upon “the debris of everyday life” to illuminate the connections between crime and culture (Presdee, 2000, p. 15). Forms of cultural expression such as art, music, images, dance, and life stories have as much to tell us about crime as quantitative measures (Ferrell et al., 2008). As a result, cultural criminologists assert that this approach is not intended to undermine contemporary criminology but rather to enliven it and expand its horizons.

Cultural criminology goes beyond simply analyzing where and how crime takes place. Among other things, it seeks to understand how violence has saturated our society and become commodified and consumed through the media (Hayward, 2010; Presdee, 2000). Fictional police dramas provide an ideal example. Television shows like *NYPD Blue* or *Law and Order* present law enforcement and crime as a commodity to be sold on the open market and consumed by viewers. These shows create a sense of drama and excitement surrounding crime which is also commodified and consumed. The outcome, ironically, is that crime and violence become desirable and pleasurable to viewers. Since consumer culture creates a desire for immediate excitement that leaves the individual susceptible to boredom, the media is forced to continually strive to deliver exciting new forms of violence and crime. The result of this process is that “acts of hurt and humiliation, death and

destruction, all become inextricably woven into processes of pleasure, fun, and performance" (Presdee, 2000, p. 65). In the case of "infotainment" which blurs the line between fiction and reality, this takes on an acutely disturbing quality. By watching non-fiction shows and documentaries about crime, viewers are actively consuming real violence and increasing the demand for more, effectively making themselves partners in crime (Presdee, 2000).

According to Presdee (2000), cultural criminology also seeks to understand the social and cultural processes that define what is "criminal" or "deviant". For example, the act of murder is viewed very differently by society if it takes place on a battlefield between soldiers, as opposed to in a crack house between drug addicts. The difference between these two acts is contextual and cultural, which means that the process of criminalization is itself a cultural process. Graffiti provides another great example of this concept. The act of graffiti on a building is considered criminal, yet painting on a canvas is considered to be "art." Cultural criminology explores these apparent contradictions by examining how dominant "knowledges" are produced which criminalize cultural expressions such as graffiti while endorsing others (Presdee, 2000). Everyone in society is involved in this process of knowledge production. We are continually interpreting the data we are presented with, diagnosing our own actions and those of everyone around us, which in turn involves us in the process of constructing and defining crime.

However, cultural criminology has been subject to a great deal of criticism. Firstly, it should be noted that there is a great deal of ambiguity and disagreement concerning the precise definition of "cultural criminology" and how it ought to be

conducted (O'Brien, 2005). Secondly, scholars such as Martin O'Brien (2005) claim that cultural criminology is a political orientation rather than an analytical one. By way of example, O'Brien (2005) cites a 1998 cultural criminology study of graffiti subcultures, in which the researcher provides a scathing critique of mainstream culture while celebrating graffiti subculture. Rather than paying equal attention to both sides of the issue, the graffiti subculture is described in painstaking detail whereas the anti-graffiti campaigners are reduced to "one-dimensional conformist ciphers [...] a culture of sheep" as O'Brien (2005, p. 603) puts it. O'Brien (2005) claims that the reason behind this unbalanced account is purely political. He also questions the usefulness of cultural criminological studies such as this, which fail to advance our understanding of crime in general (O'Brien, 2005). O'Brien (2005) concludes that the focus of cultural criminology ought to be the political character of criminalization, rather than specific deviant subcultures.

The question of whether or not cultural criminology ought to be applied to specific groups is beyond the scope of this project. However, I do intend to follow O'Brien's suggestion by paying close attention to political communications about crime. Consequently, my sample will include both official texts such as party press releases and political debates, as well mass media texts containing these discourses about crime and criminalization. I believe that a cultural criminology approach to my research will prove particularly insightful. Firstly, the literature in this field can help me to make important connections between my research and the broader socio-historical context. Secondly, cultural criminology's emphasis on the production of meaning and "knowledges" with regard to crime will enrich my

analysis of populist discourses about Bill C-10 appearing in my media sample. However, it is important to note that I am not seeking to redefine the concept of “culture”, nor am I seeking to reinvent cultural criminology.

Social Constructionism / Social Problems Theory

The cultural criminology approach which I will adopt in this project has been heavily influenced, both thematically and theoretically, by research on social problems and moral panics. A great deal of sociological research has been dedicated to analyzing a wide variety of social problems (Carrier, 2013; Weinberg, 2009). According to the objectivist tradition, a social problem consists of a condition that is identified as being harmful to society, based on “expert knowledge” (Carrier, 2013). Traditionally, the role of the social sciences was to provide an understanding of the social problem, which would allow it to be properly dealt with and managed (Carrier, 2013). In the past, sociologists tended to “uncritically endorse” and legitimize certain explanations of social problems over others, even when these came from “plainly interested parties” (Weinberg, 2009, p. 63). As a result, Kitsuse and Spector established the social constructionist perspective in opposition to the traditional objectivist approach to the study of social problems (Carrier, 2013).

According to the constructionist tradition, no account of a social problem should receive more attention or legitimacy than any other, nor should researchers take sides and either promote or try and disprove one account or another (Weinberg, 2009). In fact, the allegedly problematic social conditions, which Kitsuse and Spector renamed the “putative conditions”, should be ignored entirely (Ibarra & Kitsuse, 1993). Instead, researchers should focus their attention on “claims-making”,

the process by which accounts of social problems are constructed and “acted upon, as well as how they are displaced and discredited” (Ibarra & Kitsuse, 1993, p. 30). For example, abortion has been described as a social problem by a wide variety of claims-makers (Ibarra & Kitsuse, 1993). Instead of looking directly at the issue of abortion, social problems theory would advocate looking instead at the various claims being put forth (Ibarra & Kitsuse, 1993).

According to some accounts abortion presents a social problem because of its inherent immorality and sinfulness, whereas other accounts discuss abortion in terms of gender and equality (Ibarra & Kitsuse, 1993). All social problems originate within a specific social and historical context which can be understood through empirical research (Weinberg, 2009). Since claims-making is about symbolically constituting a social problem (discursively or even visually), social constructionist research focuses on the use of language and discourse (Ibarra & Kitsuse, 1993). In order to be effective, this research must look at what is being said, how and why it is being said and what counter claims are being made (Ibarra & Kitsuse, 1993; Weinberg, 2009). However, this linguistic analysis cannot be divorced from the social context in which it arises (Weinberg, 2009).

Social problems theory also encourages sociologists to be reflexive and recognize that their own empirical research is itself a form of “claims-making” (Weinberg, 2009). Social science research is neither disinterested nor detached from the society it analyzes and therefore it can never attain complete objectivity (Weinberg, 2009). In fact, it is often concerned with defending or altering the accepted wisdom within the discipline and it is always influenced by its connection

to social, economic, and political considerations. I believe that the social constructionist tradition helped me to remain reflexive and helped me to take some distance from the “putative conditions” to which Bill C-10 is the intended solution. This allowed me to focus my attention on the diverse “claims-making” processes that appear in the discourse. The mass media provided an ideal venue for “claims-making” activities with regard to criminal justice issues, making social problems theory ideally suited to a discourse analysis focused on the mass media.

Mass Media

C. Wright Mills (1956) suggests that the mass media is primarily responsible for constructing our understanding of the world around us. By comparison, what we know from first-hand experiences accounts for very little and even this can be overruled by information obtained through the mass media. According to Mills, this makes the mass media a powerful influence in the daily lives of individuals, which can be exploited and used to “deliver public opinion on every topic” (Mills, 1956, p. 315). Research by scholars such as Aaron Doyle (2006) and David Altheide (2003) suggests that the mass media is vitally important in constructing the public’s understanding (or misunderstanding) of criminal justice issues.

Crime pervades mass media in contemporary society. It is estimated that 25-35% of news reports in the United States are about crime or the threat of danger related to crime (Altheide, 2003). In contrast, news reports about homelessness and poverty account for less than one percent of the stories covered (Altheide, 2003). Fictional television shows about crime or the justice system, such as *Criminal Minds* or *CSI*, have captured large audiences and continue to grow in popularity (Fox, Van

Sickel, & Steiger, 2007). Interestingly, within the last few years the line between fictional and non-fictional crime media has been blurred by the appearance of “infotainment”, documentary style programs designed to entertain viewers while showing them the reality of crime or law enforcement (Kort-Butler & Sittner Hartshorn, 2011). For example, in the American series *The First 48* real police detectives are followed by a camera crew as they conduct investigations into real homicides. The series’ description promises to give viewers “unprecedented access to crime scenes, interrogations, and forensic processing” (A&E Television, 2013).

As a result of the prevalence of both fictional and non-fictional accounts, the public is continually confronted with information about crime and the criminal justice system which help shape their understanding of these issues (Fox et al., 2007; Frost, 2010). In a very real sense, the media acts as a “middleman” between the criminal justice system and citizens who are unlikely to ever come into direct contact with it (Frost, 2010). However, rather than educating viewers, studies have consistently shown that the media offers a misleading and often inaccurate portrayal of crime and the justice system (Fox et al., 2007). In the case of televised news programs, this can be explained by two factors. Firstly, the sheer volume of crime stories appearing on the news exaggerates the crime rate and is believed by many scholars to contribute to the perception that crime is “out of control” (Altheide, 2003, p. 19). This effect can be so powerful that even when confronted with statistical evidence on crime rates, people will question the validity of the statistical evidence rather than “what they know” about crime from the media (Mills, 1956). Secondly, research has shown that the majority of crime stories

covered by television news programs are about violent offences such as rape, murder, assault, etc, despite their relative infrequency compared to theft or minor drug offences (Altheide, 2003). As a result, viewers can be influenced to believe that these crimes happen more frequently than they really do, leading to the perception that “crime” and “violent crime” are one and the same (Roberts, Stalans, Indermaur, & Haugh, 2003).

Research on televised coverage of high profile criminal trials, such as the OJ Simpson or Michael Jackson trials, show a similar misinformation effect (Fox et al., 2007). While televising these unfolding legal dramas is thought to show the public the inner workings of the law, empirical evidence suggests that it has little or no educational value (Fox et al., 2007). A survey of viewers following the OJ Simpson trial revealed that 50% believed that their legal knowledge had been increased as a result (Fox et al., 2007). However, when these respondents were tested on their knowledge of the criminal justice process and the legal system they failed consistently, the average score being roughly 25% (Fox et al., 2007). One of the reasons for this is that televised trial coverage seeks to offer viewers entertainment rather than information. The focus of televised trials, like other tabloid media, is on celebrities and the most gruesome or unusual cases. Consequently, the trials which are televised are not representative of the trial process or the legal system in general (Fox et al., 2007).

Fictional representations of crime as well as the new “infotainment” hybrid are equally misleading (Kort-Butler & Sittner Hartshorn, 2011). Like their non-fictional counterparts, these mass media sources tend to focus primarily on the most

serious and unusual crimes. For instance, the hit series *Criminal Minds* follows a group of FBI profilers as they travel around the United States investigating violent serial murders on behalf of local police (A&E Television, 2013). Similarly, shows like *The First 48* focus only on violent homicides. However, research suggests that “infotainment” can be more misleading than fictional representations of crime because they portray real events using a style adapted from fictional mass media (Boda & Szabó, 2011). Shows like *The First 48* describe real crimes, yet they do so using dramatic techniques such as re-enactments, melodramatic music, and “emotional hooks” (Kort-Butler & Sittner Hartshorn, 2011). Of all the footage obtained during the filming of the “real” investigation, only the most sensational and dramatic excerpts are selected to appear in the show (Roberts et al., 2003). The result is a blurring of the line between fiction and reality, which provides an inaccurate picture of crime in society (Kort-Butler & Sittner Hartshorn, 2011).

For this reason, sociologists and criminologists tend to be highly critical of the mass media, particularly because it places an emphasis on producing effects rather than presenting facts. Consequently, a great deal of the literature on crime-centred mass media in this area focuses almost entirely on how it distorts reality. In recent years, many academics and researchers have encouraged their students and peers to engage in “public criminology” in order to counteract this reality distortion (Currie, 2007). According to many scholars, sociological and criminological research has become increasingly isolated, marginal, and impotent because important findings are not accessible to the public (Loader & Sparks, 2008). As a result, the “middle ground” between research and policy formation has been “mostly occupied

by people with an ideological axe to grind” (Currie, 2007, p. 183). The answer, according to the growing number of public criminologists, is to engage the “public mind” by appearing in the mass media and making research findings available and accessible to the general public (Currie, 2007; Loader & Sparks, 2008). It is believed that this will help educate the public and allow criminologists to act as the voice of reason against bad policies, thereby providing an alternative to the emotional appeals and populist discourse which are believed to pervade the mass media.

Emotions and the Mass Media

A great deal of research has been conducted analyzing the emotional responses that are triggered by the consumption of crime media. According to David Altheide (2003), the mass media’s disproportionate attention to crime has created a discourse of fear which increases the perception, awareness, and expectation of danger or victimization. However, Altheide (2003) notes that the mass media does not necessarily “cause” the fear of crime, but rather that it shapes what people think about. Thus, the disproportionate attention given to crime in the mass media serves as a continual reminder to the individual consumer of the omnipresent threat of violence and victimization (Altheide, 2003). While television is thought to be the most fear inducing mass media because of its visual dimension, a similar effect can be found in radio, newspapers, and newer mass media such as the internet (Boda & Szabó, 2011). Fear of crime is strongly correlated with support for punitive policies. The more the public feels threatened by crime, the more accepting they will be of increased social control (Altheide, 2003). For example, in the days following the terrorist attacks on September 11, 2001, the United States government enacted the

USA Patriot Act which expanded the state's social control. Due to the prevailing fear of a terrorist threat, many Americans welcomed this legislation despite the limitations it placed on civil liberties (Altheide, 2003).

Mass media attention is also believed to increase the public's anger about crime (Karstedt, 2002). By showing the suffering experienced by the victims of crime at the hands of dangerous criminals, the mass media is able to inspire compassion and sympathy for victims, while simultaneously inspiring moral indignation, anger, and a desire for vengeance towards the perpetrators (Karstedt, 2002). The research of Devon Johnson (2009) suggests that anger is highly predictive of support for increased punitiveness. Over 30% of respondents in his study said they were "very angry" about crime in the United States and only 12% expressed no anger at all (Johnson, 2009). Those who did express anger about crime were far more likely to express support for the implementation of punitive policies such as three strikes and capital punishment (Johnson, 2009).

A recent study conducted by Templeton and Hartnagel (2012) suggests that this is exacerbated in cases where the causes of crime appear to be internal rather than external. In other words, people tend to feel more anger and support for punitiveness in cases where an offender's behaviour is believed to have been caused by internal attributions such as personality or individual choices (Templeton & Hartnagel, 2012). Conversely, people feel more sympathetic and less retributive towards offenders whose behaviour appears to be linked to external attributions such as poverty or environmental factors (Templeton & Hartnagel, 2012). The manner in which the mass media portrays crime and offenders has an effect on how

the public feels about crime and whether or not they will support punitive criminal justice policies (Templeton & Hartnagel, 2012; Boda & Szabó, 2011).

Mass Media & Perceptions of the Justice System

As previously discussed, the mass media shapes how the public understands the justice system in the absence of any first-hand experiential knowledge (Boda & Szabó, 2011). Research conducted within the last few years suggests that crime-focused mass media reduces public confidence in the criminal justice system and many of its institutions (Frost, 2010). A Canadian study conducted by Roberts (2007) revealed that over 90% of Canadians believe that the crime rate is steadily increasing, and roughly 60% believe this increase to be a direct consequence of lenient sentencing. Not surprisingly, levels of public confidence in Canadian judges, defence lawyers, and prosecutors show a corresponding decline (Roberts, 2007). Interestingly, this research also suggests that not all criminal justice institutions are perceived negatively. For example, an overwhelming majority (88%) of respondents in Roberts' (2007) study expressed a high level of confidence in the RCMP. As discussed below, this effect can be explained by the portrayal of these institutions in the mass media, which tends to favourably depict law enforcement while portraying the courts as tilted in favour of criminals. Moreover, these perceptions are often exploited by populist politicians, thereby reinforcing and legitimizing them.

