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Deadly Inertia: A History of Constitutional Challenges to Canada's Criminal Code Sections on Prostitution

PDF (Size: 216KB) PP. 33-54 DOI: [10.4236/blr.2011.22005](https://doi.org/10.4236/blr.2011.22005)

Author(s)

John Lowman

ABSTRACT

This paper examines rhetoric surrounding prostitution law reform in Canada from 1970 to the present. During the 1950s and 1960s, there was very little media or political attention paid to prostitution. It was not until the mid 1970s that perceived problems with prostitution law began to surface, driven by concerns that the criminal code statute prohibiting street prostitution was not enforceable. In 1983 the Liberal government appointed the Special Committee on Pornography and Prostitution to consider options for law and policy reform. However, the Conservative government that received the report in 1985 rejected the sweeping law changes the Special Committee recommended, opting instead to rewrite the street prostitution offence. Since then the murder of somewhere between 200 and 300 street prostitutes has prompted renewed calls for law reform. The debate on law reform culminated in 2006 with a parliamentary review that saw all four federal political parties agreeing that Canada's prostitution laws are "unacceptable," but unable to agree about how to change them. The majority report held that consenting adult prostitution should be legal, while the minority report held that it should be prohibited. In 2007 the Standing Committee on the Status of Women recommended that Canada adopt the Nordic model of demand-side prohibition. As the deadlock continues, women in the street sex trade continue to be murdered. Faced with this deadly inertia, two groups of sex workers have challenged several Criminal Code sections relating to prostitution, arguing that they violate several of their Constitutional rights, including their right to "life, liberty and security of the person". The paper concludes with an update on the progress of the Charter challenges now before the courts.

KEYWORDS

Prostitution Law Reform, Canada

Cite this paper

J. Lowman, "Deadly Inertia: A History of Constitutional Challenges to Canada's Criminal Code Sections on Prostitution," *Beijing Law Review*, Vol. 2 No. 2, 2011, pp. 33-54. doi: [10.4236/blr.2011.22005](https://doi.org/10.4236/blr.2011.22005).

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