Stand Up for Your Rights: Protest Laws May Violate Charter Rights

This article was written by a law student for the general public.

Introduction

Protesting is a cornerstone of Canadian democracy. The mobilization and organization of large groups of people increases public awareness of political issues and influences policy decisions by putting pressure on political leaders. The vast majority of recent protests in Canada have been peaceful; however, protests frequently attract small groups of people who rely on alternative tactics, such as vandalism and violence, to convey their messages. The *Canadian Charter of Rights and Freedoms* (*Charter*) does not explicitly protect Canadians' right to protest, but it does provide constitutional protection for freedom of expression and peaceful assembly.[1]

As part of the Conservative Government's larger mandate to get tough on crime,[2] legislators have enacted laws which aim to deter individuals from committing criminal offences during illegal mass gatherings,[3] such as unlawful assemblies[4] and riots.[5] The purpose of the legislation (i.e. reducing criminal offences) is reasonable; however, the legislation may inadvertently limit legitimate forms of dissent by violating people's constitutionally guaranteed right to freedom of expression and peaceful assembly.[6] To demonstrate this point, the following article is divided into two parts. First, a general overview of the 2010 G20 Protests in Toronto, the 2011 Vancouver Stanley Cup Riot, and the 2012 Quebec Student Protests will be provided. Second, legislation enacted in response to these mass gatherings, specifically Bill C-309,[7] will be examined in relation to *Charter* rights and freedoms.[8]

G20 Toronto Protests (2010)

The G20 is an international organization composed of finance ministers and bankers representing twenty of the world's largest and most powerful economies.[9] The G20 members account for 90 percent of the global GDP, 80 percent of world trade, and nearly 70 percent of the world's population.[10] Since its creation in 1999, the G20 has met on a yearly basis to discuss issues that influence the global economy and review policy that promotes international financial stability.[11]

International summits, such as the G20, invariably act as triggers for discontented individuals.[12] As the most powerful leaders of the world gather to discuss economic policy behind closed doors, people who feel adversely affected by these policies feel compelled to voice their growing discontent.[13] Critics of the G20 argue that the international organization is a tool used to maintain a global economic system that favours the political and economic elites of the largest market economies in the world at the expense of

countries with less political and economic influence.[14] In 2010, political leaders, finance ministers, and bankers arrived in Toronto for the G20 summit. As the week-long summit got underway, thousands of protesters participated in rallies and demonstrations to voice their dissatisfaction with capitalism and corporate globalization.[15] While the vast majority of protests were peaceful, a small anti-capitalist group (including a black bloc[16]) broke from the ranks during a peaceful protest march on June 26.[17] The group made their way through the financial district of Toronto breaking storefront windows and setting fire to four unattended police cruisers.[18] Shortly after these acts of vandalism, the police began arbitrarily detaining and arresting hundreds of peaceful protesters, human rights monitors, members of the press, and bystanders.[19] With over 1100 people arrested from June 26-27, the G20 summit in Toronto became the site of the largest mass arrest in Canadian history.[20] The Canadian Civil Liberties Association labelled the police actions as "disproportionate, arbitrary and excessive."[21] Critics of the mass arrests suggested that the police used the images of the black bloc setting fire to police cruisers as an "excuse to engage in widespread brutality and flagrant abuses of civil liberties."[22] Following the mass arrests, claims of human rights violations and police brutality quickly surfaced.[23]