Studies on tabloid-style trial coverage in the United States indicate that viewers' perceptions of the justice system are negatively affected as a result of misconceptions absorbed from the mass media (Fox et al., 2007). For example, the high profile Menendez brothers' trial lasted 7 years, which is much longer than the

majority of trials. With no other reference point for legal information, viewers can develop the mistaken belief that this is representative of the trial process, leading to the conclusion that the system is inefficient and reducing their confidence in it as a result (Fox et al., 2007). What is most troubling is that these misconceptions can do more than shake the public's confidence in the justice system, they can lead to demands for real legal changes (Boda & Szabó, 2011). Roberts (2007) suggests that this effect can be clearly discerned in the various reforms to Canada's youth legislation. The *Youth Offenders Act* was replaced by the *Youth Criminal Justice Act* in 1997 following a public opinion poll which found that 70% of Canadians had no confidence in the current youth legislation (Roberts, 2007). In fact, this public opinion poll was cited by the minister of justice at the time as one of the main reasons reform was needed (Roberts, 2007).

In addition to research on televised trials, studies on fictional crime media can help us understand how these negative impressions are formed. Television shows such as *CSI* can create unrealistic expectations about the forensic capabilities of law enforcement, resulting in reduced confidence when real crimes go unsolved or perpetrators are not brought to justice (Boda & Szabó, 2011). In addition, fictional police dramas often portray law enforcement as having to battle on two fronts, against the rising tide of violent crime and a legal system that is slanted in favour of criminals (Roberts et al., 2003). As discussed above, this could explain public opinion research which shows a positive public perception of law enforcement and a negative perception of the criminal courts.

Survey studies on “infotainment” conclude that the more viewers consume non-fictional crime media, the less confidence they express about the criminal justice system and the more supportive they become of increased punitiveness towards offenders (Kort-Butler & Sittner Hartshorn, 2011). However, it should be noted that the research in this area is far from unanimous. While many studies support the negative influence of mass media on public confidence, others suggest the opposite or that the mass media simply reinforces existing beliefs about the justice system (Boda & Szabó, 2011). For example, the results of some studies suggest that the heavy consumption of crime-focused mass media is correlated with greater confidence in some justice institutions such as the police or courts (Boda & Szabó, 2011). Further study is required in order to form a better picture of this relationship. However, it is clear from this research that the mass media is extremely influential on the way in which people see the criminal justice system and that it can lead people to support real legal changes. Populism, the concept to which we now turn our attention, is one of the means by which these legal changes can be produced.

Populism

Populism is a highly contested concept in academia and no single, universally accepted definition exists (Panizza, 2005). In some academic disciplines, particularly political science, populism is seen as the purest form of representative democracy and is understood as a necessary “appeal to the people against established structures of power” (Canovan, 1999, p. 3). The Two-Strand Model of democracy, as summarized by Abts & Rummens (2007), suggests that democratic

government is supported by two equally important pillars. The Liberal / Constitutional pillar comes from a liberal tradition in which the ultimate authority in society is the law (Abts & Rummens, 2007). The rule of law is what provides us with checks and balances and protects citizens from abuses by the state (Abts & Rummens, 2007). The Democratic pillar comes from the democratic tradition, in which ultimate authority resides with the people (Abts & Rummens, 2007).

The participation of citizens in democratic process is what allows the will of the people to be enacted (Abts & Rummens, 2007). According to this model, populist sentiments arise when the Liberal pillar is perceived to take dominance over the Democratic pillar (Abts & Rummens, 2007). This leads to demands that the balance be restored by returning power to the people (Abts & Rummens, 2007; Canovan, 1999). Consequently, many political scientists believe populism to be a natural and necessary part of any democracy (Abts & Rummens, 2007, Canovan, 1999). As one scholar suggested democracy without populism "is rather like trying to keep a church going without faith" (Canovan, 1999, p.16).

Conversely, scholars such as C. Wright Mills (1956) see this idealized conception of populism as a fairy tale which bears no resemblance to the modern political structure. According to Mills (1956), society has undergone a gradual transformation away from participatory public democracy towards a "mass democracy" in which individuals have become atomized, segregated and ultimately powerless. Public opinion is no longer seen as foolproof and correct in all circumstances. In fact, it has been largely supplanted by expert opinion and in most cases the public is not even consulted about important decisions (Mills, 1956).

Elections have become competitions between “giant and unwieldy parties, neither of which the individual can feel he truly influences” (Mills, 1956, p. 308). Even if this were not the case, powerful lobby and interest groups compete with individuals in their attempts to exert influence over political decisions. Mills argues that populism has re-emerged because politicians have come to recognize “the effectiveness of irrational appeals to the citizen” (Mills, 1956, p. 301-302). Consequently, populism in the modern context, according to Mills (1956) is merely about “opinion-making”, it is a technique to obtain and maintain political power.

A variety of circumstances can favour the emergence of populist sentiments. For example periods of cultural, economic, or political disorder have been known to lead to populist movements because they create crises of representation (Panizza, 2005). During times of social upheaval, the state can gradually lose the confidence of the population if it is unable to restore stability (Panizza, 2005). This in turn can lead to the appearance of a charismatic leader who uses populist “opinion-making” in order to gain power. In the aftermath of WWI for example, Germany’s economy collapsed under the weight of war reparations and the stock market crash in 1929 (Panizza, 2005). The inability of the Weimar government to control high inflation and prevent complete economic collapse created the discontent necessary for Hitler to take power in 1933 through populist appeals made to the people (Panizza, 2005).

Populist movements have also been known to emerge in situations where the people become disillusioned with the ruling political apparatus due to corruption or incompetence (Panizza, 2005). For example, in Italy in the 1980s the ruling Christian Democrat party became implicated in mafia corruption scandals which

disgraced the party and destroyed their credibility with Italian voters (Panizza, 2005). In the aftermath, Silvio Berlusconi was able to achieve power by portraying himself as a champion of the people who would stand against political corruption (Panizza, 2005). However, populist sentiments can surface even without social or political upheaval. Since “populism exploits the gap between the government’s promises and its performance”, it can emerge anywhere where there is discontent or dissatisfaction with the existing political or state structure (Canovan, 1999, p. 12; Abts & Rummens, 2007).

However, it should be pointed out that the manifestation of populism varies greatly worldwide and it should not be thought of as inherently “right-wing” or politically conservative (Laycock, 2005; Canovan, 1999). Since populism is a reaction against “established structures of power”, its expression depends on the unique social and political realities of the particular region in which it takes root (Laycock, 2005; Canovan, 1999). Therefore, in nations which tend to be conservative, populist expression tends to be liberal (Jones, 2010; Canovan, 1999). Since Canada, like many western nations, has a strong liberal tradition, populist rhetoric here tends to be “illiberal” (Laycock, 2005; Canovan, 1999). This is believed to be particularly true with regard to criminal justice issues, where penal populism can become “crudely majoritarian and careless of rights” (Canovan, 1999, p. 4).

Consequently, socio-legal literature tends to adopt a particularly negative view of populism (Abts & Rummens, 2007). It has been argued that populism’s antipathy for the so-called elite is potentially dangerous and tyrannical because it “relocates the centre of democracy from parliament to the public square”, where

debate is replaced by emotional appeals (Abts & Rummens, 2007, p. 416). Furthermore, socio-legal theorists tend to be critical of populism's conception of "the people" as a unified whole whose collective will can be ascertained and expressed (Bos, Van Der Brug, & De Vreese, 2010). It has been suggested that in order to maintain this illusion of social solidarity, populist politicians must either attack or suppress all opposition, which increases the potential for populism to degenerate into despotism (Abts & Rummens, 2007). As one sociologist put it, "taken to the extreme populism descends into totalitarianism" (Panizza, 2005, p. 29).

Populism & Canadian Politics

Populism is believed to have first appeared in Canadian politics in the early part of the twentieth century as a result of discontent over a political landscape which was dominated by central Canada (Laycock, 2005). Canadians from the western provinces became dissatisfied with the representation they received from the Conservative and Liberal parties, both of which were based primarily in Ontario and Québec. These parties were perceived by many as favouring the corporate elite of central Canada, while ignoring the needs and concerns of western Canadians who contributed most to the nation's economic prosperity (Laycock, 2005). However, in Canada as elsewhere populism has meant different things in different regions. For instance, as populism appeared in Québec it was most often linked to nationalist sentiments and the question of separation. In the west, populism led to the creation of new political parties, such as the Progressive Conservatives, Canadian Alliance, and Reform parties (Laycock, 2005). These parties formed around the issues which

were believed to matter most to western Canadians, such as agriculture, lowering taxes, and decentralizing power (Laycock, 2005). As time went on populist parties turned their attention to those among their constituents who expressed dissatisfaction with the increasing secularization of Canadian society and the erosion of traditional Christian values. In response, these parties campaigned based on issues such as the return of capital punishment, the re-criminalization of abortion, and ending the “special rights” given to Aboriginals and other minorities (Laycock, 2005).

Despite regional variations in the salient issues it campaigns upon, populism has relied on the traditional rhetoric wherever it has appeared in Canada. Populist politicians invariably advocate that the ineffectual bureaucracy be stripped of its power and that political decision-making be returned to Canadian taxpayers (Laycock, 2005). In order to mobilize low-income voters and the working class the populist “common sense” message is given using simple, non-technical language (Laycock, 2005). However, in recent years the focal point of populist discourse in Canada has shifted towards criminal justice issues, as it has in many other countries. Evidence of a steadily declining crime rate has not prevented populist Canadian politicians from enacting a variety of legislations designed to “get tough on crime” (Roberts et al., 2003). For example, since 2000 legislations have been proposed in the House of Commons to create mandatory minimum sentences, lower the age of criminal responsibility, impose mandatory life sentences for a wider range of crimes, and make prison conditions harsher (Roberts et al., 2003). While not all of

these bills were enacted, they demonstrate the populist influence present in Canadian politics (Roberts et al., 2003).

Penal Populism

Penal populism is generally described in socio-legal literature as a political strategy in which politicians attempt to portray themselves as representing the best interests of the public by supporting more severe and punitive criminal justice policies (Pratt, 2007). It is often premised on the belief that offenders are being prioritized over the victims of crime or citizens in general (Pratt, 2007). One of the key features of populism is the belief that the government administration has failed to act on the collective will of the public (Laycock, 2005). Paradoxically, populist politicians openly criticize the incompetence and failure of the very political system which they are members of (Abts & Rummens, 2007).

Populist politicians identify themselves with the “common people” and claim to represent them and express their opinions in opposition of the powerful “elite” who have usurped their sovereign power (Laycock, 2005; Pratt, 2007). This “elite” is generally defined as anyone who is not one of “the people” and therefore tends to include those who form part of the state/political apparatus. However it also includes those who advise the state, which can comprise anyone who is considered to have expert knowledge about the criminal justice system, such as lawyers, judges, academics, and other professionals. As a result of this hostility towards the elite, populist discourse rejects empirical or academic knowledge as well as experiential knowledge in favour of indications of public sentiment (Pratt, 2007; Abts & Rummens, 2007).

Penal populism depends on a particular style of communication in order to mobilize the public's support (Pratt, 2007). Populist politicians direct their rhetoric to the common people whose interests they claim to represent. By using simple and direct language they are able to capitalize on the public's mistrust of politicians and use it to their advantage. This simplistic language allows them to distance and differentiate themselves from the pejorative stereotype of evasive politicians who communicate in bureaucratic jargon. Moreover, it allows them to be seen as having more in common with the people than with the elite and the corrupt political process (Pratt, 2007). Since they disdain expert knowledge and empirical evidence, populist politicians rely on anecdotal information and personal experiences of crime in order to advocate for increased punitiveness (Pratt, 2007).

As a result, populist discourse on crime tends to be highly inflammatory and emotionally charged (Pratt, 2007). Penal populists claim that the criminal justice system is biased in favour of criminals at the expense of victims and the safety of the community. Furthermore, they claim to represent victims, give them a voice, and act on their behalf by getting tough on crime. Consequently, penal populist discourse tends to evoke the public's sympathy with victims and its fear, indignation, and anger towards offenders (Karstedt, 2002). Nowhere can this be seen more clearly than in the populist tradition of naming punitive criminal legislations after the victims of crime (Frost, 2010). For example, following the brutal murder of Sébastien Lacasse in 2004 by a 17-year-old youth, a legislation known as "Sébastien's Law" was proposed in Canada (*Sébastien's Law*, 2011).

Among other things, the legislation was designed to impose harsher sentences on young offenders, restrict eligibility for pre-trial release, lift publication bans on violent youth, and require judges to consider adult sentences for violent youth (Department of Justice, 2010; *Sébastien's Law*, 2011). Invariably the people such legislations are named after have been the tragic victims of brutal violence. Memorializing them in this way gives authority and validity to the populist claim of representing the victims of crime and helps galvanize the public's support (Pratt, 2007). Historically, these legislations have encountered very little opposition from other politicians. Opposing "tough-on-crime" bills linked to emotionally charged events, particularly those who ostensibly will prevent further victimization, is tantamount to political suicide (Pratt, 2007).

Research has shown that penal populist discourses tend to exaggerate and sensationalize both crime and the risk of victimization, which contributes to the fear of crime, support for punitive policies, and further reduces the public's confidence in the justice system (Robert et al., 2003; Pratt, 2007). This exaggeration is due in large part to the fact that penal populist discourses are not based on empirical evidence, but rather on unverified perceptions, impressions, beliefs, and intuitions about crime (Mallea, 2010; Pratt, 2007, Roberts et. al., 2003). The combination of "homespun common sense" and emotional appeals that is characteristic of populist communication gives it a tabloid quality that makes it extremely compatible with popular media (Canovan, 1999, p. 15; Pratt, 2007). The media is vitally important to the dissemination of penal populist rhetoric and will be discussed in greater detail in the media section to come.

Mass Media & Penal Populism

The influence exerted by the mass media on public opinion makes it an extremely important factor in the creation of political agendas (Frost, 2010, Altheide, 2003). Research shows that the more the public is confronted with crime-focused mass media, the more it will perceive crime to be a serious problem requiring government action (Sprott, 1999). Since the consumption of crime-focused mass media is positively correlated with support for retributive policies, politicians who promise to make crime issues a priority and increase the severity of criminal justice policies are likely to gain the public's support (Altheide, 2003; Doyle, 2006). As we have seen, the mass media's representations of crime are notoriously inaccurate and misleading. Consequently, it is possible for the national criminal justice agenda to be directed by misconceptions and illusions about the reality of crime (Doyle, 2006).

Non-fictional mass media, such as newspapers and televised news, also provide populist politicians with an effective way of disseminating populist ideologies about crime, giving them direct access to the people they claim to represent. Traditional news mass media such as newspapers and television are an ideal forum for anti-crime slogans and emotional appeals, while newer mass media such as the internet allow them to reach out to new demographics (Pratt, 2007). The most successful politicians are those who feature prominently in the mass media (Bos et al., 2010). One of the political advantages of populism is that it can be somewhat provocative and controversial, making those who use it "newsworthy". A relatively unknown politician can easily increase media's attention by raising a

highly contentious issue such as removing inmate privileges for example. This media coverage makes populist politicians more recognizable to voters, which has been shown to increase the likelihood of being elected (Bos et al., 2010).

Research has shown that there are additional discursive strategies that populist politicians use in the media in order to enhance their appeal with voters (Pratt, 2007; Bos et al., 2010). Raising controversial issues is simply not enough; the most effective populist politicians will also provide a solution (usually themselves) (Bos et al., 2010). Referencing “facts” and “evidence” demonstrates knowledge on the subject and gives the speaker authority and credibility with the audience (Bos et al., 2010). As will be discussed in greater detail below, in the case of penal populism this is often anecdotal information or the personal experiences of victims of crime (Pratt, 2007; Roberts et al., 2003). This effect is enhanced even further if they are able to capitalize on the public’s fear of crime by raising the spectre of some imminent social crisis (Bos et al., 2010). These fear-based appeals are highly effective because they elicit fears absorbed from the media while also carrying an additional threat (Bos et al., 2010). By suggesting that our streets are unsafe due to violent criminals for example, populist politicians are playing on extant fears while insinuating that these problems will only get worse unless they are elected to address them (Bos et al., 2010).

However, many scholars advise caution when analyzing the use of media as a platform for populist politicians. In particular we should avoid the inference that populist politicians use the media as a form of manipulation over the masses or that it is evidence of a conscious and premeditated use of fear to “dupe” the public into

electing them. It is important to remember that politicians, like the rest of society, are themselves heavily influenced by the media (Roberts et al., 2003). Accordingly, the majority have little or no direct contact with criminals or the justice system. They obtain much of their information about these issues through the media in the same way that members of the public do, by reading the newspapers, watching the evening news, etc (Roberts et al., 2003). As a result, they can be similarly affected by misconceptions and mistaken beliefs about crime. So the conclusion that penal populism is a devious “con game” should be avoided, since it is possible that these politicians are sincere in their belief that the crime problem requires a punitive solution.

