The Effect of Different Police Enforcement Policies on the Control of Prostitution

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Cet article présente une analyse comparative du contrôle de la prostitution dans quatre villes canadiennes en utilisant le contrôle policier comme variable indépendante. Plusieurs études canadiennes récentes sur la prostitution ont évalué le bien-fondé de la loi actuelle, et la majorité des analystes ont conclu qu’il faut décriminaliser la prostitution. Cependant, notre analyse fait l’hypothèse qu’il est peu probable que la loi soit bientôt changée, et montre que la police canadienne possède déjà la discrétion légale voulue pour décider quand et où la loi doit être mise en application. Notre article présente une analyse qualitative des modes de contrôle policiers dans quatre villes (Vancouver, Edmonton, Winnipeg et Toronto) allant d’un contrôle très strict des prostituées et des consommateurs à une tolérance sélective et à la négociation entre les différents groupes affectés. À partir de cette analyse, l’auteur conclut que la façon la plus appropriée de réduire les problèmes et les conflits politiques associés à la prostitution implique une tolérance sélective, combinée à une négociation entre les prostituées et les divers groupes touchés. L’article conclut par une discussion, basée sur une orientation féministe, des raisons expliquant pourquoi les tentatives de supprimer la prostitution ne fonctionneront pas et pourquoi les prostituées doivent être partie prenante de toute discussion concernant le contrôle de la prostitution.

This article conducts a comparative analysis of prostitution control in four Canadian cities using police enforcement policies as the independent variable. Most recent Canadian prostitution research has centred on assessing the adequacy of the existing law, and the majority of analysts have concluded that most prostitution offences ought to be decriminalized. However, the analysis in this article assumes that the law is unlikely to be changed in the near future, and instead argues that Canadian police already possess sufficient legal discretion to decide when and where they will enforce the law. The article conducts a qualitative analysis of police enforcement policies (in Vancouver, Edmonton, Winnipeg and Toronto) ranging from strict enforcement of the law against prostitutes, customers and both prostitutes and customers through to various forms of selective toleration and negotiation among the various affected groups. Based on this analysis, the writer concludes that the most effective way of reducing both the nuisance and the political conflict associated with prostitution involves selective toleration, combined with negotiation between prostitutes and other affected groups. The article concludes with a feminist oriented discussion of the reasons why attempts to suppress prostitution will not work and why the prostitutes themselves must be part of any discussions regarding the control of prostitution.

Introduction

The area of police decision making represents an increasingly important aspect of public policy formulation which is frequently ignored by Canadian policy researchers. This neglect is unfortunate since there is significant evidence to suggest that

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the police possess significant legal autonomy over the implementation of criminal laws. This autonomy is particularly important with respect to controversial but relatively minor offences such as prostitution. In many respects, the contradiction between prostitution’s relatively minor legal status and the fact that street prostitution is a significant problem in many large Canadian cities creates a frustrating dilemma for Canadian police forces. On one hand, prostitution’s minor legal status limits both the priority which the police can assign to prostitution control and their ability to deal effectively with it. On the other hand, street prostitution is usually concentrated in business and residential areas near city centres, and this creates conflict with the people who live and work in these areas. This conflict forces police to choose between expending large amounts of resources on what is legally a minor offence, or being accused of failing to protect the public and maintain order. In this respect, police are often caught between liberal and civil rights groups, who oppose increased police enforcement, and residents and business owners who want the problem solved. In recent years, feminist groups have injected another dimension into an already complex issue. This has further increased the political factors with which Canadian police must contend, and makes it imperative that they develop rational comprehensive policies to control street prostitution.

The intent of this article is to conduct a comparative analysis of the manner in which police in Vancouver, Edmonton, Winnipeg and Toronto implemented recent changes to Canada’s prostitution laws. Popularly referred to as Bill C-49, these changes effectively criminalized all public communication for the purposes of prostitution. The impetus for this legislation can be traced to the public clamour which arose after the 1978 Hutt decision weakened the previous anti-soliciting provisions contained in section 195.1 of the Criminal Code. Although there is considerable disagreement regarding the degree to which the Hutt decision was responsible for the resulting prostitution problem, there is little doubt that it appeared to correlate with an increase in the levels of street prostitution. Canadian police forces almost universally condemned the decision and blamed it for the sudden increase in street prostitution in many large cities. This instigated a political process which ultimately led to an in-depth investigation of the entire prostitution issue by a non-parliamentary Special Committee (hereafter referred to as the Fraser Committee) (Larsen, 1995). Although the Fraser Committee concluded that the best way to control prostitution was to decriminalize most prostitution activities, the federal government instead enacted Bill C-49. This law clearly represents one of the toughest approaches to prostitution control in western societies, and it’s proclamation on December 28, 1985 engendered bitter controversy. Although most Canadian police forces and many residents and business groups welcomed the new law, many other groups argued that the law was neither necessary nor likely to solve the problems associated with street prostitution.

As a result of the above controversy, the Federal Department of Justice announced that an evaluation of the law would be commenced within three years of its proclamation. This evaluation was duly completed during 1987 and 1988 and the final report was published in 1989 (Fleischman, 1989). In general, the official evaluation concluded that Bill C-49 was almost completely ineffective in reducing the numbers of prostitutes working in Vancouver and Toronto. It also concluded that ‘land use conflicts’ between street prostitutes and residents and business people remained high (Fleischman, 1989:76). Although it is more difficult to draw conclusions about Winnipeg since it was not a major evaluation site, the Winnipeg study did suggest that the law’s effect on levels of prostitution had been temporary at best (Brannigan, Knafla and Levy, 1989:212). Edmonton was not included in the evaluation at all, and
thus there is no previously published evaluation of Bill C-49 in Edmonton. In addition to the official evaluation, several academics have also conducted independent evaluations and/or published articles dealing with various aspects of the law’s implementation. The academic articles have generally focused on more narrow issues. For example, Lowman (1991:322–24) argues that Vancouver police exhibited a greater gender bias against female customers than occurred in either Toronto or Montreal. He further notes that there was a class bias with respect to the male customers charged, and that lower class men were the most likely to be charged. O’Connell (1988) makes the same general point and argues that the new law has increased the levels of violence against prostitutes. While a detailed review of the literature is beyond the scope of this discussion, there is near unanimous agreement about the general ineffectiveness of the law.