Human Rights Violations at the 2010 G20 Summit in Toronto

A. "Kettling" and Arbitrary Detention and Arrest

Kettling is a police tactic used to control large crowds. Police stand shoulder to shoulder to form a barrier around the crowd, thereby preventing the group from dispersing.[24] Kettling is an indiscriminate crowd control procedure that captures everyone in the vicinity, arbitrarily detaining peaceful protesters and militant radicals alike.[25]The Toronto Police Superintendent, Mark Fenton, was responsible for giving the order to kettle large groups of people on June 26 and June 27. While critics may have attributed the kettling to a form of retribution in response to the vandalism caused by the black bloc, Superintendent Fenton maintained that the kettles were necessary to protect the public. According to Superintendent Fenton, "the tactic of isolating, containing the movement of the terrorists/protesters was required to stop the ongoing attacks and prevent new attacks."[26]Importantly, Superintendent Fenton did not draw a distinction between the black bloc participants, who he referred to as "terrorists," and peaceful protesters. The failure to draw a distinction resulted in hundreds of peaceful protesters being detained.[27] The police undoubtedly had a difficult task of controlling and preventing further vandalism. The importance of that task, however, did not permit the police to disregard hundreds of people's constitutional rights against arbitrary detention and arrest, which are protected under section 9 of the *Charter*.[28]

B. Conditions in the Temporary Jail and Legal Rights Upon Detention

The two kettling incidents gave rise to systematic and indiscriminate mass arrests. An old movie studio on Eastern Avenue in Toronto was temporarily converted into a detention

centre for the duration of the G20 summit. Conditions in the temporary jail were poor. Most people were detained in the temporary jail for one to two days. During this time, detainees' hands were kept in plastic wrist ties, food and water were scarce, many of the jail cells were overcrowded, and access to medical treatment was largely denied.[29] Besides the poor physical conditions, many detainees claimed that the police dehumanized them through the use of racial slurs, sexist comments, and psychological tactics.[30]

Additionally, basic legal rights that are constitutionally guaranteed to people upon detention or arrest were largely denied. In violation of section 10(b) of the *Charter*,[31] many detainees were not permitted to contact legal counsel, and many people were detained for over 24 hours without having a hearing in front of a justice of the peace.[32] Even though the vast majority of detainees were not charged with criminal offences, they were photographed, subject to video surveillance throughout their detention, and at least one person was interviewed by police while being videotaped.[33] Furthermore, many people were forced to make promises to the police as a condition of release, such as promising to never participate in a G20 protest.[34]

C. Public Works Protection Act and Unlawful Search and Seizure

In June 2010, the Ontario Government secretly passed a regulation under the *Public Works Protection Act*[35] to give police greater power during the G20 summit. The *Act* was first enacted in 1939 as a way to protect government infrastructure from wartime enemies.[36] The regulation was not debated in the Ontario Legislature, the public was not made aware of the new regulation, and it was published on the province's e-Laws database without notice. The amendment would not be officially published in the *Ontario Gazette* until July 3, 2010–one week after the regulation was set to expire.[37]

The 2010 regulation designated the streets and sidewalks surrounding the summit a "public work" between June 21 and June 28, 2010. Under section 3 of the *Public Works Protection Act*, if infrastructure is designated a "public work," police have the authority to do the following: (1) require people entering or attempting to enter the "public work" to give their name and address, (2) search, without a warrant, any person entering or attempting to enter the "public work," and (3) refuse permission to any person entering the "public work." The regulation violated section 8 of the *Charter* by permitting the police to arrest people who failed to identify themselves or agree to a police search.[38] Section 8 of the *Charter* protects people's right against unreasonable search and seizure.[39] Unless people are being legally detained or arrested, the police must have a warrant, or other reasonable grounds, to conduct searches on people who do not provide consent.[40]

In response to the amendment, the Canadian Civil Liberties Association stated that people should be given clear notice when police powers are expanded, and they should have the opportunity to discuss whether or not the expansion of power is appropriate.[41] Ontario's ombudsman, André Marin, criticized the Ontario Government's secretive actions. Specifically, Marin was concerned that neither the police nor the Provincial Government felt it necessary to clarify how the regulation would impact people in and around the summit area.[42] Chief Bill Blair of the Toronto police led the public to believe the police had the

authority to arrest anyone within five metres of the summit area; however, the so-called "five-metre rule" was not part of the legislation.[43]