Having reviewed the available empirical evidence, it is clear that the mass media is extremely influential in the formation of criminal justice policies, making it increasingly important to expand our understanding of the complex relationship between media and political discourse in shaping criminal justice policies. The concept of penal populism is extremely important to my research. Research by DeKeseredy (2009) and others suggests that punitive political discourses are the key to understanding whether or not Canada has experienced a punitive turn or will in the future. Consequently, this is what my MA thesis explores, as opposed to other symptoms of the punitive turn such as carceral hyperinflation or post-disciplinary penalty. I will endeavour to explore the relationship between populist political discourses and the media and how this relationship impacts the formation of allegedly “tough-on-crime” criminal justice policies such as Bill C-10.

The Punitive Turn / New Punitiveness

So far, the academic literature on the punitive turn seems to revolve around two opposing perspectives. On the one hand, many theorists suggest that national increases in incarceration rates are interconnected and indicative of a larger transnational trend, also known as the “punitive turn” or the “new punitiveness” (Pratt, 2005, Carrier, 2010). Some researchers have compared this punitive turn to a tsunami, while others refer to it as a domino effect in which punitive nations are influencing increases in severity in their neighbours (Pakes, 2006 cited in Carrier, 2010). On the other hand, many scholars oppose the punitive turn thesis, suggesting instead that alternative explanations exist for the appearance of increased severity in various countries (Pratt, 2005, Moore & Hannah-Moffatt, 2005).

Nations believed to be most affected by the punitive turn include the United States, the United Kingdom, France, Denmark, Italy, Sweden, New Zealand, Australia, and Canada (Carrier, 2010; Roberts et al., 2003). These countries, among others, are believed to exhibit a variety of symptoms that have become characteristic of the punitive turn. One of the most frequently cited symptoms is carceral hyperinflation, which refers to a dramatic increase in incarceration rates resulting in higher inmate populations (Carrier, 2010; Van Kesteren, 2009). Carceral hyperinflation is believed to be the direct outcome of punitive criminal justice policies which favour the application of custodial sentences over non-custodial alternatives (Roberts et al., 2003). Examples of these punitive policies include the now infamous 3-strikes laws, mandatory minimum sentences, truth-in-sentencing laws, and restricted eligibility for conditional release (Frost, 2006).

A great deal of the academic research on the punitive turn attempts to measure carceral hyperinflation in order to assess the degree of severity or punitiveness in a given jurisdiction (Frost, 2006; Van Kesteren, 2009). These measurements of “punitiveness” then serve as the basis for comparison against other jurisdictions (Frost, 2006). However, the reliability of this research has been called into question by those who object to the global punitive turn thesis. Scholars such as James Lynch (cited in Frost, 2006) have suggested that this can be very misleading due to the failure of researchers to adequately conceptualize punitiveness. He claims that basing conclusions about punitiveness on cross-national comparisons of incarceration rates leads to exaggerated findings about the punitive turn (Frost, 2006). Lynch suggests that this approach ignores other important factors, such as differences in crime rates between nations, and that when these are taken into consideration the difference between so-called punitive and non-punitive countries is greatly reduced or eliminated entirely (Frost, 2006).

“Post-disciplinary penalty” is another characteristic feature of the punitive turn (Carrier, 2010). Frequently referred to simply as the “decline of the rehabilitative ideal”, post-disciplinary penalty refers to the conception in punitive nations that offenders are “social garbage” which must be incapacitated rather than rehabilitated (Frost, 2006; Carrier, 2010). In post-disciplinary penalty, all attempts to invest positively in the lives of inmates through rehabilitation are abandoned as futile and the primary function of the carceral space becomes “waste management”, the simple warehousing of offenders until their eventual release (Carrier, 2010, Frost, 2006).

This decline in support for rehabilitation is also related to penal populism, another important symptom of the punitive turn. As we have discussed, penal populism refers to a political strategy in which politicians portray themselves as acting in the best interests of the public by advocating for punitive criminal justice policies (Roberts et al., 2003). Generally speaking, penal populist politicians tend to support the goals of offender incapacitation, deterrence, and retribution rather than rehabilitation (Pratt, 2007). These goals are advocated in the name of public safety and protection and ensuring that dangerous criminals get their “just deserts” (Carlsmith, Darley, & Robinson, 2002). While the punitive turn often means harsher punishments, fewer rehabilitative alternatives, and tough-on-crime politics, it is also believed to change the character of punishment itself (Phelps, 2011, Frost, 2006). Countries experiencing the punitive turn will often return to more antiquated and expressive forms of punishment which are intended to be humiliating or degrading (Frost, 2006; Karstedt, 2002). Examples include the use of chain gangs, posting signs outside of the homes of sex offenders, and public shaming practices (Pratt, 2000; Karstedt, 2002).

Origins of the Punitive Turn as a Global Trend

Sociological and criminological research has presented a variety of explanations for the origin of the punitive turn (Frost, 2006; Carrier, 2010). One of the most frequently cited explanations suggests that the decline of rehabilitation, while being a symptom of the punitive turn, may also be its cause. Rehabilitation rose in popularity in North America and Europe throughout the 1950s and continued to be a central component of penal logic up until the 1970s (Phelps, 2011;

Cullen & Gendreau, 2001). It was believed that the scientific method, applied through the relatively young disciplines of sociology and criminology, could be used to uncover the root causes of crime, allowing the development of rehabilitative programming designed to prevent recidivism in individual offenders (Cullen & Gendreau, 2001).

However, in the late 70s and early 80s the rehabilitative model increasingly lost support, due to its apparent failure to lower recidivism rates (Lewis, 2005; McNeill, 2009). A populist “law and order” rhetoric emerged (identified alternatively as “back to justice” in the US) which criticized this individual therapeutic approach as being far too lenient and “coddling” offenders, effectively cushioning them from the consequences of their actions (Phelps, 2011). This led many to conclude that “nothing works” and that offenders were incorrigible and efforts to rehabilitate and reintegrate them into society were a waste of time and resources (Bauman, 2000; Cullen & Gendreau, 2001). While rehabilitation did not disappear from prison systems following this decline, it was largely supplanted by the new penal goals of incapacitation (i.e. warehousing) and deterrence through harsher punishments (Phelps, 2011). This can be most clearly seen in the United States than elsewhere.

In contrast, David Garland suggests that the origins of the punitive turn lie in the “conditions of late modernity” (cited in Tonry, 2009, p. 380). According to Garland, conditions of late modernity such as globalization have brought about accelerated social changes, resulting in greater public insecurity about crime and victimization (Roberts et al., 2003). Governments adopt harsher sentences and

punitive policies in response to these changes in an attempt to assuage the public's concerns and secure their support for re-election (Roberts et al., 2003). Similarly, Norbert Elias' theory about civilizing/de-civilizing processes has also been applied in an attempt to explicate the roots of this new punitiveness (Pratt, 2000). Elias' theory suggests that as societies become more "civilized" their level of sensitivity increases and punishments such as torture and public executions are seen as barbaric and decrease over time (Pratt, 2000). According to this theory "civilized punishment" is humane, rational, guided by research, and is enacted only by the state (Pratt, 2000).

However, certain "phenomena such as war, catastrophe, or dramatic social change" can interrupt civilizing processes and even reverse them, resulting in de-civilizing processes (Pratt, 2000, p. 422). It has been suggested that social changes within the last few decades, brought about by forces such as mass communication and rapid technological development, have increased the fear of crime and the perception of risk/dangerousness (Pratt, 2000). In response to this perceived threat, there is a resurgence of support for increasingly punitive sanctions and a "tough-on-crime" approach to criminal justice (Pratt, 2000). However, in their attempt to account for the global punitive turn, these theories ignore the unique social, historical, and cultural contexts of individual nations which are believed by

many scholars to be central to the development of increased penal severity (Pratt, 2000).¹

Regional Explanations for Punitiveness

A number of case studies have been conducted on nations believed to be at the forefront of the punitive turn in order to discover whether or not an international punitive trend truly exists. Interestingly, many of these studies contradict the global punitive turn thesis, suggesting instead that regional increases in severity are unrelated to the influence of punitive neighbours in the international community. Within the literature, the United States is often referenced as the quintessential example of the new punitiveness because over the past few decades all of its symptoms have appeared in American penal policy (Tonry, 2009; Frost, 2006).

The United States maintained a relatively low incarceration rate throughout the 1960s and 1970s due in part to support for the rehabilitative model of criminal justice (Phelps, 2011; Frost, 2006). However, as support for rehabilitation declined many US states went on an “imprisonment binge” and adopted increasingly severe criminal justice policies (Phelps, 2011; Frost, 2006). These included mandatory minimum sentences, truth-in-sentencing statutes, restrictions on conditional release, and strict sentencing guidelines intended to limit judicial discretion (Frost, 2006). Criminal justice issues also became increasingly politicized and a “tough-on-

¹ While I only mention a few theories about the origins of the punitive turn, many more exist which I have not discussed such as Wacquant’s (2002) explanation of American mass incarceration and the “hyperghetto” or the rise of the penal industrial complex for example.

crime” populist rhetoric was embraced, which advocated increased incarceration as well as the expansion of penal harm by removing various inmate privileges (Phelps, 2011; Frost, 2006). Consequently, over the last 20 years the American incarceration rate has risen by 350%, while penal system expenditures have risen by 500% (Frost, 2006). The US inmate population now exceeds 2.3 million offenders, with an additional 6.5 million offenders who are subject to some form of correctional supervision (Carrier, 2010; Frost, 2006).

While the American case demonstrates an undeniable increase in severity, scholars such as Michael Tonry (2009) have argued that aspects of American culture and history are responsible, not any macrosociological trends such as late modernity. Tonry’s (2009) study suggests that American punitiveness can be explained by three factors: political paranoia, Protestant fanaticism and intolerance, and an antiquated constitutional structure. According to Tonry (2009), the American political landscape has always been partly shaped by paranoia and fear of a morally inferior “other”. In support of this claim he cites three major examples: the Prohibition movement in the 1920s, the anti-communist movement during the Cold War, and the recent Wars on Drugs and Terrorism. Tonry (2009) claims that during each of these periods there was a heightened perception of an imminent threat against American society. This fostered a culture of paranoia which gradually weakened the justice system’s commitment to human rights, thus leaving the American criminal justice system susceptible to punitiveness (Tonry, 2009).

Similarly, the United States have a history of religious intolerance, exemplified in episodes such as the infamous Salem witch hunts, the targeting of

minorities by the temperance movement, and the involvement of evangelical clergymen in the Ku Klux Klan (Tonry, 2009). This religious intolerance, coupled with paranoia, is believed to be partly responsible for the favourable outlook towards punitiveness in American politics. Finally, the American constitutional structure, described by Tonry (2009) as “obsolete”, is believed to have exacerbated these American punitive tendencies. For example, the American tradition of selecting judges and prosecutors based on popular vote is seen as problematic because it requires these officials to court public opinion. Since public opinion is known to be vulnerable to misconceptions about crime and susceptible to sweeping emotional reactions, this can easily result in the adoption of populist “tough-on-crime” rhetoric. Tonry (2009) concludes that despite the United States’ reputation as the world leader of the punitive turn, the causes of American punitiveness are entirely local and are unrelated to international trends. However, it is important to bear in mind the argument raised by many scholars, that disparities exist between states and that American penal policy is not uniform in becoming more draconian.

Following the United States, the United Kingdom is perhaps the second most frequently cited nation in the punitive turn literature (Jones & Newbury, 2005). Since the 1960s the UK’s incarceration rate has increased by 200%, due to the adoption of policies similar to the United States (Webster & Doob, 2007). In an attempt to cope with this expanding inmate population, the UK returned to the privatization of prisons. This has been cited as evidence of increased severity in the UK and of the punitive influence exerted by the United States, where similar privatization has been implemented (Jones & Newbury, 2005). However, the

research of Jones & Newbury (2005) suggests that prison privatization in the UK is attributable to socio-historical factors and not to any trans-Atlantic policy transfer. They point out that there is a tradition of prison privatization in England that dates back to the Middle Ages and was considered the penal norm until the 18th century (Jones & Newbury, 2005). This research supports the conclusion that manifestations of punitiveness in the United Kingdom are more directly related to its unique history than to international influences.

In some countries, the appearance of “new punitiveness” can be misleading. Such is the case with France, which certainly exhibits several symptoms of the punitive turn though in a very different way than countries like the USA or UK (Roche, 2007). For example, the French incarceration rate has risen since the 1960s as a result of the adoption of punitive policies targeting violent and sexual offenders (Roche, 2007). However, these seemingly harsh policies have emerged alongside diversionary programs and non-custodial alternatives aimed at reducing the justice system’s reliance on imprisonment, especially for first-time offenders and youth (Roche, 2007). Another recent indication of France’s “punitiveness” is the extreme politicization of criminal justice issues and the adoption of American-style anti-crime slogans such as “zero-tolerance” (Roche, 2007). While this appears to demonstrate the transmission of punitive views and policies from one nation to another, closer analysis reveals significant differences between the American and French interpretations.

Unlike in the United States, the politicization of criminal justice in France has not led to support for increased incarceration, perhaps because the French judiciary

remains insulated from the pressures exerted by populist politics and public opinion (Roche, 2007). Furthermore, slogans such as “zero-tolerance”, while borrowed from the US, have an entirely different meaning and application in the French context. Rather than being used in support for retributive punishments such as 3-strikes, “zero-tolerance” in France has been used in support of crime prevention strategies such as the use of CCTV cameras and community policing (Roche, 2007). This research suggests that although penal policy transfer does occur between countries, this alone is not indicative of a global punitive trend, since the application of these policies can differ greatly.

Further troubling the global punitive turn thesis is the fact that some countries, like Germany, do not display any symptoms of increased punitiveness despite being surrounded by countries that do (Oberwittler, & Höffer, 2005). Germany has not experienced carceral hyperinflation, despite having a crime rate that has risen slightly in recent years (Oberwittler, & Höffer, 2005). In fact, Germany’s overall incarceration rate has been declining steadily for over a century, notwithstanding the brief periods of increase during the two world wars and the Soviet occupation of Eastern Germany (Oberwittler, & Höffer, 2005). For the last two decades the German government has focused on the development of crime prevention programs and has promoted the use of non-custodial sentencing alternatives (Oberwittler, & Höffer, 2005). Germany does not appear to have been influenced by any punitive policy transfer, despite its close geographical and political proximity to punitive neighbours such as Austria and Denmark (Oberwittler, & Höffer, 2005).

Punitiveness in the Canadian Context

A few scholars have researched whether or not Canada is undergoing a punitive turn similar to other Western nations. The Canadian case is particularly interesting because Canada has strong social, historical, political, and cultural ties to nations believed to be at the forefront of the global punitive turn, particularly the United States and the United Kingdom (Tonry, 2009; Webster & Doob, 2007). Over the past few years Canada has begun to institute a variety of policies that are strongly associated with increased punitiveness, such as mandatory minimum sentences, elevated maximum sentences, and restrictions on eligibility for conditional release (Mallea, 2010). In addition, criminal justice issues in Canada have become increasingly politicized and tough-on-crime rhetoric appears regularly in Canadian media (Mallea, 2010; Webster & Doob, 2007). These recent Canadian policy trends resemble those that have occurred in the United States and elsewhere, which has led some researchers to conclude that an international punitive turn does indeed exist and that it is sweeping across Canada (Webster & Doob, 2007).

However, some Canadian researchers, most notably Anthony Doob and Cheryl Webster (2006), have suggested that the Canadian case is unique and in many ways dissimilar to nations experiencing the so-called punitive turn. While Canada has begun to implement “tough-on-crime” policies which are strongly associated with this trend, it also benefits from “unique protective factors” which have negated or minimized this “new punitiveness” (Webster & Doob, 2007, p. 17). The Canadian political and legal structure is believed to be responsible for many of these protective factors. For instance, Canada’s sentencing principles, outlined in the

Criminal Code of Canada, compel judges to consider “all available sanctions other than imprisonment” before imposing a custodial offence (Criminal Code, 1985, S. 718.2(e)). This legislation places equal importance on rehabilitation as it does on other aims of sentencing such as incapacitation or deterrence, thus requiring judges to consider the offender’s eventual release and reintegration (Webster & Doob, 2007). Therefore, the focus of Canadian sentencing appears to be on reducing the criminal justice system’s reliance on incarceration, rather than increasing severity. Webster and Doob (2007) suggest that these sentencing guidelines force the Canadian judiciary to see each offender as an individual and understand their particular circumstances, instead of seeing them as a morally inferior “other”. Consequently, the likelihood of excessive severity in sentencing is reduced (Webster & Doob, 2007).