Interestingly enough, despite the voluminous amount of research published to date, there has been little attempt to focus on police enforcement strategies as an independent variable. Inasmuch as the police were a major force behind the enactment of Bill C-49, there are several important questions which must be answered regarding the influence of specific police enforcement strategies on the effectiveness of the law. Inasmuch as Bill C-49 appeared to give police exactly what they had demanded in the post-Hutt debate (Larsen, 1992a), its implementation provides an ideal opportunity to address these questions. Accordingly, this discussion will outline the approaches taken by the different police forces and attempt to assess their relative effectiveness at reducing the numbers of visible prostitutes and the degree of conflict over prostitution. An attempt will also be made to assess the degree to which police forces developed comprehensive policies regarding the implementation of the law and the extent to which the police adopted political positions independent of their political masters. Finally, this article will conclude with several recommendations for future prostitution control policies.

Methodology for the Present Study

This article is based primarily on a qualitative research study carried out in the cities of Vancouver, Edmonton, Winnipeg and Toronto during 1989. The following methodological steps were used to conduct the research for this article.

1. An in-depth media search was conducted in all four cities to provide detailed information on the topic area. This search used the Canadian News Index to provide an exhaustive listing of all prostitution-related media articles between 1986 and 1989. While the main data-gathering technique was to review the contents of the articles themselves, the overall tone and media stance was also analysed. This step has been repeated in all cities every year until 1995.

2. A series of in-depth unstructured interviews was conducted with selected individuals identified as playing significant roles with respect to the issue. The aim of this step was to obtain information on the implementation of Bill C-49 from the perspective of the different interest groups which were involved. This survey included police officials, officials in the Federal Ministry of Justice and the appropriate provincial Ministries of the Attorney General, municipal politicians and local interest groups. An attempt was made to maximize the representativeness of the sample by employing a modified quota sample which included informants from all categories of groups in proportion to their numbers and perceived importance. However, because of the small sample size and the tendency of potential informants to ‘self select’ out of the interviews, it was not always possible to maintain the quotas to the end. The interviews were unstructured and the questions were largely open-ended during the initial part of each interview. However, towards the
end of each interview, an attempt was made to structure the overall content, using a prepared questionnaire as a guide. In addition, the following steps were included as part of this survey:
a) The prepared questionnaire was mailed to those potential informants who had expressed a willingness to participate in this study but who were unavailable for personal interviews.
b) Follow-up questions were directed at certain individuals who had been identified as particularly reliable and/or helpful sources. These follow-up questions generally involved issues which had come to light as the research progressed, and thus had been omitted from the initial interviews. In certain instances, selected individuals were treated as ‘key informants’ and used to verify and/or cross-check information obtained from other sources. This step was repeated on a smaller scale in 1992–93 in all cities except Edmonton.  

3. Regular walking patrols were conducted through the prostitution strolls in all cities. An attempt was made to systematically ‘sample’ all strolls at a variety of different times (i.e. afternoon, early evening, late night and early morning). The methodological technique involved a type of participant observation in which the walking pace, the distance from working prostitutes, and the amount of eye contact with prostitutes were all varied. The goal was to ascertain the degree of harassment to ordinary passers-by in the prostitution areas. The patrols were carried out for 7 to 10 day periods in all cities in 1989. They were repeated in Vancouver in 1992 and have been periodically carried out in Toronto and Winnipeg from 1989 to 1995. They have not been repeated in Edmonton.

4. Existing documents were analysed to provide detailed information on the implementation of Bill C-49 as well as additional insights into the positions of various groups and organizations. This information was used to cross-check and verify the information obtained from the interviews. As well, the results obtained from each type of document were compared to those obtained from other types wherever possible. The following types of documents were included in this step:
- the minutes of municipal council meetings
- position papers published by community groups
- research reports
- committee reports

The Communicating Law in Vancouver

The Vancouver police implemented Bill C-49 by conducting several major sweeps against female prostitutes during January, 1986. Although both the number of arrests and the number of visible prostitutes were initially very low, it appears that prostitutes had intentionally stayed off the streets until they had a sense of how police would enforce the new law. The number of arrests quickly increased once they returned to the streets, and the police charged over 90 prostitutes during January, 1986 (Lowman, 1989:A525). Although the number of arrests declined in subsequent months, largely as a result of several Provincial Court decisions invalidating parts of the law, the numbers of visible prostitutes continued to increase (Lowman, 1989:A527). Although the court challenges were quickly overruled by the BC Supreme Court, and the police adopted even tougher measures against prostitutes, the conflict over street prostitution continued to escalate. Prosecutors began routinely asking that area restrictions be made part of probation orders for convicted prostitutes, even though this tactic simply pushed most prostitutes to the edge of the restricted area (Vancouver Sun (VS), May 9, 1986, p.A3). The fact that the area restrictions did not apply to customers ensured that there was a steady supply of customers, and prostitutes quickly de-
veloped new strategies to avoid arrest. This gender bias was reinforced by the fact that Vancouver police laid far fewer charges against customers (Lowman, 1989:A525), and many commentators argued that prostitutes would remain on the street as long as there was business.

The conflict continued to escalate during 1987 and many community groups were arguing that Bill C-49 was clearly a sham. This was particularly true of the Mount Pleasant area, a working class neighbourhood near the city centre. The Vancouver Police had stopped responding to prostitution-related calls from Mount Pleasant, and many residents became convinced that the Vancouver police were using the area as a ‘dumping ground’ for street prostitution because of its lower social economic status. In response to these criticisms, the police established the Mount Pleasant Task Force to co-ordinate enforcement efforts during the summer months of 1986 to 1988. The Task Force experimented with several ‘harassment’ tactics and organized periodic ‘blitzes’ against prospective customers. In addition, they stepped up the frequency of visible uniformed patrols near where prostitutes were working to discourage customers from cruising the area. Although the Task Force was reasonably effective, it is important to note that these tactics were not dependent on Bill C-49, and could have been used before it was implemented. Further, the activities of the Task Force displaced large numbers of prostitutes into the ‘Downtown Eastside’ area, including the respectable working class area known as Strathcona.