To date the controversial piece of legislation has yet to be revoked, even after the Ontario Liberal Government agreed to scrap it. New legislation was introduced in 2012 that would limit the *Act* to court houses and power plants. The new legislation would not allow the Ontario Government to arbitrarily expand police power. The Bill died when the legislature was prorogued in the fall of 2012. The legislation was re-introduced in the spring of 2013 and was set to move forward during the fall 2013 sitting, but there was no definite date set for a final vote on the legislation.[44]

Aftermath of the G20 Policing Operation

The Office of the Independent Police Review received hundreds of complaints about police conduct during the summit. The complaints prompted the Independent Police Review Director to perform a comprehensive review of the G20 summit.[45] The review, released in May 2012, was a detailed description of the events leading up to and including the summit. In the review, the Director found that people's *Charter* rights were violated, conditions in the temporary detention centre were poor, and overall, the police were ill prepared for the summit. The review was a sweeping comment on the larger policing operation, as opposed to the actions of individual police officers.[46]

Several individual police officers, however, faced accusations of police brutality. On May 31, 2013, an Ontario Superior Court Justice found Constable Glenn Weddell not guilty of aggravated assault and assault with a weapon.[47] Claims of police brutality have also been alleged against Constable Babak Andalib-Goortani. Closing arguments were made in June 2013. Justice Louise Botham is expected to release her decision in September 2013.[48]

Superintendent Mark Fenton faces five charges related to his orders to kettle individuals, including illegal arrest and unlawful detention. His case was delayed until March 4, 2013 to allow time for disclosure.[49] To date, there is no word on when a trial will begin.

Vancouver Stanley Cup Riot (2011)

The worst riot in Vancouver's history erupted on June 15, 2011.[50] British Columbia's National Hockey League team, the Vancouver Canucks lost the final game of the Stanley Cup Playoffs to the Boston Bruins.[51] Following the upsetting loss, disgruntled hockey fans took to the streets setting cars on fire, vandalizing businesses, looting, and fighting.

The Riot

The Canadian Broadcasting Corporation (CBC) and the City of Vancouver created designated "fan zones" where crowds could gather to watch the hockey game on large

screens.[52] Throughout the game, the crowd at the “fan zone” and the greater downtown area grew to 155,000 people – numbers much larger than were expected.[53] As the game drew to an end, some members of the crowd became unruly and began throwing bottles and shoes at the screens.[54]

As the game ended, two riots erupted nearly simultaneously: one at the “fan zone” and the other at a downtown intersection.[55] At 8:00 pm, just as the game ended, a car was flipped over, and people began fighting, smashing windows, and looting.[56] Shortly thereafter, several cars were reportedly on fire, members of the crowd were throwing projectiles at police, and several people were launching incendiary devices (e.g. Molotov cocktails).[57] Some riot participants covered their faces with clothing in order to conceal their identities.[58] Additional officers were called in to assist with the riots, and by midnight the crowds were dispersed.[59]

Impact of Social Media

Social media played both a negative and positive role during the 2011 Vancouver Riots. First, individuals who took pictures and video of the riot added to the numbers present in the crowd, inadvertently blocking the police from gaining access to the trouble spots. Furthermore, the chance of being taped on camera may have acted as a form of peer pressure causing some individuals to act out.[60]

Social media did, however, have a positive impact. By July 20, 2010, the Vancouver Police Department had received 4,300 email tips, 1500 hours of video, and 15,000 images from the public.[61] Furthermore, social media websites condemned and shamed the vandals, praised the Vancouver Police Department, and organized coordinated cleanup efforts.[62]

Aftermath of the Vancouver Riots

Several hundred people were treated for riot related injuries including tear gas and pepper spray exposure, cuts, bruises, lacerations, and broken ribs.[63] A total of 22 Vancouver Police Department officers were injured.[64] Significant property damage also occurred, with early estimates putting the figure in the millions.[65] As of July 23, 2013, the Vancouver Police Department had recommended 1204 criminal charges against 352 suspected rioters.[66]

Quebec Student Protests (2012)