However, the Canadian judiciary also benefit from their independence from political pressures. Unlike American judges, the Canadian judiciary enjoys a great deal of autonomy which insulates it from tough-on-crime political rhetoric as well as punitive public sentiments (Webster & Doob, 2007). Webster and Doob (2007) assert that this legal and political configuration has fostered the growth of a “culture of restraint” among Canadian judges which limits or counteracts punitive policies that might otherwise lead to carceral hyperinflation. They conclude that while Canada does exhibit symptoms of increased punitiveness, “harsh words do not necessarily lead to harsh actions” (Doob & Webster, 2006, p. 359).

However, Dawn Moore and Kelly Hannah-Moffatt (2005) suggest that the Canadian justice system is more punitive than it appears to be. Although this is not

its primary concern, (especially following recent legislative changes) the Correctional Service of Canada remains officially committed to offender rehabilitation. However, research has shown that many of the therapeutic and correctional programs offered to incarcerated inmates are in fact coercive and punitive in nature (Moore & Hannah-Moffatt, 2005). In many cases the outcome of parole decisions depends on an offender's participation in rehabilitative programs, which are being offered by the very people controlling their incarceration (Moore & Hannah-Moffatt, 2005). As a pre-condition of participation in these programs, offenders must also acknowledge their guilt and accept responsibility for their incarceration (Moore & Hannah-Moffatt, 2005). Consequently, beneath the liberal aims of these therapeutic initiatives researchers see a growing trend of punitiveness. Moore and Hannah-Moffat (2005) conclude that the definition and measurement of the punitive turn in the academic literature needs to be broadened and revised. Simply using incarceration rates to measure relative punitiveness can be very misleading, particularly in Canada where the incarceration rate remained stable for nearly four decades (Moore & Hannah-Moffat, 2005; Webster & Doob, 2007).

Concerns have been raised by a number of punitive turn researchers that the perpetuation of tough-on-crime rhetoric and other penal populist discourses at the federal level could override the protective factors that have shielded Canada thus far (DeKeseredy, 2009; Doob & Webster, 2006). Since the Harper government was elected, the Conservative party have become an outspoken promoter of "tough-on-crime" rhetoric and have proposed a number of legislations that have been

identified as punitive in nature (DeKeseredy, 2009; Mallea, 2010). In fact, roughly 33% of the legislations introduced in the House of Commons by the Conservative party between January 2009 and November 2010 took the form of criminal law amendments designed specifically to increase severity (Mallea, 2010).

In addition to the proliferation of crime legislations, there has been a dramatic increase in the politicization and mediatization of Canadian criminal justice issues (Mallea, 2010). The Harper government even appears to have adopted American-style anti-crime slogans such as “Serious Crime = Serious Time” (DeKeseredy, 2009). Authorities on the punitive turn see this as clear evidence of an international influence. The Conservatives’ legislative agenda has received a great deal of criticism from academics, politicians, criminal justice system professionals, and community organizations alike. Of greatest concern to many critics is the possibility that the tough-on-crime approach in Canada will result in increasingly overcrowded jails, clogged courts, fiscal insolvency, and be disproportionately applied to minorities (Mallea, 2010).

However, as a caveat it should be noted that the available research in this area is rather dated, having mostly been produced prior to 2010. A great many legislative changes have been made within the last two years (e.g. *The Tackling Violent Offenders Act*, *The Truth in Sentencing Act*, *The Safe Streets and Communities Act*) which are not considered by these theoretical works. Consequently, this project will focus only on Bill C-10 otherwise known as *The Safe Streets and Communities Act*, which is believed to be the most recent example of this punitive legislative trend and was officially enacted in March of 2012. I believe that the timing is perfect for a

study to be conducted that analyzes the relationship between mediatization, politicization, and penal populism. In order to accomplish this, I will focus on a specific and recent example of the Harper government's "tough-on-crime" agenda—the *Safe Streets and Communities Act*.

Bill C-10

The Harper government recently introduced Bill C-10, also known as the *Safe Streets and Communities Act* (2011), before the House of Commons. After being sent to the Senate for a "sober second thought" and minor revisions, Bill C-10 received royal assent on March 2, 2012 and became an official Canadian law. Bill C-10 is an amalgamation of nine legislations which were proposed by the Conservative party in the last parliamentary session and "died on the order paper" after the prorogation of parliament in 2011. This legislation has made several significant changes to Canadian criminal justice policy.

For instance, Bill C-10 amended the Controlled Drugs and Substances Act by imposing a mandatory minimum sentence of 1 year for any drug-related offence involving organized crime, violence, weapons, or where the offender has been charged with a drug crime within the last 10 years. A mandatory minimum sentence of 2 years will be imposed if the drug-related offence was committed near a school, within a prison facility, or if the accused used the services of a minor. Furthermore, mandatory minimum sentences will be imposed for possession of drugs for the purposes of trafficking, with the length of the minimum sentence depending on the type of drug and possible aggravating factors. However, Bill C-10 also stipulates that if an offender participates in drug court or an approved treatment program, the

sentencing judge will not be required to impose the minimum penalty for their offence.

This legislation also amended the Criminal Code of Canada by eliminating the availability of sentencing alternatives like house arrest for indictable offences such as theft over \$5000, breaking and entering, importing/exporting drugs, sexual assault, and violence causing bodily harm or involving a weapon. Bill C-10 also amended the Corrections and Conditional Release Act by eliminating “pardons” and replacing them with “record suspensions”. If an offender is charged with an indictable offence, they must wait until 10 years elapses before being eligible for a record suspension, whereas an offender convicted of a summary offense must wait 5 years. In addition, the bill removes the possibility of obtaining a record suspension for a number of offenders, such as those convicted of more than three indictable offences or for which the maximum sentence is life imprisonment.

Those opposed to Bill C-10 have argued that the legislation is indicative of a “tough on crime” approach being employed by the Harper government, which will greatly increase prison populations without effectuating any change in crime rates. In response, supporters of Bill C-10 have argued that these legislative changes are necessary in order to increase the safety and security of Canadians. I chose this legislation for two reasons. Firstly, the omnibus crime bill is an ideal example of the changes in criminal sentencing that are associated with the punitive turn and the “tough-on-crime” approach, such as mandatory minimum sentences and restricting eligibility for conditional release. Secondly, this legislation has generated a great deal of controversy and has received a tremendous amount of media attention over

the last year, which has provided me with an abundance of discourse to analyze in order to explore the relationship between political and media discourses and their influence on policy formation.

METHODS

According to Ibarra and Kitsuse (1993, p. 29), the task of the researcher is to deconstruct the “vernacular displays” within social problems discourse. In constructing a certain symbolic account of a social problem, claims-makers often use language in order to morally define certain social conditions. Ibarra and Kitsuse (1993) call these morally defined categories “rhetorical idioms”. The application of these rhetorical idioms to the social conditions is what allows them to be seen as problematic. For example, the “rhetoric of endangerment” is a rhetorical idiom that can be applied to any social condition that poses a threat to health or safety (Ibarra & Kitsuse, 1993). Like all rhetorical idioms, it comes complete with a set of implied values and moral judgements. This particular idiom assumes that people have a right to life, safety, and health. Therefore, any conditions that pose a risk to this are considered problematic and intolerable (Ibarra & Kitsuse, 1993).

It is this deconstruction of vernacular displays and rhetorical idioms that I sought to achieve in my discourse analysis on Bill C-10. My thesis sought to answer the following research questions. Firstly, what is the political rhetoric behind the so-called “tough-on-crime” approach? Secondly, how does this rhetoric present crime as a social problem? Thirdly, how is the “tough-on-crime” approach presented as a solution to the social problem of crime? In order to answer these research questions I employed discourse analysis, a qualitative methodology which allows researchers

to study social and cultural phenomena (Ferrell et al, 2008). It is a qualitative methodology which resembles ethnography in a few important ways. For example, in both discourse analysis and ethnography the purpose of the researcher is to act as an observer in order to achieve what Max Weber called *verstehen*, a subjective understanding of another's motivations or actions (Ferrell et al., 2008). In order to achieve this understanding, both ethnography and discourse analysis require the researcher to immerse themselves in the context which they are interested in studying (Ferrell et al., 2008). However, in traditional ethnography the researcher is usually immersed into a social context, whereas in discourse analysis the researcher is immersed in textual representations (Ferrell et al., 2008).

This methodology is ideally suited for a study of this kind because the goal of discourse analysis is to understand texts, such as various media and political debates for example, as complex and conflicting cultural processes of interaction and communication through which meaning is constructed (Altheide & Coyle, 2006; Tonkiss, 2004). Research has shown that analyzing the way crime is discussed in the mass media, particularly the language, symbols and implied meanings used, can provide insight into how these issues are understood by Canadians, as well as how the mass media helps construct that understanding (Altheide & Coyle, 2006; Tonkiss, 2004). In addition, research suggests that analysis of mass media discourse can help researchers track the changes in how crime is understood over time (Tonkiss, 2004).

Discourse analysis has some significant advantages over quantitative methodologies with regard to textual analysis. For example, one of its strengths is

that it allows researchers to study phenomena that could not be studied through a quantitative approach (Tonkiss, 2004). Quantitative methods emphasize the importance of the scientific method and focus on a strict and rigid methodology intended to produce objective results (Tonkiss, 2004). As a result, quantitative methodologies are unable to study certain social and cultural phenomena (Tonkiss, 2004). On the other hand, discourse analysis is not bound by such restrictions and is flexible enough to permit the researcher to adapt the methodology to the context they are studying (Tonkiss, 2004). With regard to textual representations, quantitative methodologies would be limited to merely counting word frequency, whereas discourse analysis allows researchers to understand how these texts create and communicate subjective meaning (Tonkiss, 2004). However, due to the subjectivity of this type of analysis, it is particularly important to be reflexive. As discussed previously in chapter one, empirical research is never isolated or detached from the society it analyzes (Weinberg, 2009). As a result, perfect objectivity can never be attained with this methodology. However, I believe that adopting a social constructionist approach helped me to remain reflexive by focusing my analysis on the various claims-making activities taking place within the discourse, rather than on the social conditions that are being defined as problematic.

Nevertheless, discourse analysis also has some noteworthy limitations (Tonkiss, 2004). For example, the results produced by a discourse analysis methodology are generally very limited in scope and not generalizable (Tonkiss, 2004). This is due to the fact that discourse analysis focuses on a particular body of

texts within a particular context, as well as the choice by the researcher to focus on interpretation (i.e. *verstehen*) rather than on measurement, prediction, or explication (Tonkiss, 2004). As a result, the findings of my discourse analysis of tough-on-crime discourse in Canadian media may not be applicable to the United States because the texts in question are situated within a distinctly Canadian context. However, this limitation could also be interpreted as an advantage since academic literature, such as the punitive turn research for instance, often tends to conflate the Canadian experience with the United States or the United Kingdom (Webster & Doob, 2007). Literature which does focus entirely on the Canadian context is scarce and often is quite dated.

Discourse analysis is extremely compatible with the theoretical perspectives adopted in this project. Cultural criminology is premised on the idea that we can learn as much about crime from cultural expressions as we can from statistics (Presdee, 2000). In addition, cultural criminology emphasizes the need to critically explore how “knowledges” are produced as well as how and why some knowledges become dominant while others are marginalized or even criminalized. Similarly, the social constructionism tradition encourages researchers to analyze how language, discourse, and rhetorical idioms are used in order to symbolically constitute various social problems (Ibarra & Kitsuse, 1993). The central characteristic that both of these theoretical perspectives share with discourse analysis is the requirement that researchers adopt a critical attitude towards the production of meaning.

The sample for this project comprises a mix of official texts such as Parliamentary press releases, debates, and ministerial statements, as well as a

variety of news media in both textual and visual formats. The official sources regarding Bill C-10 were accessed through the Parliament of Canada's official website. Through this site I was able to acquire pdf copies of the latest version of the legislation and the debates about Bill C-10 that took place in the House of Commons on September 21, 2011 and November 29, 2011, as well as the Senate debate of December 8, 2011. By following the links posted under the "Further Reading" section, I was able to access 10 statements made by the Department of Justice and 4 made by Public Safety Canada which provided updates at various stages of the Act's progress through parliament and summarized its legislative changes. These statements are dated from between September 20, 2011 and March 7, 2012.

The Parliament website also provided links to 18 press releases which were posted on the official websites of five major political parties. Out of the 18 press releases acquired, 4 were given by the Conservative Party, 6 by the Liberal Party, 6 by the New Democratic Party, 1 by the Bloc Québécois, and 1 by the Green Party. These official sources were included in the sample in order to more accurately represent the official discourse regarding Bill C-10. Incorporating a mix of party press releases, ministerial statements, and political debates which include political discourses both for and against the legislation will provide a more inclusive and representative sample. This in turn should facilitate a more comprehensive qualitative analysis. Moreover, since all of these texts were obtained directly from the Parliament website or through hyperlinks to other government or party websites, they were seen as representative of the "official" political discourse on Bill C-10.

As mentioned above, the sample was also composed of news media on Bill C-10. Relevant newspaper articles were collected using Canadian Newsstand, an online newspaper database, which was accessed through Carleton University's subscription on November 3, 2012. This database uses a Boolean search engine which allows users to search for newspaper articles using key terms. Users can also refine their search using a variety of parameters such as the publication date, publication title, or document type. Initially I searched for articles using the key terms "Bill C-10", "Bill C10", "Safe Streets and Communities Act" and "omnibus" between September 20, 2011 and November 1, 2012. I chose this date range to correspond with the date that Bill C-10 was introduced in the House of Commons and the date on which I began data collection.

This search generated a total of 1139 articles, which was far more than seemed reasonable for this project in such a limited time frame. However, upon closer inspection it became evident that my use of "omnibus" as a search term had yielded articles relating to Bill C-45, a controversial omnibus legislation concerned with the economy and unrelated to Bill C-10. Subsequent to this discovery I eliminated "omnibus" as a search term and replaced it with the terms "omnibus crime bill" and "omnibus crime legislation". In addition, I modified my search to include only full text articles published in print media. A new search using these parameters generated a total of 440 articles in over sixty Canadian publications. By limiting myself to five publications I was able to further reduce my sample to 73 articles. The five newspapers chosen include The National Post (16 articles), Toronto Star (16 articles), The Vancouver Sun (10 articles), The Montréal Gazette

(15 articles), and Winnipeg Free Press (16 articles). These five newspaper publications were chosen because they are among the largest in terms of audience or readership. Furthermore, their varied geographical distribution is more representative than a sample composed of news sources located within one province alone.

In addition, televised news segments were obtained from CBC News, Global News, and RDI Radio-Canada. The websites of all three broadcasters are equipped with search engines which allow users to navigate a video archive. Using the same key terms from my newspaper search, I was able to obtain a total of 29 videos. Of this total, 10 videos were obtained from CBC News, 11 videos from CTV News, and 8 videos from Radio-Canada RDI related to Bill C-10.² However, I translated my search terms into French in order to use the RDI search engine, since RDI is a French-language broadcaster. The French key terms used on the RDI search engine included “loi C-10”, “loi C10”, “projet de loi omnibus”, “loi criminelle omnibus”, and “*loi sur la sécurité des rues et des communautés*”. My rationale for selecting these three news broadcasts is the same as for my selection of newspaper publications; I was interested in selecting broadcasts which would have the largest number of viewers and the greatest geographical distribution.

Having acquired my sample of texts and news segments, I began the “coding” phase of data analysis (Charmaz, 2003). In other words, I watched the news segments and read through the texts in their entirety while keeping a journal of

² Ten of these videos were later excluded from the sample as they referred to Bill C-45, the economic omnibus legislation, rather than Bill C-10.

detailed “field notes” to keep track of features within the sample that seemed interesting, which assisted the process of initial coding (Charmaz, 2003). Next, these rough notes were used to help me organize the data into specific analytical categories, representing the key themes that emerged in the discourse (Charmaz, 2003). However, my analysis was not simply limited to what was present in the discourse. I also tried to make note of any silences, variations, or inconsistencies which appeared within the texts (Tonkiss, 2004). For example, I noticed that some issues considered central by one political party were conspicuously absent from the discourse of another party. These are discussed further in the following section. Once this phase was completed, the recurring themes that emerged within the discourse were presented in a final report, which appears in the following section. Finally, these findings were discussed and interpreted from a cultural criminological and social constructionist perspective and situated within existing academic literatures presented in the first chapter.