The scenario which developed in Strathcona differed significantly from other areas, largely because both the residents and the police adopted radically different attitudes towards the problem. Instead of adopting confrontational tactics, residents and prostitutes negotiated compromise agreements outlining where the prostitutes could work. This approach was reinforced when police became involved and suggested that patrol personnel would tolerate some prostitution if the prostitutes stayed away from schools and residential areas (VS, Apr. 20 1988, p.B5). These tactics have been continued by the uniformed patrol team responsible for the area, and recent research indicates that the police have extended their liaison work with prostitutes to include regular consultations with the affected groups. Thus, although there continue to be significant amounts of prostitution activity in the Strathcona area, there is remarkably little conflict.

In summarizing this discussion of Bill C-49 in Vancouver, it is clear that the new law was not effective in reducing the numbers of street prostitutes in Vancouver. Although it did give the police somewhat greater ability to control the areas in which prostitutes worked, and thus helped to quiet public controversy, harassment tactics using traffic codes and other non-criminal laws were far more effective. The most effective solution, however, involved the negotiation and other ‘social work’ tactics practised by the police and residents in Strathcona. While these tactics did not appear to reduce the numbers of prostitutes, they did minimize conflict. Unfortunately, this tactic has been limited to the Strathcona area, as residents and patrol teams in other areas have been unwilling to adopt it. As a result, conflict continues in the Mount Pleasant area, and there is an ongoing media debate regarding the best approach to the problem.

The Communicating Law in Toronto

The initial implementation of Bill C-49 in Toronto appeared to involve much more planning and co-ordination than had been evident in Vancouver. After consultation with the prosecutor’s office and other groups, the Toronto police announced that they intended to concentrate on customers, and that they would co-operate with social service programs designed to help prostitutes change their lifestyles (Toronto Star (TS) Jan. 26, 1986, p.A6). The police quickly adopted a pattern of arresting more cus-
omers than was occurring in Vancouver and this tactic succeeded in deterring many customers from cruising the strolls. Although the numbers of prostitutes working the streets also dropped drastically,\textsuperscript{24} this success was short-lived. Many of the prostitutes who temporarily vacated the streets moved into escort agencies and massage parlours, a move which increased the number of pimps and their ability to dominate the prostitution trade.\textsuperscript{25} The police subsequently placed greater emphasis on escort agencies, which forced prostitutes back on the street, where they adopted new tactics to cope with police surveillance. A Provincial court decision overturning Bill C-49 further increased the number of prostitutes and customers returning to the streets. At this point, the police changed their tactics and began concentrating on female prostitutes, but the evidence suggests that their efforts simply displaced many prostitutes to other areas. By August of 1986, street prostitution had again become a major problem and the police conducted a prolonged series of sweeps, in which female prostitutes were the major targets. Although Toronto police adopted many of the tactics being used in Vancouver,\textsuperscript{26} the increased police activity failed to significantly affect the prostitution trade (TS, Aug. 22, 1986, p.A1).

The controversy and conflict regarding street prostitution intensified in 1987 despite much more aggressive enforcement of Bill C-49. The Toronto police formed the Police-Community Prostitution Committee to facilitate co-operation and information sharing with residents and business owners, the Crown Attorney’s office and local politicians. The one group which was not included were the prostitutes themselves and this may explain why this Committee was less successful than the one in the Strathcona area of Vancouver. Further, although this Committee likely represented a genuine effort to deal effectively with citizens’ concerns, it also was clearly an attempt to appease some of the most vocal groups and to subvert local political activity to serve the interests of the police. In this respect, it was relatively successful at minimizing public criticism of the police, and direct public lobbying efforts against politicians.\textsuperscript{27}

Although the police were able to minimize public conflict, they were not able to reduce the number of prostitutes. Despite their aggressive enforcement of Bill C-49, the number of prostitutes on the streets doubled between January and October of 1987 (Globe & Mail (G & M), Oct. 15, 1987, p.A3). The fact that most of this increase occurred after the police shifted their emphasis from customers to prostitutes underscored the futility of tougher laws against prostitution. Although the police ultimately returned to their previous concentration on customers, there is little evidence to suggest that this was effective. Although conviction rates remained high, the number of visible prostitutes also remained high.\textsuperscript{28} Further, public dissatisfaction began to grow and the Police-Community Liaison Committee was no longer able to contain it. In order to appear more effective, Toronto police instituted a practice of moving prostitutes from area to area, never allowing them to stay in one area for lengthy periods of time.\textsuperscript{29} These practices have been continued to the present time, and although some prostitution activity has even been displaced into Toronto’s outer suburbs, this has simply spread the nuisance problem over a larger area. The Toronto media continue to debate the prostitution issue and there are constant reports of conflict between residents and prostitutes. In this respect, it is instructive that local politicians have started calling for legalized ‘zones of tolerance’ and bawdy houses (G & M, Oct. 26, 1991, p.A10).

The Communicating Law in Winnipeg

The implementation of Bill C-49 in Winnipeg tended to follow the patterns evident
in Vancouver and Toronto. Although the Winnipeg Police were somewhat unique in that they explicitly instituted a short ‘period of grace’ following the proclamation of the law, their subsequent enforcement of the law against prostitutes and customers quickly drove most prostitutes off the streets (Winnipeg Free Press (WFP), Jan 14, 1986, p.3). However, although the prostitution issue remained quiet in the main female stroll, controversy quickly arose in two other prostitution areas. The first instance involved complaints from residents of the Hill area about prostitution-related activities in the lanes and parking lots surrounding the Legislative Buildings. The police responded by setting up road blocks and conducting traffic checks and other harassment activities. Although this temporarily alleviated the problem, it reappeared again in early fall when residents renewed their complaints. This precipitated several public meetings involving residents, the police and the gay community. Numerous possible solutions were discussed, and ultimately the City of Winnipeg installed permanent traffic barriers to prevent motorists from cruising through the area. Although this tactic simply displaced the prostitutes and their customers into a more heavily populated part of the area, changes in attitudes by prostitutes, combined with stepped up police patrols, apparently solved the problem. There has been no further public controversy, and some observers credit the involvement of the gay community for the success of the negotiations (WFP, Sept. 26, 1986, p.3).