In March 2011, the Quebec Government announced a plan to raise tuition 75% over the following five years, which would raise the cost of tuition to $3800 per year for Quebec undergraduates.[67] The increase in tuition was one of the more controversial aspects of Finance Minister Raymond Bachand’s provincial budget.[68] University of Montreal rector, Guy Breton, said that Quebec’s tuition rates had been kept too low causing universities to suffer.[69] Students argued that increasing tuition rates burdened students and would

discourage people from attending post-secondary schools.[70]

In response to the threatened tuition hike, student groups organized strikes and massive protests on a nightly basis. The demonstrations attracted thousands of participants and occasionally turned violent.[71] Students would frequently wear masks while they protested, and several times a black bloc contingency broke from the larger protest to commit acts of vandalism.[72]

Legislation Enacted in Response to the Quebec Student Protests

On May 18, 2012, the National Assembly of Quebec passed an emergency piece of legislation, Bill 78,[73] in response to the student protests. The new law suspended the 2012 school year at post-secondary institutions impacted by the strike, imposed steep fines on anyone who blocked access to schools, and placed strict limits on where, how, and for how long people could protest in Quebec.[74] Bill 78 stated that if a group of 50 or more people were demonstrating, they had to provide written notice to the police at least eight hours before the scheduled event. The written notice must have included the following details: date, time, duration, venue, route, and means of transportation (if applicable). Furthermore, demonstrators could be forced to change their venue and/or route if so ordered by the police.[75]

Bill 78 was met with harsh criticism. Opponents argued that it violated freedom of expression, freedom of conscience, and freedom of association.[76] Louis Masson, head of the Quebec Bar Association, expressed concern over the new law, and suggested that it created so many risks for potential protesters that people would avoid protesting altogether for fear of being punished.[77]

During a special council meeting, Montreal city councillors approved Bylaw P-6 on May 18, 2012.[78] The Bylaw was similar to Bill 78[79] (it also required protesters to provide police with an itinerary of the upcoming event), but the Bylaw went one step further and made wearing masks at public protests illegal.[80] Montreal Mayor Gérald Tremblay asked: "When a cause is just, why is it necessary to hide behind a mask?"[81] The constitutionality of prohibiting masks was called into question by critics. Specifically, opponents of the new Bylaw were fearful that it increased police power to stifle forms of expression.[82]

Aftermath of the Montreal Student Protests

Parti Quebecois Leader, Pauline Marois, became the Quebec Premier after her party won a minority government in the September 2012 provincial election.[83] On September 20, 2012, Premier Pauline Marois repealed the proposed tuition increase and scrapped Bill 78–two promises her party had campaigned on during the election.[84]

Bylaw P-6 is still in effect after Montreal city council voted down councillor Alex Norris'

motion to amend the controversial piece of legislation.[85] A constitutional challenge to the Bylaw has been launched by philosophy professor Julien Villeneuve. To lighten the mood of the student protests, Mr. Villeneuve wore a panda costume throughout the demonstrations last year. As a result of the Bylaw, the full-bodied panda suit became illegal because it concealed Mr. Villeneuve's face. Mr. Villeneuve's case is scheduled to begin in the Quebec Superior Court in October 2013.[86]

Legislative Response to the G20 Protests, the Stanley Cup Riot, and the Student Protests: Bill C-309

Bill C-309, *An Act to amend the Criminal Code (concealment of identity)*, became law on June 19, 2013.[87] The Bill makes it a criminal offence to wear a mask or other disguise during an unlawful assembly or a riot.

