

R. v. Bissonnette (2022): Consecutive Parole Ineligibility Periods in Canada

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Case Summary

In May of 2022, the Supreme Court of Canada (SCC) ruled on R. v. Bissonnette, a case regarding the constitutionality of consecutive parole ineligibility periods for murder. The SCC decided that Section 745.51 of the Criminal Code, which allowed judges to apply 25-year parole ineligibility periods consecutively, was unconstitutional (Major, 2024, p. 50). R. v. Bissonnette is a case rooted in the right to human dignity (Cameron, 2023, p. 9). The Court struck down the provision under Section 12 of the Canadian Charter, which guarantees that “Everyone has the right not to be subjected to any cruel and unusual treatment or punishment” (Government of Canada, 1982). On January 29, 2017, the appellant, Alexandre Bissonnette, entered the Grande Mosquée de Québec and opened fire on a group of worshippers gathered for evening prayer. Six people were killed and 19 others were critically injured. Bissonnette was convicted on six counts of first-degree murder and five counts of attempted murder (Howard, 2019, p. 3).

During the conviction trial, the Crown prosecutors requested that Section 745.51 be applied, allowing for a combined parole eligibility period of 150 years, ruling out the possibility of parole in his lifetime. However, the Quebec Superior Court judge found Section 745.51 violated Sections 7 (the right to life, liberty, and security of the person) and 12 of the Charter. While Judge Huot agreed, ruling Section 745.51 to be contrary to the Charter, he preserved a version of the provision by imposing a 40-year ineligibility period for parole (Iftene, 2021, p. 321). Following the Quebec Superior Court’s ruling, Bissonnette appealed to the Quebec Court of Appeal, claiming that the 40-year period was still unconstitutional. Therefore, the Quebec Court of Appeal struck down Section 745.51 entirely, stating that the modification still violated Section 12 of the Charter (Iftene, 2021). The Supreme Court of Canada unanimously agreed with the Quebec Court of Appeal’s decision. They concluded that regardless of the offence, a reasonable and proportional punishment cannot completely deny an offender parole eligibility (Major, 2024, p. 56).

Competing Arguments and Judicial Responses

The central concern of the case was whether Section 745.51 of the Criminal Code infringed on the Charter by denying offenders the eventual opportunity for rehabilitation. The Crown prosecutors originally claimed that each consecutive period appropriately reflects the value of each of the victim's lives (Iftene, 2021, p. 325). Bissonnette challenged, stating that Section 745.51 violated Section 7 and 12, as the punishment was disproportionate and out of scope, thereby violating his right to life, liberty, and protection from unjust punishment (Vincent-Wright et al., 2024, p. 39). Although Judge Huot ruled that Section 745.51 was contrary to the Canadian Charter, he modified the provision, allowing the court to determine the duration of a second parole period.

However, the Quebec Court of Appeal rejected Huot's approach, stressing that the issue exists within the provision's content itself, not its legal application (Vincent-Wright et al., 2024, p. 40). The Court stressed that the extended ineligibility parole periods avoided any possibility of rehabilitation, as the scope can exceed life expectancies. The imposition of life sentences without the legal opportunity to receive parole undermines human dignity and the capacity for rehabilitation (Vincent-Wright et al., 2024, p. 41). The SCC used the same rationale. They deemed that Section 745.51 was unlawful given it deprives a person of their human dignity by eliminating any reasonable chance to show rehabilitation. Assuming an offender to be irredeemable permits a penalty that was inherently cruel and unusual (Major 2025, p. 53). Even the most heinous criminals should not be permanently denied the opportunity for rehabilitation.

Legal Tests and Balancing of Rights

In *R v. Bissonnette*, the justices applied a test to determine whether Section 12 of the Charter of Rights had been violated. The first part of the test was to determine whether the penalty was grossly disproportionate to the offence. The second part was to examine whether the penalty was inherently cruel and degrading in nature. The SCC determined that Section 745.51 violated both elements of the test (Iftene, 2021, p. 326). Refusing any realistic chance of release or rehabilitation is the equivalent of living a monotonous existence, away from family and the outside world, potentially exceeding the desire to live. The provision is also degrading, as it eliminates the possibility of self-reformation, thereby assuming offenders to be incapable of change (Major, 2025 p. 56).

However, Chief Justice Wagner did point out that rehabilitation does not supersede other sentencing goals such as denunciation and deterrence, requiring a reasonable compromise (Fischer, 2022). The court also analyzed international standards, which strongly opposed irreducible life sentences. The SCC stated that the Charter should at least afford protections equivalent to the provisions in the International Criminal Code, reiterating that the deprivation of rehabilitation, regardless of the nature of the crime, should be condemned (Vincent-Wright, et al., 2024, p. 41). Ultimately, the SCC ruled that Section 745.51 was unconstitutional because it violated the fundamental principles of human value and justice. No matter how serious the violation, a penalty that gives no hope violates the fundamental idea that everyone must have the opportunity to change.

Future Implications

R. v. Bissonnette clarifies the application of Section 12 in the Charter, ensuring offenders serving life sentences have at least a minimal opportunity for reformation. The Court ruling Section 745.51 as unconstitutional further showcases the interconnectedness of law, rights, and justice in protecting human rights. The SCC's legal ruling highlights our rights to moral agency and human dignity through Section 12, guaranteeing that justice demands that punishment is proportional and provides the opportunity for reformation (Major, 2023, p. 52). With regard to the right of public safety, the Canadian violent reoffending rate for full parole is under 0.8%, and over 88% of federal criminals are not readmitted within five years of serving their sentence (Government of Canada, 2021). The Parole Board of Canada has a high success rate of parolees, and has the ability to successfully pursue fair judgement while protecting lawful behaviour and public safety. However, the ruling may also have a strong impact on future decisions. The perspective on human dignity, which requires justifiable punishments, sparks questions on the validity of standard penalties, such as maximum and minimum sentences, and can potentially create a shift toward recognizing the individual circumstances of each offender more explicitly (Major, 2024, pp. 53-54). It encourages a justice system that considers not only the consequences of one's actions, but their individual capacity for change.

Perspective on the Supreme Court's Ruling

The Supreme Court's ruling in *R. v. Bissonnette* because it ensures the commitment to human dignity and access to rehabilitation in the Charter. Section 12 holds the legal system accountable for inherently unjust punishments. As scholar Sabzevari states, if the death penalty is unconstitutional in Canada, then correspondingly, removing the opportunity for parole should be as well (Sabzevari, 2023, pp. 1051-1052). Section 745.51 pre-determines that a criminal, no matter their efforts, is incapable of rehabilitation, which is an overgeneralizing assumption no court can conclude (Major, 2023, p. 53). However, many have also criticized the decision for the SCC's reduced commitment to serving justice, as one should face the proportionate consequences for their actions (Sabzevari, 2023, p. 1049). The issue with this argument is that despite the inhumane nature of Bissonnette's actions, the decision merely gives him a reasonable chance of parole after 25 years. The Parole Board of Canada still has the authority to refuse his release on the basis of his mental state and the potential threat to society (Fischer, 2022). The decision only confirms that the pursuit of justice, i.e., punishment, requires both a logical and reasonable assessment, not one that is solely retaliatory.

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