The success of the police action in the Hill area stands in stark contrast to the situation which arose in the ‘lo-track’ area during this time period. In this case, a police attempt to clean up the Main Street strip displaced many prostitutes into the adjacent residential area. This led to conflict with residents, who complained that the police were ignoring the problem because of their poor economic status (WFP, Oct 17, 1986, p.3). The police responded with a series of sweeps against female prostitutes, and although this crackdown was largely ineffective, it destroyed their previously good relationship with the prostitute community. POWER quickly condemned the police for ignoring male customers and also accused them of ignoring assaults against prostitutes. Although the police denied both accusations, their relationship with the prostitutes deteriorated sharply after this point. The situation was exacerbated by the attitudes of residents and business owners in the area, many of whom exhibited very inflexible attitudes towards the prostitutes. Thus, the problem has not been resolved and conflict over prostitution continues in the area to the present time.

In summarizing the discussion of Bill C-49 in Winnipeg, it is clear that the law was not effective in reducing the amount of street prostitution. Although there is little firm evidence regarding levels of street prostitution before and after the law, most observers agree that there has been no long-term reduction in the numbers of visible prostitutes (WFP, Nov. 23, 1988, p.1). Further, despite aggressive enforcement of the law in Winnipeg, it actually appeared less effective than the more tolerant approach taken by the police in Calgary. In terms of reducing political conflict, a clear class bias emerged in which the police were much more responsive to public concerns from the middle class Hill area than they were to those emanating from the ‘lo-track’ area. The police continue to argue that they are unable to control prostitution because of the overly lenient attitudes of the courts and call for even tougher laws to deal with the issue. There is an ongoing media debate regarding street prostitution and recent polls have indicated that a majority of the public are in favour of legalized red light areas (WFP, March 10, 1994, pp.D8–D9). However, the Winnipeg police have indicated that they have no intention of tolerating prostitution in any area of the city (WFP, April 25, 1994, p.C10).
The Communicating Law in Edmonton

The implementation of Bill C-49 in Edmonton paralleled the situation which occurred in the other cities. The Edmonton Police initially eschewed the major sweeps which were taking place in Vancouver and Toronto, and adopted a ‘routine enforcement’ approach which concentrated on female prostitutes. Although the numbers of prostitutes on the streets declined drastically immediately following the implementation of the law, they quickly increased again once prostitutes became accustomed to police activity. Although the Edmonton Police subsequently stepped up their enforcement activities, and experimented with a variety of harassment tactics, there is little evidence that these tactics exerted any long-term effect. Indeed, police activities simply displaced the prostitutes into other areas (Edmonton Journal (EJ), Sept. 6, 1987, p.A1) and the familiar class bias developed insofar as the police appeared to place a greater emphasis on middle class areas than they did on lower and working class areas. However, once the working class residents organized into lobby groups, the police adopted a stated policy of using traffic checks and other harassment tactics to routinely displace the prostitutes from one area to another. These harassment tactics were supplemented by periodic sweeps against both prostitutes and customers. Although this response initially appeared to satisfy both the working class residents and the Jasper Avenue business owners, the problem was never permanently solved and street prostitution periodically re-surfaces as a political issue in Edmonton.

In concluding this discussion of Bill C-49 in Edmonton, several important issues need to be emphasized. First, despite public and political pressure, the Edmonton Police did not take a particularly hard line in enforcing the law. Indeed, Edmonton Police publicly stated that prostitution could only be repressed by using huge amounts of police resources which would detract from more important police operations (EJ, Sept. 9, 1988, p.A1). Further, the Edmonton Police intentionally maintained a good relationship with the street prostitutes. Although this policy was partially motivated by the increasingly critical reaction of the media to police crackdowns on prostitution, it clearly assisted the police when they decided to negotiate with prostitutes in an attempt to minimize the nuisance associated with street prostitution. Although this practice never reached the level of the Strathcona area of Vancouver, it nevertheless appeared relatively successfully in defusing some of the tensions. Thus, although the overall scope of the negotiation was quite limited, it represents the one tactic which appeared to minimize conflict over the issue.

Summary and Conclusions

The analysis in this article has focused on the degree to which different police enforcement strategies reduced prostitution and/or the amount of conflict over the issue. Inasmuch as these two criteria were also the stated goals enshrined in Bill C-49, it is considered important to first summarize the degree to which the enforcement of Bill C-49 helped achieve these goals before discussing broader issues relating to the control of prostitution. In this respect, although there were many specific differences in the way Bill C-49 was implemented in the four cities, the same general pattern emerged in which levels of street prostitution initially plummeted but quickly rebounded to previous (or even higher) levels. Further, although Toronto’s emphasis on customers was initially more effective than Vancouver’s focus on female prostitutes, neither approach was successful over the long term. Similarly, there was no significant difference in effectiveness noted between routine enforcement and major sweeps. In all cities, prostitutes quickly adapted to routine enforcement activities and the long-term effect of major sweeps
was extremely limited. Thus, the evidence collected in this study appears to indicate that the enforcement of Bill C-49 was almost completely ineffective at reducing either the levels of street prostitution or the conflict associated with it. This finding generally supports the official evaluation conducted by the Department of Justice and other published studies.