Conservative MP Blake Richards introduced the Bill in response to "violent riots" that had occurred in Canadian cities, including the G20 Protests in Toronto, the Vancouver Stanley Cup Riot, and the Montreal Student Protests.[88] Mr. Richards stated that the investigations concerning the vandals who participated in the riots were "hampered by the difficulty of identifying masked suspects."[89]

According to Mr. Richards, the Bill would give police officers the tools necessary to "prevent, de-escalate, and control riots and unlawful assemblies."[90] Additionally, Mr. Richards stated that by making it a criminal offence to wear a mask or otherwise conceal one's identity during a riot or unlawful protest, criminals would no longer be able to hide in plain sight, and, without a disguise, people would be deterred from partaking in illegal acts, such as vandalism.[91] Furthermore, if people still insisted on rioting and vandalism, the new Bill made it easier for police to identify the suspects and lay charges.[92]

Criticism of Bill C-309

The new law has been met with harsh criticism from politicians, social activists, and civil liberties' monitors. There are three criticisms of the Bill: (1) it is redundant, (2) it is ambiguous, and (3) it violates freedom of expression.[93]

1. Bill C-309 is Redundant

Opponents of Bill C-309 argued that it was redundant because the *Criminal Code* already punished people who wear disguises while participating in riots and unlawful assemblies.[94] For example, under section 351(2) of the *Criminal Code*, everyone who wears a mask or disguise with the intent to commit an indictable offence, such as participating in a riot or an unlawful assembly, is liable to imprisonment for a term not exceeding ten years.[95]

In response to this criticism, Mr. Richards said his Bill gives police pre-emptive power to deter people from participating in riots and unlawful assemblies while masked.[96] The primary difference between section 351(2) of the *Criminal Code* and Bill C-309 is that Bill C-309 does not require that people participate in riots or unlawful assemblies, but only that they be present while wearing a mask. This distinction allows police officers to arrest people who are seen wearing a mask at a riot or an unlawful assembly, regardless of their intention to commit a criminal offence, such as vandalizing property.[97]

2. Bill C-309 is Ambiguous

Critics of Bill C-309 argued that it was ambiguous and could result in innocent people being arrested for being in the wrong place at the wrong time. For instance, Muslim women wearing niqabs, sports fans with their faces painted, and people with medical bandages on their faces could be subject to punishment under Bill C-309, according to Senator Mobina Jaffer.[98]

Bill C-309 allows accused individuals to have a "lawful excuse" to wear a mask, and thus not be punished. Mr. Richards stated that the inclusion of the "lawful excuse" exemption was sufficient to prevent innocent people from being subject to punishment. [99] Importantly, the Bill does not provide a definition of what constitutes a "lawful excuse." In the absence of a clear definition, the scope of the "lawful excuse" will likely be expanded or contracted on a case-by-case basis.

Another criticism related to the ambiguity of the Bill concerned the definition of a "riot" and an "unlawful assembly." Both of these gatherings are defined in the *Criminal Code*,[100] but critics of Bill C-309 are concerned with the point in time when a legal protest becomes, or is considered, a riot or an unlawful assembly. Consider the following example. A large peaceful protest could be declared an "unlawful assembly" if people at the back of the group started throwing rocks through windows. People at the front of the protest might not be aware of the vandals behind them. Nonetheless, everyone who was present at the previously peaceful protest and who was lawfully wearing a mask would immediately be committing a criminal offence.[101]

3. Bill C-309 Violates Freedom of Expression

Senator Serge Joyal explained that wearing a mask is a form of expression protected by the *Charter*. People wear masks and don disguises during protests for a variety of reasons. Some people wear masks to protect their anonymity if there is fear of retribution, and other people may wear disguises or costumes as part of a larger political message (e.g. dressing as a polar bear to protest climate change).[102]

Bill C-309 does not make wearing masks or disguises during a peaceful protest illegal; however, critics worry that the Bill will create a "chilling effect." During the Standing Senate Committee on Legal and Constitutional Affairs, James Stribopoulos, a representative of the Canadian Civil Liberties Association, said that people may choose not to wear a costume or forego protesting altogether because they fear arrest.[103] Additionally, he

stated that democratic rights, such as freedom of expression, should not be protected solely by police officers' discretion.[104] Because there is great uncertainty about when a peaceful assembly becomes an unlawful assembly, it is possible that people will be deterred from wearing masks or disguises when they are legally entitled to do so.