It is my hope that this project will add to our existing knowledge of the relationship between media and criminal justice policy, by providing some insight into the discourses both for and against “tough-on-crime” that appear in the media and political discourse. So far, research contributions to this academic conversation have provided us with an understanding of what the punitive turn is, what its symptoms look like, and how these symptoms play out within various national contexts. In addition, research on crime media has revealed the media’s relationship with penal populism and shed light on the importance that media discourses play in shaping the public’s understanding of crime. However, to my knowledge no study

has looked at punitive political discourses in Canadian media using an ethnographic approach. Scholars like Doob, Webster, and DeKeseredy have theorized that these discourses will override Canada's unique protective factors and result in a punitive turn like the United States. This is the space for my contribution. The recent passing of Bill C-10 has generated a great deal of media attention, which provides an ideal and timely opportunity to explore these punitive discourses firsthand by using a discourse analysis methodology.

I believe that this research is both timely and relevant, especially in light of recent events. On March 26, 2011 the dissolution of Parliament was announced following a period of bitter political feuding between parties over the proposed budget. One of the main issues of contention was the proposed cost of a number of the Conservative party's "tough-on-crime" legislations. The Conservatives were accused of intentionally withholding financial information from the Parliamentary Budget Officer in order to prevent him from constructing an accurate cost assessment. In the following weeks, a House of Commons committee determined that the Conservative government had abused their power and found them to be in contempt of parliament. Subsequently, an election was called and the Conservatives were able to obtain a majority. This incident clearly demonstrates the political significance of criminal justice policy issues since they are often the very issues which can make or break a government and can alter the course of our nation. Within a few months, isolated debates regarding criminal legislation and penal policy can become national debates affecting every single Canadian.

RESULTS

During the coding phase of data analysis, nine themes emerged which were deemed to be representative of the major issues raised concerning Bill C-10 within the sample. The first of these themes is the potential costs associated with Bill C-10. The second concerns the issue of carceral hyperinflation and the prison expansion expected by some to result from C-10's enactment. The third theme explores the link between Bill C-10 and the Conservative government's ongoing "tough-on-crime" legislative agenda. The fourth theme regards the issues of community safety (or lack thereof) and crime prevention and explores the conflicting and contradictory accounts of how this is to be accomplished. The fifth theme concerns the victims of crime and how discourses of victimization were mobilized. The sixth theme explores accusations and counter-accusations that political parties used Bill C-10 as a means of exacting political advantages. The seventh theme concerns the conflicting claims about what Canadians want with regard to criminal justice policies and who truly represents their real interests. The eighth theme explores the use of evidentiary support and the relative importance placed on "facts" in constructing the various claims made about Bill C-10. Lastly, the ninth theme discusses the varying interpretations of Bill C-10's impact on judicial discretion.

Authorship

In terms of authorship and the identity of the various claims-makers within the sample, there were three distinct categories that could be readily identified: journalists, politicians / civil servants, and interested third parties. This last group could be further broken down into three subgroups: academics, professionals, and

community organizations. The first and largest group were the journalists and reporters. This was to be expected, since a large number of newspaper articles and televised news segments were included in the sample. While the views expressed by members of this group were subject to a great deal of variation, the vast majority of the discourse they produced was critically opposed to Bill C-10. Politicians and civil servants represented the second largest source of authorship within the sample. Naturally, they appeared most frequently in official documents such as the parliamentary press releases, the ministerial statements, and the parliamentary debates. However, politicians also featured prominently in a number of newspaper articles and televised news segments.

In the newspaper articles, political figures tended to be quoted about their views on Bill C-10, though in a few cases politicians were the primary author of these articles. In the video news segments, political figures were usually interviewed directly by reporters or they were given an opportunity to debate against their political rivals about Bill C-10. As expected, members of the Conservative Party expressed unanimous support for Bill C-10, while the Liberal Party, New Democrat Party, Bloc Québécois, and Green Party expressed unanimous disapproval for it. While criticisms raised by the opposition parties were very similar, there was some variation in the issues they found most salient. For example, the criticisms raised by the Bloc Québécois tended to focus primarily on the changes to the *Youth Criminal Justice Act*, whereas the Liberal Party focused more attention on the need for evidence-based policies.

Interested third parties made up the third largest group in terms of authorship. However, this group proved to be the least homogenous of all in terms of its opinions and claims about C-10 and consequently, was separated into three smaller subgroups. The first of these subgroups included the various university professors that appeared in the sample. This subgroup was primarily composed of criminologists and law professors, but also included several professors of sociology and public policy. The second subgroup was composed of professionals working in the criminal justice system, including lawyers, judges, police officers, and correctional staff. Finally, the third subgroup was composed of community organizations and activists involved with individuals who will be affected by the change in the legislation. This group included organizations that work directly with offenders, such as the John Howard Society and Elizabeth Fry Society, as well as victims rights advocates.

The common denominator between these individuals is their possession of “expert knowledge” concerning some aspect of Bill C-10, which qualifies them to speak to the issues relating to its implementation or impact on the community. Their discourse features quite prominently in the newspaper articles as well as the televised news segments. In the majority of cases their expertise is consulted by reporters or journalists who are the primary author. Televised news segments often featured them as guests who were interviewed directly. Similarly, their opinions concerning Bill C-10 were frequently quoted in newspaper articles. However, in some cases these individuals are the primary author of newspaper articles, giving them a much more direct means of communicating their expertise regarding Bill C-

10. With few exceptions, these third parties were overwhelmingly opposed to Bill C-10 and critical of the Conservatives' "tough-on-crime" agenda.

Costs of Bill C-10

The financial implications of C-10 emerged as a major theme in the sample and received a great deal of attention in all of the media sources analyzed. All of the claims-makers seemed to agree that C-10 would require a significant financial commitment; however, this is where any consensus seems to end. The original estimates presented by the Conservative government suggested a total cost of roughly \$90 million, whereas later estimates produced by the Parliamentary Budget Officer and various provincial governments put the total cost at over \$2 billion. This discrepancy led to accusations that the Conservative government had withheld information from the Parliamentary Budget Officer with the intention of misleading the public about the bill's true cost.

The bill's critics and the opposition parties claimed that enacting C-10 would result in an exponential increase in prison populations, due primarily to restrictions on conditional sentences as well as the imposition of mandatory minimum sentences. Consequently, critics warned that the government would need to consider the ancillary costs of building new "mega prisons" to house these inmates and of hiring and training thousands of new correctional officers and staff. For many critics, what made this extravagant cost all the more objectionable and unforgiveable was their belief that Bill C-10 is guaranteed to fail. According to these sources, C-10 will "have no appreciable effect [...] on the rate of crime in Canada and

will not help victims whatsoever”, leading to the conclusion that the billions spent on it will simply have been wasted (House of Commons Debate, 2011, p. 1308).

The question of how Bill C-10 would be paid for was also extremely contentious. In Canada, provincial governments bear the responsibility for the administration of justice and therefore are tasked with implementing C-10. Concerns were raised by critics and opposition MPs that, in order to pay for C-10, the provinces would have to cut funding from essential areas such as health care, education, and social services. These concerns were aggravated further by allegations made in a number of news sources that the federal government had explicitly refused to provide the provinces with any extra funding. According to the New Democrats:

“This bill will transfer the financial responsibilities to the provinces, which are already short on resources. The provinces are asking for help, but the government is refusing to listen to them.” (House of Commons Debate, 2011, p. 1291)

This was cited as yet another example of the Conservatives’ heavy handed approach and of their unwillingness to cooperate with their political peers. In fact, it was alleged throughout the news media in the sample that the provincial governments of Quebec and Ontario had refused to implement C-10 because of the government’s uncooperativeness. However, this refusal was not confirmed in any of the “official” sources included in the sample.

Interestingly, and perhaps somewhat paradoxically, this discourse tended to focus on the financial burden placed on the provinces, rather than individual

taxpayers. Although it was generally acknowledged that taxpayers would feel an economic impact, the emphasis tended to be placed on the less tangible “costs” of C-10. For example, critics suggested that C-10 would lead to increases in the crime rate, thus making streets and communities less safe. Moreover, the legislation would criminalize vulnerable segments of the population (e.g. the mentally ill), reduce or eliminate access to rehabilitation, and ultimately destroy the successes made with evidence-based criminal justice policies over the last several decades. These were counted among the intangible costs which would be borne by primarily by Canadian taxpayers.

Whenever the Conservatives were directly confronted with the question of C-10's cost, either in press conferences or in the political debates, they typically responded by citing the billions of dollars that crime costs victims each year. Some conceded that C-10 would indeed cost a great deal of money, though they reminded their audience that all legislative changes are costly but are no less valuable as a result. In the majority of cases this was followed by the assertion that victims are already paying the price for crime and that it is time that the government supported them for a change and helped them bear this burden. C-10's supporters also defended the legislation by claiming that the opposition's cost estimates were extreme exaggerations. For example, it was pointed out by a number of reporters and Conservative MPs that, even without the introduction of C-10, millions of dollars would be needed to renovate Canada's “very old and crumbling” prisons (House of Commons Debate, 2011, p. 1304).

Carceral Hyperinflation / Prison Expansion

From the outset, when C-10 was first introduced, the question of its financial cost was inextricably linked to issues of prison spending and prison expansion resulting from inmate population increases. As mentioned above, critics and opposition members warned of a looming carceral hyperinflation that would certainly be caused by C-10. In particular, the imposition of mandatory minimum sentences, the restrictions placed on conditional sentences, and the generally draconian nature of the bill were blamed. Furthermore, it was alleged that the bill's provisions would disproportionately affect vulnerable segments of the population, resulting in their criminalization en masse. For example, critics believe that the creation of mandatory minimum sentences for possession of small amounts of marijuana will unfairly target lower socio-economic communities and youth who are not involved in the drug trade. By taking away judicial discretion, the legislation will worsen the overrepresentation of Aboriginals in prisons and also incarcerate mentally ill offenders who should be diverted to rehabilitative alternatives. The result, according to critics and opposition MPs, will be an inevitable flooding of new inmates into the prison system.

In order to cope with this influx of inmates, critics warned that the penal infrastructure would need to be expanded by building new prisons and modernizing existing ones. As discussed above, it was anticipated that this expansion would cost the provinces and taxpayers billions of dollars. However, many critics claimed that even this expansion would not suffice and that overcrowding was unavoidable. Inmates would be double or even triple bunked which would "constitute cruel and

unusual punishment” and have disastrous consequences (Liberal Party of Canada, 2011). In several sources analyzed, prominent criminologists and prison officials were quoted about the potential dangers of overcrowding. They suggested that overcrowding would reduce the inmates’ access to rehabilitative programs such as anger management and addiction treatment. The increase in inmates and their close proximity to one another would also elevate the risks of communicable diseases such as HIV and Hepatitis C. In addition, overcrowding would jeopardize the safety and security of the inmates and prison staff.

Conservative politicians and C-10 supporters countered these arguments by once again invoking the victims of crime. Opposition members and critics were reminded that the safety of victims was the first and highest priority of the Conservative government. This rebuttal often carried with it the accusation, sometimes implicitly and at other times explicitly, that the opposition parties care more for violent and dangerous criminals than they do for victims and are “putting the rights of child pornographers and organized crime ahead of the rights of law-abiding citizens” (Berkow, 2012). In several cases, pejorative slogans such as “hug-a-thug” or “soft-on-crime” were applied to critics who expressed concern about how C-10 would impact inmates’ rights and living conditions. In the months following the bill’s official enactment, Conservatives attacked the opposition’s claim that carceral hyperinflation would result from C-10. Since the “federal prison population has not grown as much as the opposition said it would”, they claimed that the opposition to C-10 had been wrong and that no exponential increase would ever occur (CBC News, 2012). This was used as a means of discrediting the arguments made against C-10,

suggesting that if the critics were wrong about the so-called influx of inmates, then they must be wrong about everything else as well.

The Conservative Agenda

Throughout the analysis, Bill C-10 was consistently associated with a larger legislative agenda that is being pursued by the Harper government. The Conservatives and their supporters refer to this agenda alternately as a “law-and-order”, “tough-on-crime”, or “reform” agenda. They claim that the *Safe Streets and Communities Act* is the latest in a series of legislative changes intended to protect Canadians from violent criminals and restore their faith in the criminal justice system. This agenda is also about making sure that dangerous criminals “are held fully accountable for their actions and that the safety and security of law-abiding Canadians and victims comes first in Canada’s justice system” (Department of Justice, 2011). In order to accomplish this, part of the legislative agenda is dedicated to giving law enforcement the tools they need to bring dangerous criminals to justice. The current criminal justice system is generally described as broken, ineffective, and far too lenient. The suggestion is often made that the system is filled with loopholes which are being exploited by dangerous criminals in order to evade the rightful consequences of their actions.

Judicial discretion is identified as part of the problem, since manipulative criminals can easily fool judges into giving them less punitive sentences such as house arrest. In some cases these allegations were supported by anecdotal examples that demonstrated how dangerous criminals, such as child molesters or drug dealers, were able to obtain non-custodial sentences from soft-on-crime judges who

misused their discretion. According to the Conservatives, their legislative agenda is intended to fix the criminal justice system by closing these loopholes, thereby restoring the public's faith in the administration of justice. In the case of Bill C-10, restrictions will be imposed on the use of non-custodial sentences and mandatory minimum sentences will help guide and direct the judiciary's use of discretion in sentencing.

However, critics and members of the opposition consistently claimed that the Conservative agenda is nothing more than rhetoric that is intended to boost the party's popularity with voters. They maintain that the Conservative government's agenda is a performance; an elaborate charade meant to make themselves appear to be fighting crime and make their political opponents seem complacent and unsupportive of victims. Critics generally referred to the Conservative agenda as "tough-on-crime" or "stupid-on-crime", though in a few cases the term "soft-on-crime" was applied as well. While this term is generally used against the opponents of the Conservative agenda, along with other pejorative terms such as "hug-a-thug", it was sometimes used against the Conservatives themselves. For example, a journalist quoting a Liberal politician alleged that "laws that focus on locking people up, rather than rehabilitation, are a 'short-term, superficial, and soft-on-crime solution'" (Toronto Star, 2011). In these situations, the meaning is inverted and the "soft-on-crime" label refers to policies that will not reduce crime, rather than lenient policies. According to critics, the Conservatives are basing their legislative agenda on the failed criminal justice policies of American states such as Texas and

California, where they have proved disastrous to both the economy and the crime rate.

Conservatives defended their agenda by regularly reminding the opposition parties that “Canadians do not want the Liberal way of dealing with criminals” (House of Commons Debate, 2011, p. 1307). Canadian voters were given a clear choice and overwhelmingly chose their tough-on-crime approach instead of the lenient approaches taken by their opponents. In response to attacks on their motives, Conservative politicians simply reiterated that their agenda is all about protecting victims. Furthermore, it was suggested in several newspaper articles and televised news segments that the criticisms of the tough-on-crime agenda were equally motivated by political gains. These sources claimed that the Liberals and NDP “egged on the Harper administration with its law and order agenda” in order to give themselves reasons to attack and discredit them in the media (Winnipeg Free Press, 2012). Similarly, provincial governments were accused of encouraging this agenda so that they could ask the federal government for more money.

Public Safety / Crime Prevention

The issue of public safety was consistently raised throughout the sample and was identified by the Conservatives as the central goal of both Bill C-10 and their larger legislative agenda. Conservative politicians and their supporters regularly asserted that, although Canadians deserve to feel safe in their homes and in their communities, the reality is that they feel increasingly unsafe. The malfunctioning criminal justice system, which allows dangerous and violent criminals to walk free, is largely to blame for this. As a result, supporters of the *Safe Streets and*

Communities Act allege that it will live up to its name by fixing some of the problems which are putting innocent Canadians at risk needlessly. Whenever this issue is raised by C-10 supporters, the overwhelming emphasis is placed on the risk posed to the community by violent offenders such as rapists, murderers, and child molesters. Bill C-10 is described as a measure that will finally put the safety of Canadians first, particularly those who are at greatest risk of being victimized, “especially women, children, and the elderly” (Department of Justice, 2011). This will be accomplished by taking these dangerous criminals and putting them in jail for longer periods of time and making it more difficult for them to be released.