The almost complete failure of one of the toughest prostitution laws in western societies can be explained with reference to selected aspects of feminist theory. However, before these issues can be discussed, it is important to examine two enforcement tactics which were relatively effective. Once it became clear that Bill C-49 was not having the desired effect, all police departments in this study adopted harassment tactics to deter both prostitutes and their customers. These tactics, which included traffic stops and the aggressive deployment of uniformed patrols near where prostitutes were working, displaced prostitutes to different areas. This reduced public pressure on the police, and all police departments gradually adopted the practice of routinely displacing prostitution from one area to another so that the nuisance associated with street prostitution would not be imposed on any one area for a prolonged period of time. Although this tactic did not reduce the overall number of prostitutes, it was somewhat effective at reducing the conflict associated with prostitution. However, it is important to note that these harassment tactics were not dependent on Bill C-49 and could have been used before the law was implemented. Although some police officials have argued that these tactics require the enforcement threat of Bill C-49 to make them work successfully, most prostitutes argue that it is a fact that business plummets under harassment conditions which forces them move to another area.

Although the harassment tactics reduced the conflict associated with street prostitution, they did not significantly reduce the overall nuisance effect of street prostitution. All they really accomplished was to keep the nuisance effect moving from area to area so that public complaints and political activity were minimized. Moreover, this reduction in public pressure was accomplished at the expense of large amounts of police resources which diverted attention away from other more serious offences. Although the Edmonton police were the only force to publicly complain about the amount of attention that they were forced to give to prostitution control, officers in other forces also made the same point in private interviews. In addition, the harassment tactics created unnecessary problems for prostitutes, and led to civil rights abuses in extreme cases. Various informants attested to witnessing verbal abuse directed against prostitutes and potential customers, and in some cases illegal searches. The inappropriateness of utilizing such tactics to suppress a summary offence such as prostitution is accentuated by the fact that they were marginally effective in any case.

Another approach which was somewhat more effective involved negotiation between prostitutes and various other interest groups. This strategy was most successful in the Strathcona area of Vancouver, where the patrol units have taken a very proactive approach to working with both prostitutes and residents. As a result, conflict over street prostitution has been largely eliminated despite the fact that the actual levels of street prostitution remain high. Negotiation was also used on a smaller scale in Edmonton and Winnipeg, where it helped defuse some of the tension on a short-term basis. However, because the practice was discontinued after a short period of time, conflict in these cities has periodically reappeared. Finally, although the Toronto police adopted the most ambitious approach to negotiating with residents and business groups, their attempts were less successful than in the other cities, largely because they failed to include prostitutes in the negotiation process.

This latter point appears to be the key
variable in terms of effectively controlling the nuisance associated with street prostitution. It is also crucial to achieving ‘successful’ prostitution control as defined in much broader terms than those currently under discussion in this article. While a detailed discussion of feminist theory is clearly beyond the scope of this analysis, it is considered crucial to situate the remainder of this discussion within one major precept of feminist analysis as it relates to prostitution. In this respect, most feminists would argue that prostitutes are generally oppressed women who become involved in prostitution because they have no other economic options (Cooper, 1989; Freeman, 1989; Shaver, 1988). This is the major reason why most of the tactics discussed in this article were largely ineffective in reducing either the numbers of prostitutes or the conflict associated with street prostitution. Simply stated, any attempt to control prostitution without taking into account the interests of prostitutes is doomed to failure because ‘leaving the business’ is simply not a viable option for most prostitutes. This explains why the negotiations in Vancouver, Edmonton and Winnipeg, which included prostitutes, were more successful than those in Toronto, which excluded them. Most prostitutes’ spokespersons interviewed in this study have continually reiterated that they simply want a location where they can conduct business without undue police interference, and that they are willing to co-operate with other affected groups in order to achieve this.

The above discussion leads to the conclusion that prostitution itself cannot be eliminated through legal prohibitions, and thus police efforts should be aimed at managing it to achieve a compromise between the rights and interests of all affected groups. This will only be accomplished if the rights of prostitutes are considered as equally important as the rights of residents and business owners. Since prostitution itself is perfectly legal in Canada, it is logical that prostitutes should be permitted to operate as long as they meet certain conditions designed to protect the rights and interests of other groups. This concept is not in itself particularly radical, as many other writers have suggested that some form of zoning is the best approach to controlling the nuisance of street prostitution. Indeed, the Fraser Committee discussed earlier recommended that most prostitution activities be decriminalized and that prostitutes be allowed to work legally in fixed off-street locations. Unfortunately, actual legal zoning is not possible unless prostitution itself is decriminalized and this is unlikely to happen in the near future. This conclusion would appear to lead the discussion into a stalemate; however, the police have sufficient legal discretion to decide the conditions under which they are going to enforce Bill C-49. Thus, the obvious solution to the dilemma is for the police to establish public guidelines stipulating where and under what conditions Bill C-49 will be stringently enforced, and under what conditions prostitution will be tolerated. The public proclamation of such guidelines will permit prostitutes (and their customers) to modify their behaviour to meet the guidelines.

There are several additional recommendations which are necessary to ensure the success of the approach articulated above. First, based on the evidence discussed in this article, it is considered mandatory that this policy be developed in consultation with all of the affected groups, including prostitutes. It is also important that these groups be encouraged to open a dialogue with each other as well as with the police. Second, the guidelines must be imposed on all components of the police, as previous negotiations were sometimes undermined by a lack of co-ordination and co-operation between Vice Squads and patrol units in some cities. Finally, inasmuch as street prostitution is more dangerous for prostitutes and also more likely to cause conflict with other groups, every attempt should be made to encourage off-street prostitution in the form of escort agencies and/or bawdy houses. In order to prevent pimps and or-
ganized crime from controlling off-street prostitution, it is recommended that police forces develop strategies to effectively monitor escort agencies and bawdy houses without forcing prostitutes out on the street. In this respect, the periodic crackdowns against bawdy houses and escort agencies in Vancouver and Toronto clearly worked against the primary goal of reducing street prostitution, as well as indicated that the police in these cities had failed to develop a coherent strategy for dealing with the issue.