Conclusion

Images of masked vandals, burnt out police cruisers, and smashed windows have garnered extensive media coverage over the past few years. The G20 Protests, the Vancouver Stanley Cup Riot, and the Quebec Student Protests provided the impetus for legislators to enact laws to ensure public safety and maintain order. Montreal's Bylaw P-6 and the Federal Government's Bill C-309[105] are pieces of legislation aimed at preventing and punishing individuals who commit acts of vandalism and other offences during mass gatherings.

The legislation, however, may go too far and inadvertently limit law-abiding citizens' constitutionally guaranteed rights. In particular, the prohibition on wearing masks at public protests (Bylaw P-6) or at riots and unlawful assemblies (Bill C-309) potentially violates people's right to freedom of expression and peaceful assembly which are guaranteed in sections 2(b) and 2(c) of the *Charter*.[106] While the legislation appears to directly contravene *Charter* rights, the larger issue at hand seems to be the "chilling effect" that they may create. Essentially, the strict regulations on how people are permitted to protest may deter people from participating in legitimate demonstrations. The goal of ensuring public safety and maintaining order is important, but it must be balanced against people's rights to peaceful assembly and freedom of expression.

The ability to protest must be protected because it is fundamental to the operation of democratic societies. Protests occur when people feel that social change cannot be achieved through discussion and debate. In many circumstances, protests remain the last viable option for under-represented groups to voice their dissent to the ruling majority. The legislators' decision to ban wearing masks may have the effect of discouraging people from protesting, thereby depriving them of a tool that can greatly influence political decisions.[107]

---

[1] *Canadian Charter of Rights and Freedoms*, ss 2(b)-(c), Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 ("[e]veryone has the following fundamental freedoms:…(b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;(c) freedom of peaceful assembly" ss 2(b)-(c)) < http://laws-lois.justice.gc.ca/eng/Const/page-15.html>.

[2] See *Harper Reinforces Conservative Tough-on-Crime Approach*, online: Hamilton East-Stoney Creek Conservative Association (part of the Conservative Government's campaign

platform was an aggressive approach to crime, including increased sentences for repeat offenders, better monitoring for high-risk offenders, and tougher sentencing and bail for serious gun crimes).

[3] "Mass gatherings," as used in this article, refer to protests, unlawful assemblies, and riots.

[4] An unlawful assembly is defined by the *Criminal Code*, RSC 1985, c C-46, s 63(1) as "an assembly of three or more persons who, with intent to carry out any common purpose, assemble in such a manner or so conduct themselves when they are assembled as to cause persons in the neighbourhood of the assembly to fear, on reasonable grounds, that they (a) will disturb the peace tumultuously; or (b) will by that assembly needlessly and without reasonable cause provoke other persons to disturb the peace tumultuously."

[5] A riot is defined by the *Criminal Code*, RSC 1985, c C-46, s 64 as "an unlawful assembly that has begun to disturb the peace tumultuously."

[6] *Charter*, *supra* note 1.

[7] Bill C-309, *An Act to amend the Criminal Code (concealment of identity)*, 1st Sess, 41st Parl, 2011 [Bill C-309] (received Royal Assent on June 19, 2013) < http://parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&DocId=6246507&File=24#1>.

[8] *Charter*, *supra* note 1.

[9] Tom Malleson & David Wachsmuth, "Introduction: From the Great Recession to the Streets of Toronto" in Tom Malleson & David Wachsmuth, eds, *Whose Streets?* (Toronto: Between the Lines, 2011) 1 at 3.

[10] Gross Domestic Product (GDP) is the market value of all goods and services produced within a country during a given time period; *What is the G20?* online: Russia G20.

[11] G20 Research Group, *New G20 forum: Backgrounder*, online: G20 Information Centre < http://www.g20.utoronto.ca/g20backgrounder.htm>.

[12] Malleson & Wachsmuth, *supra* note 9 at 5.

[13] *Ibid*.

[14] *Ibid* at 4.

[15] *Ibid* at 4-5.