The opposition often responds to this discourse about public safety by claiming that Bill C-10 will actually make our streets and communities less safe. These critics suggest that the legislation’s tough approach will increase the number of people who become entangled in the criminal justice system, thereby criminalizing them and filling our jails. In addition, it is believed that this tough approach will lead to reduced access to rehabilitation for offenders. Thus, critics conclude that this combination of an increasing criminal population with fewer rehabilitative alternatives will drive up the crime rate and make Canadians less safe. Instead, these critics recommend that the government focus on the creation of crime prevention strategies that target impoverished youth as well as the expansion of rehabilitation programs available to inmates.

In this we can clearly see two radically different understandings of how public safety can be achieved. Although both supporters and opponents of Bill C-10 were unanimous in their assertion that crime prevention is the answer to increasing

community safety, their conceptions of what crime prevention means are totally dissimilar. For Bill C-10's supporters crime prevention is achieved primarily through the incarceration and incapacitation of dangerous, violent, and repeat offenders. As one Conservative MP succinctly put it; "once one is in jail, one certainly does not commit crimes" (House of Commons Debate, 2011, p. 1318). They argue that when criminals are given lenient sentences for serious crimes it sends the message that what they did does not matter, thus increasing the likelihood that they will reoffend. By increasing the severity of sentences, Bill C-10 will make criminals think twice before victimizing someone else, thereby acting as a deterrent. This conception of crime prevention focuses on the immediate risks posed by offenders, thus preventative efforts should be focused on enforcement in order to physically remove these threats from our communities and relocate them to a carceral space.

In contrast, to opponents of Bill C-10 crime prevention is a long-term project in which the state invests in offender rehabilitation as well as social programs designed specifically to help people avoid immersion in criminal lifestyles. According to this perspective, offender rehabilitation can be achieved by providing addiction treatment, mental health services, and by teaching them skills such as parenting, financial responsibility, education, and employment. In addition, social programs should be developed and expanded in order to increase the rates of high school completion and employment for youth at risk of becoming involved in crime. Critics of Bill C-10 argued that the Conservative approach to crime prevention is merely a "band-aid solution" because they refuse to acknowledge and address the underlying causes of crime, such as poverty and unemployment for example. In

response, the Conservatives argued that Bill C-10 is not their only strategy to fight crime and that they are equally committed to the long-term crime prevention strategies proposed by their rivals.

Victimization

This discourse on public safety and crime prevention was virtually always paired with the issue of victimization. From the very beginning, the Conservatives asserted that Bill C-10 was all about “standing up for the victims of crime” and would prevent future victimization of innocent Canadians (House of Commons Debate, 2011, p. 1297). This message was reiterated whenever possible and using language which emphasizes their proactive approach. For instance, they regularly talked about how their party was “taking action to make our streets safer” by “fighting” for victims (Stinson, 2011). Conservative politicians habitually related stories of specific cases of victimization in order to communicate that Bill C-10 would prevent similar tragedies from happening. For example, during the press conference when Rob Nicholson first announced the legislation, the families of two teens who were murdered made statements to the press in which they described in detail how their loved ones had been brutally killed by dangerous and violent young criminals. These accounts were concluded by the assertion that Bill C-10 would help prevent this from reoccurring by strengthening the youth criminal justice laws. Moreover, the Conservatives often used these heartfelt stories in order to portray a criminal justice system which favours criminals at the expense of their victims and at the expense of real justice. They promised that Bill C-10 would correct this by placing the rights of victims ahead of the rights of criminals. For example, it was

often mentioned that C-10 would guarantee the right of victims to attend and speak at parole hearings.

Conservative politicians, as well as non-partisan supporters of Bill C-10, used this issue in order to attack the legislation's opponents. In numerous sources, including the parliamentary debates and several newspaper articles, opposition of C-10 was explicitly equated with denying justice to the victims of crime. Those who criticised the legislation were accused of being cold and unfeeling towards the suffering of victims and of placing the rights of criminals first. Consider the following example from the parliamentary debates, which was very typical of this type of accusation:

"I am kind of concerned why the Liberals, all of a sudden, are starting to back criminals again? Why can they not get behind victims for a change? Why can they not recognize the importance of a victim and preventing victims? Could the member please explain to me why his party is in such great support of criminals?" (House of Commons Debate, 2011, p. 1308).

In fact, these accusations became so prevalent in the parliamentary debates that opposition politicians felt the need to defend themselves by asserting that "there is not one member of Parliament from any party in the House who is not concerned about crime and what it does to victims" (House of Commons Debate, 2011, p. 1305). They also responded with accusations of their own, claiming that the Conservatives' concern about victims was completely insincere. They claimed that the Conservatives were simply playing a political game in which they appealed to the public's fear of crime and outrage over victimization in order to use Bill C-10 to

make themselves appear to be tough-on-crime, thereby boosting their popularity. Ultimately, both sides of the aisle resorted to emotional appeals concerning victims of crime. While the Conservatives focused on the victims of violence or sexual assault or pedophilia, the opposition parties frequently cited the potential victims of the legislation itself. These victims include the minority groups against whom it will be disproportionately applied, the youth who will become caught in the justice system, and the mentally ill who will be incarcerated without access to help.

Political Strategizing

Accusations of political scheming and strategizing were abundantly present throughout the sample. All of the political parties were accused of unscrupulously using Bill C-10 in order to achieve political gains. Throughout the media and the political debates, politicians from both ends of the spectrum tried to portray their rivals as deceitful, unreasonable, and uncooperative, while portraying themselves as honest, reasonable, and willing to compromise. Critics of Bill C-10 and opposition politicians painted a picture of the Conservative party as the quintessential playground bully. They accused them of using their majority to force through parliament an antiquated and retributive legislation that Canadians “don’t want and can’t afford” (New Democratic Party, 2012). The Conservatives were accused of fast-tracking Bill C-10 and of intentionally limiting the time allocated for debate in the House of Commons and in the Senate, thereby undermining the democratic process. Members of the opposition were quick to suggest that the Harper government was fast-tracking Bill C-10 in order to get it enacted before their deviousness and dishonesty could be exposed.

The opposition and critics of C-10 continually tried to connect the Conservative agenda and Bill C-10 to a larger pattern of political cheating and lying. For example, they often cited to recent “robocall scandal” in which the Conservative government was accused of attempting to confuse voters and prevent them from casting ballots for the opposition parties. Similarly, a recent scandal was frequently referenced in which a company hired by the Conservative party made calls to the constituents of an NDP member of parliament, telling them that he had resigned and asking if they would consider voting Conservative in the next election. Critics never failed to point out that the NDP politician who was the target of this attack was also the most outspoken opponent of Bill C-10 and the Conservative agenda. The implication left with readers/viewers is that the Conservatives targeted him for this reason. Still another frequent point of attack for critics was the controversy regarding the government’s lack of financial disclosure to the Parliamentary Budget Officer. As in the last parliamentary session, when they were held in contempt of parliament, the Conservatives are believed to have withheld financial information in order to conceal the true costs of their legislative changes. Such examples of the Conservatives’ penchant for dirty tricks and dishonest politics invariably connected to their strategies with regard to Bill C-10.

Meanwhile, these same critics and opposition politicians portrayed themselves as taking the moral high road. They describe themselves as being ready and willing to put aside their differences and discuss the issues in good faith in order to reach a compromise that will best serve Canadians. In rival party press releases and in the parliamentary debates, allegations of Conservative

uncooperativeness or scheming are continually contrasted against claims that the opposition is being reasonable, cooperative, and honest. Once it became clear to opposition MPs that Bill C-10 could not be stopped, due to the Conservative majority, many expressed a change in their strategy. Rather than wasting efforts by resisting it, many parties proposed amendments “with the intention of reining in the omnibus crime legislation’s worst excesses”, the more harsh provisions that are most likely to “wreak havoc on the Canadian justice system” (Green Party, 2011; Liberal Party, 2012).

For example, many amendments were proposed to the sections which increase the severity of sentences under the *Youth Criminal Justice Act* and those that create mandatory minimum sentences. These proposed amendments were often referred to as “safety valves” which would help mitigate the damage to the criminal justice system that would inevitably result from C-10. Despite these noble and reasonable overtures by the opposition, the Conservative government rejected virtually all of the proposed amendments to Bill C-10. Moreover, they refused to even debate about them with the opposition. It was often suggested that the government was forcing this legislation on Canadians (who do not want it), forcing them to pay for it, and refusing to support the provinces in implementing it. The image that is left with readers/viewers is of a bully who will not fight fair, has no conception of the consequences of his actions, and does not care who he hurts along the way.

Conservatives and Bill C-10 supporters used similar discursive strategies in order to portray themselves favourably while vilifying their rivals. NDP and Liberal

politicians were accused of attempting to use the House of Commons and Senate debates to stall the legislative process. The proposed amendments were denounced as clear attempts “to completely undo or gut” the legislation by removing or changing aspects considered central to its purpose of increasing the safety of Canadians (House of Commons Debate, 2011, p. 3714). Opposition politicians were regularly accused of “fear mongering” and of intentionally spreading lies about the legislation in order to mislead the public and turn popular opinion against it. According to Conservative politicians and C-10 supporters, the opposition’s manipulative and self-serving tactics are nothing new. However, in the case of Bill C-10 what makes them so unconscionable is that they are intentionally denying justice and protection to the victims of crime and to innocent Canadians.

Conservative MPs defended their party’s rejection of the proposed amendments by claiming that they seriously investigated and considered all of them. Closer scrutiny revealed that even those amendments which were not overt attempts to sabotage the bill were based on misconceptions. Conservative MPs claimed that if the opposition parties truly understood the legislation, they would recognize the foolishness of their amendments and instantaneously reverse their position and support the bill’s enactment. Despite this, they pledged their willingness to continue negotiating in good faith with the opposition parties and would continue to cooperate fully with the provinces in order to implement the bill.

The Canadian Public

Competing claims about the will of the Canadian public and of their political representation were one of the most central and prevalent themes that appeared in

the sample. Various “claims-makers”, whether they were politicians or lobbyists or criminal justice experts, claimed to speak and act on behalf of Canadians and the victims of crime. For instance, in virtually every source they appeared in, Conservative politicians declared that their tough-on-crime agenda and Bill C-10 represent legislative changes that Canadians have explicitly asked for. According to the Conservative party, Canadians are aware of the fact that the current criminal justice system is filled with loopholes that allow dangerous and violent criminals to avoid going to jail and give them more opportunities to victimize innocent people. They claim that Canadians are outraged over this miscarriage of justice and have given the “government a strong mandate to crack down on child pornographers and violent drug traffickers” (Department of Justice, 2012).

Following the prorogation of parliament in 2011, the Conservative party promised to bring back the bills which failed to be enacted “in the first 100 sitting days of parliament” following their re-election (Department of Justice, 2012). Bill C-10 is an amalgam of these legislations and thus, represents a promise that Stephen Harper and the Conservative Party are keeping to Canadians. They contend that Canadians want to see criminals get what they deserve and that Bill C-10 will ensure this. In making this claim, the Conservatives regularly talked about specific meetings that they had with the victims of violent crimes or with advocacy groups who pleaded with them for help. Therefore, for the Conservatives, this legislation is all about protecting these victims and meeting the expectations that they and all Canadians have about their criminal justice system.

Similarly, the opposition parties' discourse also claims that they represent the public and know unequivocally what Canadians want. According to them, Canadians want the government to place an emphasis on offender rehabilitation and crime prevention programs that help youth avoid falling into criminality. Canadians do not want the retributive policies of Bill C-10, which will offer only a "band-aid solution" that avoids addressing the real underlying causes of crime. In fact, Canadians are described as having far greater concerns than crime, such as the economic crisis and rising unemployment. The opposition also claims that Canadians are not cowering in fear of violent crime or demanding harsher sentences as the Conservatives suggest. Canadians would rather see their money spent on healthcare for the nation's aging population, or on education and social programs for youth.

By ignoring what Canadians really want, the Conservatives are demonstrating that they are at variance with the nation's values and ideals. Opponents and critics of Bill C-10, including a number of prominent academics and groups like the John Howard Society and the BAR Association, regularly declared that this legislation will define who we are as a society and as a nation. Many rhetorically ask the reader to consider how they would want to be remembered by future generations. Do we want to be remembered as a backward, irrational, and retributive society "whose main response to offending is vengeance" (McMurty & Doob, 2011)? Or do we want "to think of ourselves as people who have a more measured, rational response that will ultimately make us safer" (McMurty & Doob, 2011)?

Facts / Evidence

The use and interpretation of evidence to support arguments about Bill C-10 was an extremely important theme within the discourses. For the opposition parties and other Bill C-10 critics, this was the most commonly used strategy for attacking the legislation. This evidence took a variety of forms. Opponents regularly cited statistics such as the declining crime rate in order to call into question the need for tougher laws. Empirical and academic research was often referred to, including various studies on the efficacy of deterrence for example. Experiential evidence from jurisdictions which have adopted similar legislations was also frequently cited. For instance, the experiences that states like California and Texas have had with mandatory minimum sentences and other punitive laws were continually invoked in order to suggest that the Canadian experience with Bill C-10 would be equally catastrophic.

The claim was made that by ignoring these experiences, the Harper government is condemning Canada to “repeat the mistakes of failed and discredited American crime policy” (Liberal Party, 2011). According to C-10 critics, the irony of this is that the United States are now recognizing their tough-on-crime mistakes and are repealing these laws in favour of a more sensible “Canadian” approach. The opinions of interested third parties possessing expert knowledge about some aspect of Bill C-10 were also viewed as evidentiary support. These third parties included prominent academics, lawyers, rights activists, and professionals working in law enforcement or corrections. As mentioned above, their expert opinions were usually

quoted by other people, though in a few cases they authored or co-authored newspaper articles themselves.

According to C-10 opponents, the available evidence overwhelmingly proves that the legislation will fail to increase community safety, protect victims, or reduce the crime rate. In fact, this evidence shows that Bill C-10 will be counterproductive and will make Canadians less safe, while also damaging and eroding the criminal justice system. The conclusion drawn by many of these opponents is that the Conservative agenda is based on ideology and not on reality or facts. They reason that since the Conservatives chose to ignore “the overwhelming body of scientific evidence” against Bill C-10, their so-called tough-on-crime approach is nothing more than appearances (Winnipeg Free Press, 2011). They do not care about community safety at all; they are only concerned with the political benefits that can obtain through “the symbolism of denouncing crime” (National Post, 2011). Critics also accused the Conservatives of basing Bill C-10 on anecdotal evidence such as the accounts of victims of crime and people’s beliefs or impressions about crime, rather than substantiated facts.

However, as it relates to the Canadian public’s knowledge of the evidence, the opposition’s discourse is decidedly contradictory. On the one hand, critics and opposition politicians claimed that the evidence against Bill C-10 was common knowledge that was obvious to anyone even remotely acquainted with the issues. For example, many sources described the idea that American-style tough-on-crime approaches are counterproductive as simple common sense. Similarly, the belief that rehabilitation is the answer to criminality was often presumed to be an

undisputed fact. This was often used to argue that, since everyone can see and understand the irrationality of Bill C-10, the Conservatives must be incompetent or have ulterior motives.

Paradoxically, many critics also suggested that the Canadian public remains largely misinformed about the realities of the criminal justice system. As a result they are more susceptible to the fear of crime and supporting retributive legislations such as C-10, which are based on myths and misconceptions about crime. According to these sources, the answer is to educate the public about the reality of crime and the justice system. Interestingly, several newspaper articles and news videos within the sample attempted to educate the public in this way. These articles and videos tended to rely on a great deal of statistics and expert opinions in order to demonstrate the many ways in which Bill C-10 will negatively affect Canada. While they maintained a neutral tone and purported to be unbiased and educational, the logic of the arguments presented leads the reader/viewer to the conclusion that Bill C-10 is a terrible idea and that the Conservatives are responsible.

For their part, the Conservatives and other Bill C-10 supporters did not engage in this evidentiary discourse very much. Supporters merely returned to their quintessential argument that Bill C-10 demonstrated the government's commitment to standing up for the victims of crime. Conservative MPs also regularly claimed that deterrence works and that the tougher sentences in C-10 would send a strong message to individual offenders and would make potential offenders think twice. It was also pointed out in several newspaper articles and news video segments that

many of the so-called “experts” cited by the opposition are “completely out of touch with what Canadians want” as well as the lived reality of crime as it is experienced by its victims (House of Commons Debate, 2011, p. 3711). However, aside from these few arguments, the Conservatives and other C-10 supporters did not engage in much debate regarding evidence.