In closing this discussion, the writer is well aware that the above suggestions will undoubtedly provoke a negative reaction from the police on the grounds that they cannot legally agree not to enforce a specific law. Although this is their standard argument regarding the issue of tolerance, it must be pointed out that the police routinely establish policies which stipulate that certain offences will not be enforced in certain circumstances. Further, it can be argued that the implementation of the approach articulated in this article would offer several practical advantages for the police aside from greater effectiveness in the management of prostitution. In this respect, there is increasing evidence that Canadian public opinion favours some form of quasi-legal toleration as long as it effectively controls the nuisance associated with street prostitution. Moreover, the media debate discussed in the preceding pages suggests that municipal politicians are also willing to accept some form of ‘formalized’ toleration. Thus, even if the strategy did not work, the police would be able to argue that they had simply been attempting to implement the expressed wishes of the public and their political masters, and could ‘legitimately’ demand an even tougher approach to the problem. In either case, i.e. either the strategy works or it does not, the public proclamation of an intent to tolerate prostitution under certain circumstances might finally force the federal government to clarify prostitution’s legal status. Aside from the other issues discussed in this ar-

ticle, this would constitute a desirable end in itself.

Notes

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1 The most commonly charged prostitution-related activity is ‘communicating for the purposes of prostitution’ as outlined in S. 212.1 of the Criminal Code. This is a ‘summary’ offence which precludes arrest on ‘reasonable’ grounds and does not permit offenders to be fingerprinted. Thus, the police must resort to time-consuming entrapment tactics and are unable to properly identify prostitutes because many of them use several aliases.

2 Bill C-49 Provisions:
(1) Every person who in a public place or in any place open to public view:
   a) stops or attempts to stop any motor vehicle, impedes the free flow of pedestrian or vehicular traffic or ingress to or egress from premises adjacent to that place, or
   b) Stops or attempts to stop any person or in any manner communicates or attempts to commu-
   nicate with any person
   for the purpose of engaging in prostitution or of obtaining the sexual services of a prostitute is guilty of an offence punishable on summary conviction.
(2) In this section, ‘public place’ includes any place to which the public have access as of right or by invitation, express or implied, and any motor vehicle located in a public place or in any place open to public view.

3 Hutt v. The Queen (1978), 32 C.C.C. (2d) 418. This decision by the Supreme Court of Canada ruled that ‘soliciting for the purposes of prostitution’ was only an offence if it was ‘pressing and persistent’.

4 See for example: Lowman (1986). Lowman argues that the Vancouver problems were more closely related to the closure of two nightclubs which catered to prostitutes and their customers. This action drove large numbers of prostitutes onto the street, where they migrated to business and residential areas. See also Larsen (1992a). Larsen links the problem to patterns of gentrification occurring in major cities. This process, which peaked
during the late 1970s and early 1980s, saw previously run-down houses in prostitution areas bought and renovated by middle-class professionals, who then lobbied for the removal of the prostitutes.

5 In particular, the Fraser Committee recommended that prostitutes be allowed to work legally in fixed indoor locations and that prostitution generally should be controlled by using the same laws which were used to regulate business generally (Larsen, 1985).

6 It should be noted that Bill C-49 legally became S. 196.1 of the Canadian Criminal Code once it was proclaimed. However, the numbering of the section changed during the time period covered by this article and the term Bill C-49 will be used throughout to avoid ambiguity or confusion.

7 It should be noted that the evaluation was mandated by the legislation itself. The evaluation was supervised by the Department of Justice but was carried out by independent contractors. The major sites were Vancouver, Calgary (which also included brief assessments of Regina and Winnipeg), Toronto (including several smaller centres in Ontario), Montreal (including Quebec City and several smaller centres) and Halifax. It should be noted that many of the contractors were university academics, who have since updated their original work and published academic articles. Thus the academic literature is generally not independent of the official evaluation.

8 In general, politicians were the most likely to decline to participate while the local interest groups were the least likely to opt out.

9 Given that the strolls were in residential and business areas in all four cities, this was seen as crucial to determining the level of nuisance associated with street prostitution.

10 This information is derived from a private interview with Marie Arrington, President of the Vancouver chapter of Prostitutes and Other Women for Equal Rights (POWER). All informants will be identified in detail in a footnote the first time they are cited and thereafter by their name alone.

11 The situation was exacerbated when Mayor Mike Harcourt directed the Vancouver Police to move against several bawdy houses and forced even more prostitutes out on the street (Vancouver Sun, Mar. 27, 1986, p.A3). Considering that the major goal was to keep prostitutes off the street, this action suggests that the Vancouver Police and City Council had failed to develop a coherent strategy for dealing with prostitution.

12 In fact, the area restrictions may have exacerbated the problem by expanding the red light area. Referred to by some as the ‘creeping red light district’ phenomenon, it spread the problem of street prostitution over a larger area and actually increased the amount of public outcry.

13 Marie Arrington and S/Sgt. Thompson (Team 6 – Vancouver Police) both argued that prostitutes were able to develop coping strategies to minimize the possibility of arrest.

14 The practice was also criticized by prostitutes’ spokespersons and some defence lawyers because it contravened the principle of equal enforcement (Marie Arrington, President of POWER; Tony Serka and Bridget Eider, Defence Attorneys).

15 This information was provided by Tim Agg and Phyllis Alfeld, leaders of two community organizations which were created by residents to attempt to do something about the prostitution problem in Mount Pleasant. Although these organizations were in fact dominated by professionals moving into the area, there was significant participation from the original working class residents. In any case, the perception that the area was working class still remained in the minds of police and politicians. (Libby Davies, Vancouver Alderperson)

16 In some instances, these tactics extended to questionable and even illegal behaviour on the part of the police. For example, the video ‘Anywhere But Here’ interviewed informants who witnessed police officers searching prostitutes’ purses and scattering the contents on the ground. Such activities are clearly illegal, and all the more extreme considering that the women had simply been standing quietly on street corners.

17 S/Sgt Thompson, Prostitution Liaison Officer for Team 6.

18 This area was located along the Vancouver Harbour and near Chinatown. It encompassed skid row, a large area of public housing, some established working class residential districts and the trendy restaurant and shopping area known as ‘Gastown’. Although the area had always contained significant amounts of prostitution, the transient nature of the population, combined with a preponderance of seedy bars and other transient oriented businesses, minimized conflict.