[16] See Jeff Shantz, *Active Anarchy: Political Practice in Contemporary Movements* (New York: Lexington Books, 2011) at 50-51 ("black bloc" is a protest tactic whereby participants wear black clothing and cover their faces as a sign of group solidarity and to prevent police identification).

[17] Malleson & Wachsmuth, *supra* note 9 at 7-8.

[18] *Ibid*.

[19] *A breach of the peace: A preliminary report of observations during the 2010 G20 summit*, online: Canadian Civil Liberties Association at 4 .

[20] Jeffrey Monaghan & Kevin Walby, "'They Attacked the City': Security Intelligence, the Sociology of Protest Policing, and the Anarchist Threat at the 2010 Toronto G20 Summit" (2012) 60 Current Sociology at 654 <http://csi.sagepub.com/content/60/5/653.full.pdf+html>.

[21] *Breach of the Peace*, *supra* note 19 at 4.

[22] Malleson & Wachsmuth, *supra* note 9 at 9.

[23] *Breach of the Peace*, *supra* note 19 at 4-5.

[24] "Crowd control: What is kettling?" (24 May 2012) online: CBC News <http://www.cbc.ca/news/canada/story/2012/05/24/f-kettling.html>.

[25] Gerry McNeilly, *Policing the right to protest: G20 systemic review report*, online: Office of the Independent Police Review Director at x <https://www.oiprd.on.ca/CMS/oiprd/media/image-Main/PDF/G20_Report_ENG_single.pdf>.

[26] Zach Dubinsky & Dave Seglins, "G20 'Kettling' Commander Among 45 Officers to be Charged" (18 May 2012), online: CBC News <http://www.cbc.ca/news/canada/toronto/story/2012/05/17/g20-officers-discipline.html>.

[27] McNeilly, *supra* note 25.

[28] *Breach of the Peace*, *supra* note 19 at 4-5; *Charter*, *supra* note 1, s 9 ("[e]veryone has the right not to be arbitrarily detained or imprisoned" s 9).

[29] McNeilly, *supra* note 25 at xi.

[30] See Tom Malleson & David Wachsmuth, eds, *Whose Streets?* (Toronto: Between the Lines, 2011).

[31] *Charter*, *supra* note 1, s 10(b) ("[e]veryone has the right on arrest or detention...(b) to retain and instruct counsel without delay and to be informed of that right" s 10(b)).

[32] McNeilly, *supra* note 25 at ix-xi.

[33] *Breach of the Peace*, *supra* note 19 at 19.

[34] *Ibid*.

[35] *Public Works Protection Act*, RSO 1990, c P.55 < http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90p55_e.htm>.

[36] "G20 police rule slammed by ombudsman" (7 December 2010), online: CBC News < http://www.cbc.ca/news/canada/toronto/story/2010/12/07/ombudsman-g20-security-rule-report856.html> .

[37] Jennifer Yang, "G20 law gives police sweeping powers to arrest people" (25 June 2010), online: The Star < http://www.thestar.com/news/gta/g20/2010/06/25/g20_law_gives_police_sweeping_powers_to_arrest_people.html>; The Ontario Gazette publishes all proclamations issued by the Lieutenant Governor and all regulations filed with the Registrar of Regulations.

[38] *Breach of the Peace*, *supra* note 19 at 11.

[39] *Charter*, *supra* note 1, s 8 ("[e]veryone has the right to be secure against unreasonable search or seizure" s 8).

[40] *Breach of the Peace*, *supra* note 19 at 11.

[41] *Looking back, moving forward: Two months after the G20*, online: Canadian Civil Liberties Association.

[42] *Ombudsman*, *supra* note 36.

[43] *Ibid*; McNeilly, *supra* note 25 at x, 91.

[44] Adrian Morrow, "Ontario yet to scrap expanded police powers used during G20" (16 July 2013), online: The Globe and Mail < http://www.theglobeandmail.com/news/politics/despite-promises-ontario-has-yet-to-scrap-public-works-protection-act/article13242018/>.

