

## ***R v Friesen*: Tougher Sentencing for sexual crimes against children**

One of the basic values of Canadian society is protecting those who are vulnerable and who cannot protect themselves. Children are one such category of vulnerable persons and they make up a large portion of Canada's overall population. Children often have no ability to protect themselves and they must rely on the adults around them to keep them safe. In a recent decision the Supreme Court of Canada reassessed how tough the sentencing should be for someone convicted of sexual crimes against children.

In the case of *R v Friesen*, the accused was found guilty of sexual interference of someone under 16. The victim was a four-year-old girl, the daughter of a woman Friesen had met online. At Friesen's request the child's mother brought her daughter to Friesen for him to sexually abuse. The child's babysitter discovered what was happening and stopped Friesen from committing the acts further. The first instance judge sentenced Friesen to six years imprisonment, basing his decision on a similar case. However, at the Court of Appeal this sentence was overturned and decreased to four and a half years imprisonment. The reason for this being that Friesen and the child did not have a trust-based relationship with each other. Friesen was not a parent or any kind of caregiver to the victim.

When the case reached the Supreme Court of Canada it was unanimously held that the sentence should be the original six years imprisonment. The court even conceded that this was a light sentence given the circumstances. The court pushed aside the idea that the accused and child victim must have some kind of trust-based relationship in order to warrant harsher sentencing. In this case the Supreme Court stated that all courts should be giving higher sentences for sexual crimes against children. They took the view that the courts have been too soft in the past. The psychological impact and trauma that these abusive events can have on a child cannot be ignored. Some may carry mental scars with them for the rest of their lives.

Is this decision truly fair and just? What we can expect to see in future cases involving sexual acts against children is harsher sentencing. A crime that could have earned a four-year sentence previously can now land an accused up to ten years. While it is certainly hard to find sympathy for a person who has committed such heinous acts to a vulnerable child imprisonment cannot just be looked at as a way to punish the accused. Sentencing involves a delicate balance of factors between under-punishing and over-punishing. After all, imprisonment is taking away a fundamental Canadian right: the right to liberty. The purposes of incarceration are much more than just punishing someone for what they have done. The principles which govern sentences are rehabilitating the offender, protecting the public, denouncing the act, and deterring others from committing the same acts. Will a stricter sentence continue to respect these principles? I believe they will in some respects, although I also have my doubts.

I am of the opinion that a strong stigma should apply to any person who knowingly and willfully commits sexual acts to children. Child victims may suffer irreparable damage as a result of a sexual assault. It is only fair that the person responsible for that damage also suffer some form of damage to their reputation. Further, a stricter sentence keeps the public safe from a sexual predator for a longer period of time. Where I begin to question the efficacy of longer sentences is in regard to deterrence. I do not think extending the period of incarceration will do that much to deter sexual predators. I think regardless of the sentence a person may still commit the act. Many people commit crimes thinking that they will not get caught, therefore they do not consider the repercussions if they do. The other principle where I have my doubts is rehabilitating the offender. I think it is difficult to discern whether a longer sentence would do more good than harm to rehabilitation. Studies suggest that most sexual offenders will not reoffend after their first offence. Therefore, I question whether a longer time frame truly helps the rehabilitation process. If anything it may hinder it since a longer incarceration time may foster bitterness and resentment.

Overall, I do agree with the Supreme Courts final decision in *Friesen*. The fact that sexual crimes against children continue to persist in Canada to this day is shocking and terrifying. Children are arguably one of the most vulnerable groups of people in Canadian society. They may lack the physical strength to fend off an attack or may lack the mental ability to comprehend what is being done to them. I agree with the Supreme Court that the finding of a trust-based relationship should not be required to warrant a higher sentencing. I find that requirement to be a meaningless barrier to overcome in sentencing. Children should be treated with the same care and respect as any other adult, regardless of a pre-existing trust-based relationship.

## References

<https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/sx-ffndr-rcdvsm/index-en.aspx>