Judicial Discretion

The question of Bill C-10’s effect on judicial discretion also garnered a great deal of attention within the sample. As mentioned previously, the Conservatives and Bill C-10 supporters often justified the mandatory minimum sentences contained in Bill C-10 by claiming that judicial discretion is being improperly applied. Specific examples were frequently cited where dangerous criminals such as arsonists or even rapists were given lenient or non-custodial sentences. While acknowledging that judicial discretion serves an important function, these Bill C-10 supporters claimed that “weak-kneed judges” can be easily conned and manipulated by “silver-tongued lawyers” (Marshall, 2011). Judges can become soft-on-crime and their discretion can be abused by criminals seeking to “get off the hook”. In particular, the use of judicial discretion to impose house arrest or conditional sentences was criticized because it was alleged that these non-custodial sentences were habitually being given to violent and repeat offenders. The purpose of Bill C-10, according to its supporters, is to close these loopholes and ensure that offenders are held accountable for their actions.

Critics and members of the opposition denounced this plan to limit judicial discretion as foolishness. In their view, judges are the most qualified to pass

sentence on offenders because they are able to consider all of the facts surrounding the case, which facilitates the passing of a sentence that will be fair and just. By limiting judicial discretion, critics allege that the Conservatives are unnecessarily constraining judges and that problematic sentences are sure to result. Hypothetical cases were often provided in order to exemplify this, in which offenders whose actions do not merit incarceration due to mitigating circumstances will be sent to jail due to the application of a mandatory minimum sentence resulting from Bill C-10. Critics also cited the problems experienced in other jurisdictions where judicial discretion has been limited, such as the United States, where it resulted in an unwelcome increase in prosecutorial discretion. According to these critics, American mandatory minimum sentences took power out of judges' hands and placed it "in the hands of prosecutors, who now have the ultimate ability to shape the outcome" and "can often dictate the sentence that will be imposed" (House of Commons Debate, 2011, p. 3707). However, during the parliamentary debates a few Conservative members of parliament attempted to refute these arguments by described their conception of the paternal relationship that exists between the legislature and the judiciary. As parliamentarians, they argued, it is their responsibility to give judges proper guidance about what constitutes appropriate and inappropriate sentencing.

DISCUSSION

The results of this project reveal a variety of claims-making activities taking place within the discourse, using a plethora of vernacular displays and rhetorical idioms. It became apparent early on in the data analysis phase that these claims-

makers disagreed about more than the solution to a perceived social problem. In fact, they appeared to disagree on the exact nature of the putative conditions themselves. Consequently, there was no single category of social conditions that were universally accepted as problematic and became the subject of conflicting claims. Instead, the identity of the problem itself became part of the claims-making process, with each group putting forward a different and unique account of the social problem, complete with their own discursive strategies and offering their own solutions. Before proceeding to a closer analysis and deconstruction of these claims-making activities, it may prove helpful to begin by identifying the various putative conditions identified in these discourses.

As stated previously, the authorship of the sample could be easily separated into three categories. The first and most prolific group were the journalists, the second largest group were the politicians and civil servants, and the third group were the interested third parties. This last group could be further separated into three subgroups: the academics, the professionals, and the community organizations. The putative conditions that were interpreted as problematic and became the subject of a claims-making process tended to vary greatly between these groups and even within the groups themselves. For the Conservative party and their supporters, rampant criminality emerged as one of the most important putative conditions upon which their claims-making activities were focused. Their discursive strategies revolved primarily around raising the spectre of violent crime and victimization.

As discussed in the previous section, this was often accomplished through the use of sensational and inflammatory criminal tropes. Conservative party MPs and senators continually reminded their audience that “youth commit the most violent crimes” in our society and that these crimes are increasing in both severity and frequency, further suggesting that society’s need for protection against these “violent youth predators” has never been greater (CBC News, 2012). Audiences were also regularly reminded about the imminent threat posed by violent sex offenders, and in particular, “the child pornographers and those who molest children” (House of Commons Debate, 2011, p. 3737). Sex offenders were invariably portrayed as dangerous paedophilic predators who are roaming the streets in search of their next victim. Moreover, the danger they pose is ever present because unlike other forms of violent crime, “pedophilia is a problem for which we have not yet found a cure” and “there is always the risk of a repeat offence” (Solyom, 2011). Yet another common criminal trope to emerge was the drug trafficker, whose inherent dangerousness is exponentially increased by their membership in organized crime syndicates who corrupt the very moral fabric of our society. These “slimeballs” are held responsible for all manner of social ills, including addiction, child prostitution, murder, and extortion (Senate Debate, 2011, p.833).

Familiar victim tropes emerged within the data as well. Whenever victims were discussed in general terms rather than in reference to a specific individual, they were most often women or children. A clear connection was drawn between the extreme danger posed by these criminal tropes and the extreme vulnerability of their intended victims. For instance, the extreme threat posed by pedophiles was

contrasted against the extreme vulnerability and innocence of young children and infants. What is particularly interesting about the use of these tropes is that they seem to require very little explanation. While in some cases Conservative politicians and Bill C-10 supporters discussed the specific reasons why these criminals pose such a threat to society, in others this is left unsaid. This would seem to suggest that social problems discourse can build upon pre-existing rhetorical idioms. In many of these articles, the claims-makers do not waste any time explaining why pedophiles or drug dealers are dangerous. Instead they appear to rely on cultural assumptions, that these facts are already well known and understood by the reader.

This rampant criminality and preventable victimization are made possible by the existence of a broken and ineffectual criminal justice system. This is a second putative condition upon which the Conservatives and Bill C-10 supporters based their claims-making activities. The fault for these putative conditions lies with the opposition parties and the judiciary, whose excessive and misguided leniency are responsible for creating a system which favours criminals. It was often suggested that we have now reached a point where criminals' rights trump the rights of victims and decent, law-abiding Canadians. As a result, criminals are able to evade the consequences of their actions, which is detrimental for two reasons. Firstly, it sends the clear message that what they did does not matter, thus emboldening them to break the law again. Secondly, it puts them back into the community where they can victimize more innocent people. This is leading towards a crisis because each time this occurs it is likely to "erode police morale and the public's faith in the justice system" (Senate Debate, 2011, p. 832).

These discursive strategies suggest a common rhetorical idiom which Ibarra and Kitsuse (1993, p. 39) identified as the “rhetoric of endangerment”. The use of criminal tropes in the discourse establishes that a significant danger exists in society which has not been addressed. This danger is reinforced through the discussion of victimization, which demonstrates the risks posed by these criminal elements. According to Ibarra and Kitsuse (1993) it is presumed in this rhetorical idiom that people have a right to safety and security. This was repeated often by Conservative politicians, who regularly stated that Canadians “want and deserve to feel safe in their homes and communities” (Conservative Party, 2011). Consequently, these condition categories are intolerable and achieve the status of fully-fledged “social problems”. The answer to these putative conditions is Bill C-10, which will fight back against the criminals who threaten our safety and security. Judicial discretion will be reigned in through the imposition of mandatory minimum sentences, victims’ rights will be assured, and violent criminals will be sent directly to jail. This is guaranteed to make society a safer place because “violent criminals who are in jail do not commit crimes against law-abiding citizens” (House of Commons Debate, 2011, p. 1319).

For the opposition, Bill C-10 itself is the cause of the putative conditions that are deemed problematic and become the subject of claims-making activities. The opposition’s discursive strategies revolved primarily around demonstrating the harm and damage that Bill C-10 will inflict. This was a common denominator between claims-makers opposed to the legislation; however, there was a great deal of variation in the particular harms that they built their claims around. For example,

interested third parties such as correctional staff tended to focus on the damage that Bill C-10 would inflict on the criminal justice system and the penal system. Their discourses emphasized the negative effects resulting from increases in inmate populations, such as overcrowding and the jeopardizing of the physical safety of inmates and staff. In contrast, academics opposed to Bill C-10 tended to focus their claims on the presence of empirical evidence contradicting the efficacy of the tough-on-crime approach to sentencing.

In addition, numerous criminal justice professionals and academics based their claims around various comparisons between the Conservative agenda and American penal policy, emphasizing the absurdity and foolishness of “looking to the Americans for solutions” when they have “the worst crime record in the industrialized world” (Burrows, 2012). Other professionals such as lawyers and former judges tended to oppose Bill C-10 primarily based on the harms caused to the legal system through the imposition of mandatory minimum sentences which will limit judicial discretion and overburden the criminal courts. While politicians from the opposition parties based their claims upon these harms as well, they also tended to focus on others such as the economic impact of Bill C-10. Their discourse in this regard tended to emphasize the impracticality of cutting budgets for essential social services in order to spend billions of dollars on ineffective policies.

Interestingly, opposition politicians also used the victim motif in order to support their claims about the problematic nature of the putative conditions. However, unlike the Conservatives, in the discourse of opposition parties the victims are often those who will be incarcerated as a result of Bill C-10. The

legislation is portrayed as a clumsy draconian measure which ignores the causes of crime in favour of a tough-on-crime approach, effectively using a hatchet where the delicacy of a scalpel is required. Thus, the victims are those who will be subject to an unjustified degree of severity and denied the opportunity to access rehabilitation. Much like their Conservative counterparts, opposition politicians portray these victims as the most vulnerable members of the population. Yet for the Conservatives these are primarily women and children, whereas for the opposition they are often the mentally ill, the poor, Aboriginals, and other visible minorities. All of these groups are described as particularly disadvantaged and overrepresented in the criminal justice system. Their involvement in crime stems from social problems and systemic inequalities, rather than their personal moral characteristics. Consequently, they deserve a helping hand, rather than vengeance and vindictiveness. Instead of offering them a helping hand Bill C-10 will ignore their needs and incarcerate them indiscriminately.

In other cases these victims are portrayed as the most innocuous “criminals” imaginable. For instance, the victims of the mandatory minima for drug possession were described as “teenagers and college kids who share pot with their pals” (Cohen, 2012). These recreational drug users are described as being harmless. In fact, the irony is that they might even be “children of the people sitting across the aisle” from the opposition parties in Parliament (House of Commons Debate, 2011, p. 1303). Many of these will be first-time offenders whose actions do not merit a custodial sentence. Nevertheless, they will end up going to prison due to the inflexibility of mandatory minimum sentences and the absence of judicial discretion.

In prison they will be exposed to the truly dangerous criminals and will emerge as hardened thugs unable to extricate themselves from the criminal lifestyle.

Regardless of the specific harm emphasized in their particular claims, all of the claimants opposed to Bill C-10 suggested that these harms would prove disastrous for Canada. Collectively, their discursive strategies are reminiscent of a common rhetorical idiom which Ibarra and Kitsuse (1993, p. 41) identified as the “rhetoric of calamity”. In this rhetorical idiom claims-makers use language which evokes “the unimaginability of utter disaster” in order to support their assertions (Ibarra & Kitsuse, 1993, p. 41). Vernacular forms are strategically used in order to paint a picture of the catastrophic outcomes that are sure to result from the current putative conditions. The opposition parties, as well as academics, professionals, and journalists opposed to Bill C-10, achieved this by portraying the legislation as an antiquated policy which is being promulgated by a cruel, cynical, and retributive government.

Belief in Bill C-10 and support for the Conservatives in the face of overwhelming contradictory evidence was described as ignorance and foolishness, comparable to the belief that the world is flat. The future that these putative conditions are leading us toward is bleak and dystopian. It is a future where rehabilitation has been abandoned, carceral spaces are overflowing with inmates, violent crime is everywhere, and the economy has been decimated. Proof of these disastrous outcomes can already be seen south of the border, where “Uncle Sam got it wrong” and made a “catastrophic mistake” (Mulgrew, 2012). These putative conditions are intolerable and thus the legislation achieves the status of a fully-

fledged “social problem” requiring immediate action. The answer was to oppose Bill C-10 and have it defeated in parliament before it could drive Canada towards imminent disaster. However, as time went on many claims-makers opposed to Bill C-10 expressed the recognition that the Conservatives possessed the ability to enact it despite their opposition. As a result, the answer became amending the legislation enough to avert the most catastrophic consequences.

A common rhetorical idiom employed by the majority of claims-makers, regardless of their views concerning Bill C-10, was the “rhetoric of unreason” (Ibarra & Kitsuse, 1993, p.40). Claimants who invoke this idiom are often concerned with issues of compromised rationality or impaired logic. This emerged throughout the various discourses, as claimants used vernacular displays to demonstrate their own rationality and expose the irrationality of their opponents. For instance, Conservatives as well as the professionals and journalists who support C-10 decried their opponents for failing to see the self-evident truth that violent criminals need to be locked up. Similarly, politicians, academics, professionals, and journalists opposed to C-10 continually criticized their rivals for blatantly ignoring the empirical evidence which proves that this approach will not work. This idiom also focuses on conspiracies, fraud, brainwashing, and manipulation. Claimants often incorporated such accusations into their claims, alleging that their own motives were pure and that their rivals were attempting to “dupe” the Canadian public to further their own ends.

The Conservatives’ style of claims-making and their “strategic uses of vernacular forms” (Ibarra & Kitsuse, 1993, p. 56) could be classified as decidedly

penal populist. All of the political parties claimed to have a monopoly on the Canadian public's support, in true populist fashion. However, the Conservatives satisfied much of the criteria established in the penal populism literature by eschewing expert opinion and empirical evidence in favour of anecdotal evidence. Furthermore, they portrayed the current criminal justice system and their political predecessors as having failed to act upon the collective will of the people and get tough on crime. They claimed that Canadians are fed up with a system that advantages violent criminals at the expense of community safety and tramples the rights of victims. Consequently, their discourse regarding Bill C-10 continually emphasized that their party was taking action to make the changes that Canadians want and have repeatedly asked for. True to the penal populist pattern, these appeals on behalf of the victims of crime were delivered using highly inflammatory and emotionally charged language.

All of these vernacular displays are characteristic of what the literature identifies as a populist style of political communication. Their claims-making activities establish the presence of a social problem and present their legislation (and themselves by extension) as the solution to that problem. However, as discussed in a previous section of this project, the conclusion that there is a dishonest motive behind penal populism is a non sequitur and should be avoided. In a way, the Conservatives' reliance on populist communication should not be particularly surprising, especially since they are the progeny of the right-wing populist parties that emerged in the western provinces (Laycock, 2005). The modern Conservative party owes this populist legacy and its "tough-on-crime"

ideological inheritance to populist parties that preceded it, such as the Canadian Alliance and Progressive Conservative parties (Laycock, 2005).

It is clear that populist politics are still alive and well in Canada; however, it is unclear from the results of this project whether or not Canada is indeed undergoing a “punitive turn” or if it will in the future. The legislative changes brought about by Bill C-10 certainly demonstrate some of the policies which have come to be associated with increased punitiveness, such as mandatory minimums and restrictions on conditional sentences. In addition, the discourses surrounding Bill C-10 bear certain characteristic features that are often associated with the punitive turn. For instance, various supporters of Bill C-10, including politicians, police officers, and journalists expressed the opinion that although rehabilitation is important, the protection of victims and society through the incapacitation of offenders should take precedence. In fact, Conservative politicians expressed the view that punishment and rehabilitation are complimentary and that the onus for accessing rehabilitation is on the individual offender.

This complimentary relationship between incapacitation and the responsabilization of inmates for their rehabilitation were succinctly expressed in the following statement, made by a Conservative senator:

“The person who commits a crime must reflect upon it. The criminal is isolated and given a sentence: think about what you did to the victims, the damage that was caused, and start thinking about how you can rehabilitate yourself. We will provide you with the tools to do it. That is the purpose of incarceration.” (Senate Debate, 2011, p. 835)

This attitude certainly resembles “post-disciplinary penalty”, the second symptom of the punitive turn, while also revealing the limitations of how this is defined in the literature. There is a sense within these discourses of a certain futility in investing in rehabilitation because a certain percentage of criminals are incorrigible. This is further supported by assertions within these discourses that the protection of society and concern for victims should trump rehabilitation and be given priority. The idealistic belief that all criminals can be rehabilitated was described as “magical thinking” that is only held by those “living in a rehabilitative fantasyland” (Senate Debate, 2011, p. 835).

However, this attitude also represents a clear departure from the traditional view of post-disciplinary penalty because attempts to invest positively in the lives of offenders are not being entirely abandoned. Instead the responsibility for rehabilitation is being shifted from the penal system to the inmates. The function of the prison is gradually moving towards providing the tools and opportunity necessary for inmates to rehabilitate themselves, rather than towards the mere incapacitation and “warehousing” of inmates as the traditional conception of post-disciplinary penalty suggests. The responsibility of inmates is to utilize those tools and reintegrate themselves into society as law-abiding citizens. This seems to suggest that we are witnessing a transformation of the rehabilitative ideal, rather than its decline or usurpation by other penal aims.