19 It should be noted that although the majority of the evidence supports the scenario outlined above, there was some disagreement about the effectiveness of the initial police response to the Strathcona situation. A group of Strathcona residents who were unhappy with the levels of street prostitution in the area organized the Strathcona Prostitution Action Committee (SPAC) in May of 1988. The group organized a short lobbying campaign aimed at Vancouver Police and City Hall. This quickly resulted in the formation of a Special Police Liaison Committee for Strathcona which met with the dissatisfied residents and drew up a plan of increased uniformed patrols. Three area prostitutes also attended the meeting and participated in the discussion and negotiations over the problem (Vancouver City Manager’s Report to Council, August 26, 1988). This appeared to re-
solve the issue, as there was no further indication of trouble in the area.

20 Cst. Griff Simons, Team 3, Vancouver Police. In a 1992 interview, Constable Simons stated that he and his partner made a point of developing rapport with prostitutes in their area so as to facilitate their co-operation. They also attended monthly liaison meetings with prostitutes, residents and business owners. This approach is apparently working well, and several informants from various organization in the area expressed satisfaction with the police activity. Further, one community leader informed this writer that they were very satisfied with the willingness of prostitutes to co-operate. (Muggs Sigurdson, Strathcona Resident, Interview conducted in February, 1992.)

21 This assertion is based on a series of interviews conducted in 1992. It is also noteworthy that there has been little mention of the Strathcona area in the media since 1988.

22 In addition to the qualitative information gathered for this study, the official evaluation conducted by the Department of Justice came to similar conclusions. For example, although the average number of visible prostitutes did decline in 1986, it rebounded to even higher levels in 1987. (The figures were 1985–44.0, 1986–23.6, 1987–54.2.) (Lowman, 1989:95).

23 An additional aspect of police enforcement patterns detracted from any attempt to mediate a solution in Mount Pleasant. The Vice squad was much more active in Mount Pleasant than it was in Strathcona. The Vice Squad consistently refused to become involved in any negotiations over prostitution and this scuttled an attempt to establish an informal ‘red light district’ in Mount Pleasant prior to the implementation of the law (Larsen, 1992a). Although the Vice Squad operated in Strathcona, it had less effect there. (S/Sgt Jim Maitland, Vancouver Police Vice Squad – Interview in February, 1992.)

24 In April, the police announced that the numbers of prostitutes had dropped to approximately one third of their pre-Bill C-49 levels (200–300 vs. 600–700) (Toronto Star (TS) Apr, 27, 1986, p.A8). The police claimed that their strategy of going after the customers was effective because middle class customers (often with families) were much more easily deterred than prostitutes, most of whom already had long criminal records.

25 This was because pimps now found it easier to control their girls than when they were on the streets. While a prostitute working the streets could ‘turn tricks’ without giving her pimp his share, this would be more difficult in an agency where the pimp could monitor all calls without leaving the office. The police were virtually powerless to intervene since it was all underground, and they lacked an effective way of monitoring the activities of the pimps (TS, Apr. 27, 1986, p.A8).

26 For example, they instituted the practice of detaining arrested prostitutes overnight, despite the fact that persons charged with summary offences are normally released on appearance notices. They also asked the courts to impose a 9:00 pm curfew, combined with area restrictions, as conditions of bail (Globe & Mail, Aug. 23, 1986, p.A6).

27 A senior Toronto police Superintendent informed this writer that he regularly used the committee to ‘make noise’ when he wanted something from City Hall.

28 This assertion is also supported by the evaluation conducted by the Department of Justice, which found that the numbers of prostitutes and their working hours had not been significantly reduced by the law (Moyer and Carrington, 1989).


30 The Winnipeg Police announced that they could find no evidence that prostitutes were moving into hotels and escort agencies or that pimps were taking over the prostitution scene in Winnipeg (WFP, Jan 14, 1986, p.3).

31 Referred to as the ‘hi-track,’ this stroll was centred on Albert Street, an area of restaurants and boutiques near the downtown and adjacent to City Hall and Chinatown. Many of the area merchants welcomed the prostitutes because they attracted street traffic which was good for business.

32 The Hill area located near the legislature in downtown Winnipeg is the centre of the male prostitution in Winnipeg. The males were frequently drunk (as opposed to being on drugs) and were very noisy. They also made a practice of turning tricks in full view of apartment windows and passing traffic.

33 It is worth emphasizing that the Hill area is noted for a high percentage of gay residents, and that their willingness to negotiate with the prostitutes facilitated a resolution to the issue. It is also significant that the gay community has played a significant role in counselling male prostitutes and that this has helped gain their co-operation.

34 The ‘lo-track’ area is a lower/working class residential area near skid row. It is used primarily by younger, less expensive female prostitutes and male transvestites.

35 WFP, Oct. 19, 1986, p.3. Debbie Reynolds, President of POWER, also repeated these accusations in a 1989 interview.

36 In a 1989 interview, Inspector Ray Johns, current OIC of the Vice Division suggested that the attitudes of residents and business owners was at least partially responsible for the controversy.

37 This conclusion was also supported by statements
from the Winnipeg Police and representatives of
POWER.

38 This conclusion is based on the research con-
ducted for the Minister of Justice evaluation. This
evaluation compared the effect of Bill C-49 in Win-
nipeg, where the police had devoted considerable
time to enforcing it, to Calgary, where the pol-
ce had given it a much lower priority. Changes in
the numbers of street prostitutes were about the
same in both cities, thus convincing the re-
searchers that the law had not exerted a major im-
 pact on street prostitution in the Prairie Region
(Brannigan, Knafla and Levy, 1989).

39 For example, on February 7, 1986, the police esti-
 mated that the numbers of prostitutes working
Edmonton's streets on an average night had been
reduced from 40-50 to six or seven (Edmonton
 peared that the street prostitutes were not being
displaced into escort agencies or bars, the Edmon-
ton Police were generally happy with the law
during the first few weeks of its operation.

40 S/Sgt Whiton, Edmonton Police Morality Squad
– Interview conducted in August, 1989.

41 For example, the police quickly responded to com-
plaints from the middle-class residents in River-
dale and business owners along Jasper Avenue,
but appeared more inclined to tolerate prostitu-
tion in the working class Boyle-McCaully area

42 The City also installed traffic barriers in the pros-
titution areas but these proved almost completely
ineffective (Rick Milligan – Edmonton City En-
gineer, Interview conducted in August, 1989).

