

From G20 to Occupy to 'Le
Printemps Érable':
The right to protest in the
contemporary Canadian context

Abby Dushman

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Outline

- History of CCLA involvement
- Dimensions of issue covered
- Case study - Quebec student protests - le printemps érable
- The way forward - meaningful protections for the right to freedom of peaceful assembly and protest?

History of CCLA involvement

- 1970s, 80s, 90s - various relatively isolated issues
 - Permit denied, breach of the peace, strip searches
 - Legislative advocacy
- 2000s - international meetings
 - Vancouver, British Columbia - Asia-Pacific Economic Cooperation meeting (1997)
 - Quebec City, Quebec - Summit of the Americas (2001)
 - Calgary, Alberta - G8 (2002)
 - Montebello, Quebec - Security and Prosperity Partnership of North America (2007)

CCLA involvement - evolving, ongoing issues

- Increasingly large international meetings
- Diverse forms of protest
- Recent examples
 - G8/G20 Summits (Toronto 2010)
 - Occupy movements (2011, 2012, across Canada)
 - Quebec protests (2012, Quebec)





Dimensions covered

- Scope of right to peaceful assembly, expression
 - What is protected assembly and expression?
 - Where are these rights protected? Public space?
 - Who has a duty to respect and protect these rights?
 - What about counter-protest?
- Reconciliation of right with other interests - limits must be demonstrably justified in a free and democratic society
 - Pressing and substantial objective, rational connection, minimally impairing, proportionate
- Procedural aspects impacting right
 - Permits/notification procedures; By-laws; Insurance?
- Who decides - is this law, safety or politics?
- Public order policing tactics, equipment

Le Printemps Erable

Montreal, June 22, 2012



Quebec Protests - 'le printemps érable'

- Feb 13: First student groups vote to walkout
- March 22: Peaceful protest, 100,000 people attend
- April 24: Nightly protests begin

By April 26, Montreal has had 160 protests over 72 days



Le printemps érable:

May 18th, government responses

1 - Montreal bylaw passed by city council

- Individuals must give prior notification of all demonstrations or ‘gatherings’ to the police.
 - Outlaw spontaneous demonstrations or ‘gatherings’
 - No definition of how large a parade or gathering would have to be before triggering the pre-notification requirement
- Ban on wearing facial coverings without “reasonable cause” at assemblies, parades or gatherings
 - Consequences of banning face coverings in a public place?
 - Value to anonymous expression?
 - Danger of vague, “reasonable cause” clause?



Le printemps érable:

May 18th, government responses

- Bill 78 passes Quebec National Assembly
- Prior notification required
 - Demonstration of 50 or more people in ‘publicly accessible’ space
- Restrictions on gatherings
 - Prohibits any gathering within 50 metres of the grounds of a building where university or college instruction is delivered, if that gathering could result in students or employees being unable to access the building.
- Incitement or help is an offence in itself
- Fines
 - Between \$1000 and \$5000 per day for individuals
 - Between \$7000 and \$35,000 per day for individual organizers
 - Between \$25,000 and \$125,000 for organizations

Le printemps érable: citizen response



Le printemps érable: response cont...

- May 22: 100th day of student strike, tens of thousands march many intentionally violating new law. Cross-country solidarity rallies.
- May 23: Nightly “casserolades” begin
- May 24: nearly 700 people arrested in Quebec
- May 25: Litigation started re Bill 78
- June: Summer festivals begin, policing changes
- July 11: indications that an election will held; election called Aug. 1, vote to be held Sept. 4
- August 27: University classes restart, renewed protests, first potential application of Bill 78
- Legal arguments on constitutionality of Bill 78 expected in 2013...



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Assessments of Quebec government responses

- The legal 'tools'
 - Prior notification schemes
 - Banning of anonymous dissent
 - Very high fines
 - Broad and vague prohibitions
- Proportionate response to extreme situation or overreaction?
- Standardization of response? Concerns:
 - Outright censorship?
 - Chill on expression and assembly?
 - Selective or discriminatory enforcement?
- Understanding of what constitutes democratic action?

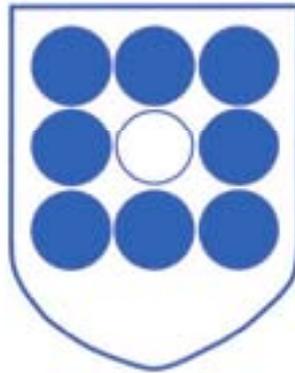
Musings - building meaningful protection for peaceful assembly

1. Government must not take actions to prevent or thwart public protest
2. Protesters cannot be regulated into silence
3. Government must not only tolerate expression and protest, but facilitate it
4. Any limits must be objectively justifiable
 - What constitutes a pressing and substantial objective?
 - Proportionality in the response
5. Build within citizenry, government, a tolerance for public dissent
6. Efficacy of oversight and remedies

Thanks!

Questions??

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