However, this project was not intended to establish the presence or absence of a punitive turn in Canada. The results of this analysis seem to support the typical criminological claims about the politicization and mediatization of criminal justice

policy issues. Although contrary to the majority of the literature, the results of this analysis reveal the presence of clear distinctions between the discourses of different political parties. It remains to be seen what the non-discursive consequences of Bill C-10 will be. For example, only time will tell whether or not Bill C-10 will result in the carceral hyperinflation predicted by critics. Scholars such as DeKeseredy (2009) and others warn that the continued promulgation of tough-on-crime, penal populist discourse by elected representatives could result in a punitive turn similar to what has been experienced in the United States and elsewhere. It remains to be seen whether or not the promulgation of these discourses in Canada will have the profound effects predicted. One of the primary venues for these populist communications is the mass media. For this reason, many criminologists, sociologists, and legal scholars have begun to advocate for the development of a “public criminology” which will help educate the public and provide an informed alternative to the populist rhetoric which currently pervades the mass media. However, the results of this project suggest that this is a gross generalization that ignores the complexity and diversity of the discourses communicated through the mass media.

Interestingly, the results of this project suggest that the public’s assumed lack of “education” regarding criminal justice issues may be unfounded. While the mass media has long held a reputation within academic literature as the cause of innumerable problems, this conclusion is not supported by the findings of this project. A great deal of literature suggests that news media misrepresents the extent and severity of violent crime through its disproportionate focus on the most horrific

and brutal crimes. By continually focusing on stories of rape, murder, and violent assault, the news media is believed to contribute to exaggerated perceptions of the crime rate, which can lead to public demands that the government take legislative action. The mass media is also blamed for its effect on the public's emotions with regard to crime. The emphasis on violence increases the public's fear of crime, while its sympathetic portrayal of victims and vilification of perpetrators increase the public's anger and indignation about crime. In addition to the problematic emotional dimension of crime-focused media, the literature also suggests that the mass media perpetuates myths and misinformation about crime and the legal system.

However, as indicated above, an analysis of the news media included in this sample reveals a complete absence of these stereotypes. Many of the newspaper articles concerning Bill C-10 engaged in overt attempts to "educate" the public by providing them with facts. Statistics, research, and empirical evidence occupied a preeminent place in these articles. Far from promulgating myths and misconceptions about these issues, many of these articles presented legal knowledge that was both intricate and extensive. The tone of these articles is neutral and they are free of the emotionally charged or provocative language described in the literature. This certainly was not true of all the news media sources included in the sample, but it was true of many that attempted this public education. Interestingly, the crimes they discussed were not always violent murders, assaults, and rapes. While pro-Conservative articles did tend to portray crime in this way, many other articles tended to reiterate how Bill C-10 would disproportionately

affect those convicted of more minor crimes such as drug possession for example. Many televised news broadcasts also hosted debates between politicians, academics, professionals, and activists representing various perspectives on the legislation.

These debates were ostensibly entered into and facilitated in an attempt to foster critical discussion of the issues surrounding Bill C-10. Nevertheless, it is important to bear in mind that many of these news media sources were not as impartial and altruistic as they appeared. These attempts to “educate” the public were themselves part of the claims-making process taking shape throughout the discourses. Claimants from all sides of the issue used this educational approach. For example, many opposition politicians used this same educational approach involving research and statistics to advocate for their particular conception of crime prevention through rehabilitation. This effectively demonstrates the point made by Currie (2007, p. 183) that many of those who have taken the middle ground in the absence of a public criminology have “a certain ideological axe to grind”.

Thus, it would seem that the aim of public criminologists to provide an alternative to the emotional appeals that pervade populist discourse in the mass media has been achieved. The discourses surrounding Bill C-10 clearly reveal that many prominent sociologists, criminologists, and legal scholars have answered the call of public criminology and are vigorously engaged in attempts to educate the public. However, these discourses also reveal that they are not alone. Professionals, activists, community organizations, are also participating in this process. Interestingly, many journalists are also engaged in attempts to educate the public,

sometimes through their own interpretation of empirical research and statistics or through their reliance on the expert knowledge of academics and professionals.

In light of this, can the mass media really be the enemy that some academic research makes it out to be? It may be necessary to rethink and reformulate our conception of the relationship between the mass media and the public understanding of criminal justice issues in contemporary society. A huge body of research exists whose primary focus is the relationship between the mass media and perceptions of crime, yet the majority of it seems to focus very narrowly on the mass media's distortion of reality. Paradoxically, the results of this analysis seem to suggest that the news media can be far more critical than academia gives it credit for. It may be time to move beyond this one-dimensional conception of the mass media as a mere distorter of reality in favour of a more balanced conception.

CONCLUSION

The results of this project suggest that a few of the prevailing conceptions in contemporary criminological research may be inadequate. Among other things, the results suggest that the conception of the mass media as a reality distorter, while being well established and entrenched in the academic literature, is limiting since it fails to account for the complexity of the discourses transmitted through such media. Rather than reaffirming this stereotypical notion, the sample of texts obtained for this project continually contradicted it, suggesting that the mass media's portrayal of crime is far more balanced than the literature suggests. However, it should be remembered that this sample was only composed of non-fictional media sources such as newspaper articles and televised news segments,

and excluded fictional media entirely. This is a noteworthy limitation since a great deal of the literature on the mass media's effects on public perceptions and political discourses are based on fictional media such as television shows and movies. Nevertheless, the choice to include only non-fictional texts was made based on the interests of this particular study. Since I sought to understand the discourses surrounding a specific legislation, the choice of a sample composed of news media as well as "official" sources such as political debates and press releases seemed particularly appropriate. Moreover, these media sources were deemed to be the most likely to be of importance to politicians and other claims-makers with regard to Bill C-10.

However, it may well be the case that an understanding of the relationship between mass media and political discourses cannot be attained through an examination of non-fictional mass media alone. In order to fully understand this relationship and how it influences public attitudes as well as policy formation, we need to move beyond this one-dimensional understanding of the mass media and find a way to integrate fictional media into our analyses. In addition, further research in this area needs to account for the increasing diversity of mass media in contemporary society. Information about the law, crime, the justice system, and penal policy are available to the public through a multitude of media formats, including both traditional sources such as television and print media, as well as more modern and emerging ones such as blogs, chat forums, and webzines. As pointed out by Aaron Doyle (2006), "the media" is an incredibly nebulous term, which encompasses a wide variety of formats, content, and audiences. Since the

mass media is far from homogenous, it would be erroneous to presume that the understanding of crime found in one form of media represents the general public's understanding of crime (Doyle, 2006).

Cultural criminology may hold the key to expanding these horizons and exploring the mass media's growing diversity and versatility. One of cultural criminology's strengths is that it can facilitate the exploration of crime using different approaches or perspectives and through methods that are often considered novel and unorthodox (Hayward, 2010). Consider research conducted on images for example. In view of the omnipresence of images on the internet, television, and in newspapers, there can be no question that we live in a visual culture (Carney, 2010). Images are a form of symbolic communication which shapes how people see the world (Ferrell & Van de Voorde, 2010). Orthodox criminology based on quantitative analysis and the scientific method simply cannot provide criminologists with the means to analyze images (Ferrell et al., 2008). Rather than simply asking what images mean or attempting to quantify them, cultural criminology seeks to understand how images help "constitute the experience of crime, self, and society" (Hayward, 2010, p. 5).

Images are not thought of as impartial or objective, they are recognized as carefully manufactured moments in time (Carney; 2010; Hayward, 2010). For example, photographs used in newspapers are carefully chosen and placed to compliment what is expressed in the articles (Ferrell & Van de Voorde, 2010). This use of visual communication is not limited to print media, but extends to most other forms of mass media as well. This is certainly the case with regard to televised news

segments, where stories about crime or justice issues are often accompanied by images or illustrations that support the message that is being communicated. For instance, news reports about the crime rate might be accompanied by an illustration that communicates dangerousness (e.g. a firearm) or incapacitation of criminals (e.g. handcuffs, prison bars, etc). In this context, the job of the cultural criminologist is not only to consider the image itself, but also how it is framed and interpreted (Hayward, 2010). Consequently, adopting a cultural criminological approach which recognizes the importance of visual communication could greatly enrich research on mass media and political discourses in a number of important ways. One of the most important benefits of incorporating visual imagery is that it will facilitate a better understanding of the claims-making processes that take place within the mass media and how they are used in the production of competing knowledges about crime, criminal justice, and penal policy.

Cultural criminology may also prove useful in reformulating and expanding our understanding of post-disciplinary penalty, the so-called decline of the rehabilitative ideal that is believed to be symptomatic of the punitive turn. As discussed previously, the results of this project suggested that the traditional formulation of this concept in the literature proved inadequate when applied to the contemporary Canadian context. There was clear evidence within many of the discourses of the primacy of incapacitation as a penal aim. In fact, the Conservatives continually emphasized that the way in which Bill C-10 would live up to its name and increase the safety of our streets and communities was by putting dangerous criminals in jail and thereby preventing further victimization. Interestingly, this also

suggests a negation of the possibility of the victimization of inmates within carceral spaces, that somehow their criminal identity makes it impossible for them to be victims of crime equally deserving of state protection.

Along with these beliefs often came an extreme cynicism with regard to the rehabilitative prospects of convicted criminals. All of these attitudes are characteristic features of post-disciplinary penalty as described in the literature and warrant further research. Nevertheless, rather than denying rehabilitative resources and warehousing inmates as the literature suggests, the results of this project reveal that both political discourses and legislative activities relegate rehabilitation to the periphery while giving precedence to the protection of society through the incarceration of criminals. However, once incapacitated, inmates will continue to be provided with rehabilitative tools and resources, though with the new qualification that they alone will bear the responsibility for accessing them.

This variance between Canadian discourses and the academic literature may indicate that the manifestation of post-disciplinary penalty in Canada (if indeed we can call it that) differs from other countries and social contexts upon which the existing literature is based. The unfortunate reality is that the literature on the punitive turn, as with many other areas of criminological research, tends to focus very little attention on Canada. Instead, what often occurs is that research conducted elsewhere in nations which are culturally, socially, or politically similar to ours are presumed to explain Canadian trends (Webster & Doob, 2007). Further research is needed in order to push the boundaries of contemporary criminology and expand our understanding of these issues as they occur in Canada.

Another important area that merits further attention is the regular appearance of the Canadian public within these debates and the pre-eminence these discourses give to the concept of “public opinion”. The results of this project revealed that these conceptions are often conflicting and contradictory. One of the most obvious contradictions was the portrayal of the Canadian public as being both ignorant and well-informed with regard to criminal justice issues. What is most remarkable about this dichotomy is that it did not solely appear between the various claims being put forth in the media, but often appeared within individual claims themselves. For example, in constructing their claims the NDP often accused the Conservatives of fear-mongering and attempting to scare Canadians into supporting retributive policies. This discourse portrayed the public as an ignorant and misinformed mass whose fears can be preyed upon and used in order to manipulate them. However, in other articles or debates the NDP portrayed the same Canadian public as being fed up with ineffective tough-on-crime approaches that are based on retributive ideologies rather than sound empirical evidence. Alternatively, this discourse portrays the public as a well-informed, logical, and coherent group who understand the issues and have a clear notion of what kind of criminal justice system they want or do not want.

What is particularly interesting is that the public were used as both a justification for the claims-making activities that appear in the sample and as their intended target audience. For example, the ostensible justification for the Conservatives’ claims-making was the public’s demand for the legislative changes brought about by C-10 and the “clear mandate” they were given by Canadians to get

tough-on-crime. Simultaneously, the public serves as the intended audience, since these discourses are meant to communicate to the public that the Conservative party is taking action on their behalf and responding to their concerns. However, this was not limited to political claimants alone. For instance, the professed justification for many of the interest groups such as the John Howard Society was the protection of the public by averting the catastrophic consequences of Bill C-10. Yet the public also serves as the target audience, since educating the public and persuading them is the means by which Bill C-10 will be opposed and its catastrophic consequences avoided.

All of the claimants within the media sample, regardless of their particular stance on Bill C-10, claimed that public opinion was overwhelmingly unanimous and congruent with their own claims regarding the putative conditions. When discussing the public's support for their position on Bill C-10, claims-makers generally described a Canadian public that is rational, reasonable, logical, and has a great deal of common sense about criminal justice issues. In contrast, any time public support for an opposing view was acknowledged, it was generally interpreted as being the result of manipulation. In these cases, the public once again appears as an emotional and ignorant populace who blindly believe what they are told about the crime and the justice system. This was an extremely popular discursive strategy.

However, in addition to these contradictory portrayals, the appearance of the public within these debates also needs to be investigated because it is intimately tied to penal populist discourses. In a way this connection is obvious, since populism is by definition a direct appeal to the people against established power structures

(Abts & Rummens, 2007). As discussed in the literature review, it is a style of politics that seeks to exploit “the gap between the government’s promises and its performance” (Canovan, 1999, p. 12). Interestingly, the results of this project indicated that it was the ruling government party themselves that became the main proponent of this penal populist style of political communication. Since they cannot appeal to the people against themselves, it is unsurprising that the Conservatives’ expression of populism would instead focus on the judicial power structure and find fault with the criminal justice system.

As mentioned previously, one of the main criticisms of populist politics is that by continually appealing to the public it essentially “relocates the centre of democracy from parliament to the public square” (Abts & Rummens, 2007, p. 416). What makes this so objectionable to many scholars and academics is that it is believed to replace rational and principled debate with emotional appeals that pander to the mob. It is certainly difficult to disagree with this assessment based on the results of this analysis. The media sample used for this project contained innumerable examples of discursive strategies employed by the Conservatives that appeared to be designed to evoke the public’s sympathy for victims or incite their anger towards criminals in order to galvanize their support for Bill C-10. Based on results such as these, it is entirely possible that penal populist appeals to the people are simply a way for politicians to engage in “opinion-making” and thereby obtain or maintain power as C. Wright Mills (1956) suggests.

Interestingly, the Canadian public are also the target audience of the educative approaches that appeared in the media sample as well. These attempts to

educate the public were predicated on the belief that Canadians are grossly misinformed and misguided about the reality of criminal justice issues, making them susceptible to manipulation through penal populist discourses. The answer, according to public criminology, is to provide them with “facts” and “evidence” that will enable them to make informed choices about the kind of justice system they want. However, as the results of this analysis indicated, many of the groups engaging in “public criminology” are far from impartial or without stake in the outcome. They too are putting forward a particular claim about the putative conditions that they find objectionable and their attempts to “educate” the public are part of the discursive strategies they use to construct these claims. For example, this could be clearly discerned in the claims made by opposition politicians, who sought to educate the public in order to garner support for their particular conception of crime prevention. Once again, the connection between the Canadian public and “public criminology” may appear obvious since the name itself suggests that its goal is the engagement of the public in criminological discourses. Nevertheless, it is a connection that is exceedingly complex and merits closer analysis and scrutiny by researchers.

Much like penal populism, public criminology is about making an appeal directly to the people. Consequently, it may be that the criticism often applied to penal populism is equally applicable to public criminology, that in doing so it “relocates the centre of democracy from parliament to the public square” (Abts & Rummens, p. 416). This suggests an interesting parallel between the two, despite their fundamental and ideological opposition to one another. The concept of the

“public square” as a literal space, a location where citizens can meet to exchange news and ideas, hear important announcements, and otherwise engage in civic life, is largely a thing of the past. While places such as this may still exist, they certainly are not as prevalent or popular as they were in previous centuries before the advent of mass communication.

In fact, the mass media can now provide citizens with an unlimited supply of news, announcements, or information instantaneously. In a very real sense, the mass media has become the post-modern equivalent of the “public square”. As a result it is hardly surprising that public criminologists and penal populists as well as the various claims-makers that appeared in the sample all chose this medium in order to present their claims and disseminate their ideas. It is as though all of the claims-makers that appeared in this sample were attempting to take the centre of this public square and shout above one another in order to gain the public’s attention and persuade them of their claims. The implications of this raise a great many questions about the role of the mass media as a site of conflict between these differing conceptions of criminal justice. Moreover, it raises questions about the exact nature of the relationship between the mass media, culture, and political discourses, as well as the influence of this relationship on criminal justice policy formation. However, the potential implications of these issues are beyond the scope of this thesis and the questions raised cannot presently be answered. Further research is needed in order to extend these results and provide answers to these important questions.

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