43 Karen Dandemueller and Ruth Gelderman (Resi-
dents' Groups Spokespersons) and Claude Buzon
(Jasper Avenue Restaurant Owner) – Interviews
conducted in August, 1989.

44 One of the more recent instances of political con-
clict occurred in early 1993, when residents and
business owners in the Queen Mary and Central
McDougall areas lobbied the police to get rid of the
prostitutes and drug dealers infesting their neigh-
bourhood. Although the police crackdown re-
mediated the situation somewhat, the police
themselves described it as a never-ending problem
that could never be cured completely (Alberta Re-

45 For example, they often gave out appearance no-
tices to prostitutes charged twice in the same
night (EJ, Sept. 11, 1987, p.B1). In addition, the
practice of seeking area restrictions as probation
and/or bail conditions was never adopted in Ed-
monton (Mike Allen, Senior Crown Attorney – In-
terview conducted in August, 1995).

46 For example, Anne Dolina, spokesperson for the
Alliance for the Safety of Prostitutes (ASP), pub-
licly commended the Edmonton Police for their
enlightened approach and obvious desire to main-
tain a good working relationship with prostitutes
(EJ, May 24, 1988, p.A1). This policy was also con-
firmed by S/Sgt. Whitton and Insp. Noel Day of
the Edmonton Police Morality Squad.

47 John Geiger, Columnist for the Edmonton Jour-
nal – Interview conducted in August, 1995. Inter-
estingly, Geiger maintained that the police
actually caused most of the prostitution problem
when they drove prostitutes out of a run-down
area near the main police station. He argued that
this area was a perfect spot for prostitution since
it contained mostly parking lots and seedy busi-
nesses, whose owners were unconcerned about
the prostitutes. Unfortunately, the police action
displaced the prostitutes into other areas, where
they were unwelcome.

48 Ruth Gelderman – Telephone Interview con-
ducted in August, 1989. Gelderman spoke highly
of the work carried out by Community Service Of-
icers, who acted as a liaison between the police
and the public on a wide range of issues. However,
she also suggested that they were sometimes un-
derscored by the Morality Squad, who sometimes
conducted sweeps while the CSOs were trying to
negotiate with the prostitutes.

49 The adoption of these two criteria is not intended
to denigrate the importance of other possible
goals. For example, prostitutes' spokespersons
and many feminist writers have argued that the
reduction of violence against prostitutes should be
a primary goal. Although the present writer
completely supports this argument, there is cur-
rently a lack of accurate data to assess this issue.
See Larsen (1995) for a more detailed discussion
of violence, and the current problems which exist
in assessing whether violence has increased since
Bill C-49 was implemented.

50 In fact, these tactics were used by police prior to
Bill C-49 but were initially abandoned in favour of
strict enforcement when the law was proclaimed.
The success of these tactics was similar in both
cases, a factor which further weakens police con-
tentions that Bill C-49 was needed to make them
work. (See Larson, 1992a, for a discussion of the
pre-Bill C-49 situation.)

51 Police officials in Vancouver and Winnipeg sug-
gested to this writer that many of the 'problems'
associated with street prostitution were caused by
the intolerance of residents. Indeed, routine walk-
patrols conducted as part of this study did not
encounter or witness significant amounts of noise
or disruption attributable to street prostitution
activities.

52 It must be noted that Shaver takes a slightly
different approach to the question of feminism
and prostitution. She criticizes many of the femi-
nist assumptions about the degrading and exploi-
tive nature of prostitution and argues that some
prostitutes do enter it as a matter of choice. She
also strongly suggests that Canadian feminists need to defend the existence of prostitution, and is in favour of maintaining it as an occupation for women who wish to enter it voluntarily.

53 This point was made by Marie Arrington, President of POWER, Vancouver, Debbie Reynolds, President of POWER, Winnipeg, and Valerie Scott, President of the Canadian Organization for the Rights of Prostitutes (CORP) in Toronto. Although Ann Dolina, President of the Alliance for the Safety of Prostitutes (ASP) in Edmonton was unavailable for a private interview, she made a similar statement to the Edmonton Journal (EDJ, May 24, 1988, p.A1).

54 Although this writer has argued elsewhere that most prostitution-related activities should be decriminalized (Larsen, 1992b; 1995), the focus here is on police enforcement policies. Thus, the current law is accepted as a ‘given’ which is largely outside the control of the police. However, as noted in the introduction, the police have significant autonomy to control the implementation of Bill C-49 and the following recommendations are considered within the legal discretion of the police to administer justice.

55 See Anywhere But Here (video of the B.C. Learning Resources Institute, Vancouver, 1992) for a more detailed discussion of the anomalies created by prostitution’s uncertain legal status. See also Shaver (1994). Shaver argues that prostitution persists is not necessarily different from other occupations, but that its current legal status makes it unnecessarily problematic.

56 In R. vs Westendorp, the Supreme Court of Canada ruled that municipal governments cannot use bylaws to control prostitution because some aspects of the trade are covered by the Criminal Code.

57 This recommendation parallels the discussion by Lowman (1992a; 1992b) and Matthews (1992; 1993). While Lowman and Matthews were debating the creation of red light districts through zoning laws, their discussion also applies to police decision-making. Although Matthews (1992: 20) argues that the police should limit themselves to identifying where prostitution is not permitted (which he refers to as ‘negative zoning’), Lowman (1992a: 14) favours specifying the conditions under which it is legally permitted.

58 Indeed, the success of the Strathcona experiment can be partially attributed to the fact that negotiation was started by residents and prostitutes prior to police involvement.

59 This recommendation is not intended to suggest that the police should attempt to completely eliminate street prostitution. Rather, the goal should be to minimize the amount of street prostitution and utilize negotiation to minimize conflict over the remaining street prostitution. For a variety of reasons, some prostitutes will be unable or unwilling to operate in off-street locations (Lowman, 1992a: 14–15).

References