[45] McNeilly, *supra* note 25 at i.

[46] *Ibid*.

[47] Rene Johnston, "Toronto Police Officer Glenn Weddell acquitted of G20 assault on Dorian Barton" (31 May 2013), online: The Star < http://www.thestar.com/news/crime/2013/05/31/toronto_police_officer_glenn_weddell_acquitted_of_g20_assault_on_dorian_barton.html>.

[48] Karissa Donkin, "G20 police trial: Defence argues Adam Nobody lied" (14 June 2013), online: The Star < http://www.thestar.com/news/crime/2013/06/14/g20_police_trial_defence_argues_adam_nobody_lied.html>.

[49] Colin Perkel, "Misconduct case for Toronto police officer in G20 'kettling' put over" (8 January 2013), online: The Globe and Mail <

http://www.theglobeandmail.com/news/toronto/misconduct-case-for-toronto-police-officer-in-g20-kettling-put-over/article7035463/>.

[50] Gerry Mason, "Busting Myths of Vancouver's Stanley Cup Riot" http://www.theglobeandmail.com/news/british-columbia/busting-myths-of-vancouvers-destructive-stanley-cup-riot/article625336/

[51] *Vancouver Police Department 2011 Stanley Cup Riot Review*, online: Vancouver Police Department at 4.

[52] *Ibid*.

[53] *Ibid.*

[54] *Ibid.*

[55] *Ibid*.

[56] *Ibid* at 67.

[57] *Ibid.*

[58] *Ibid* at 7, 67.

[59] *Ibid* at 69.

[60] *Ibid* at 73.

[61] *Ibid* at 75.

[62] *Ibid* at 75-77.

[63] *Ibid* at 77.

[64] *Ibid* at 78.

[65] *Ibid*.

[66] Andrea Woo, "Police announce last batch of recommended charges in Vancouver Stanley Cup riots" *The Globe and Mail* (23 July 2013), online: The Globe and Mail < http://www.theglobeandmail.com/news/british-columbia/vpd-recommends-25-new-charges-over-vancouver-stanley-cup-riots/article13368218/>.

[67] "Tuition hike angers Quebec students", online: CBC News < http://www.cbc.ca/news/canada/montreal/story/2011/03/18/quebec-budget-student-tuition-reaction.html>.

[68] *Ibid.*

[69] *Ibid.*

[70] *Ibid.*

[71] "Student requires eye surgery after Que. Protest", online: CBC News < http://www.cbc.ca/news/canada/montreal/story/2012/05/04/victoriaville-student-protest-liberal.html>.

[72] Graeme Hamilton, "Hard to claim Montreal violence isn't tied into wider protest movement" *The National Post* (4 May 2012), online: The National Post.

[73] Bill 78, *An Act to enable students to receive instruction from the postsecondary institutions they attend*, 2nd Sess, 39th Leg, Quebec, 2012 [Bill 78].

[74] "Quebec adopts emergency law to end tuition crisis", online: CBC News < http://www.cbc.ca/news/canada/montreal/story/2012/05/18/quebec-student-protest-law-bill-78.html>.

[75] *Ibid.*

[76] *Ibid.*

[77] *Ibid*.

[78] City of Montreal, revised by-law 12-024, *By-law amending the by-law concerning the prevention of breaches of the peace, public order and safety, and the use of public property* [Bylaw P-6] < http://ville.montreal.qc.ca/sel/sypre-consultation/afficherpdf?idDoc=23795&typeDoc=1>.

[79] Bill 78, *supra* note 73.

[80] "Montreal bans wearing masks at protests", online: CBC News < http://www.cbc.ca/news/canada/montreal/story/2012/05/18/montreal-masks-bylaw-ban.html>.

[81] *Ibid.*

[82] *Ibid*.

[83] Sonja Puzic, "Marois wins minority in Quebec election, fatal shooting disrupts victory speech" *CTV News* (4 September 2012), online: CTV News < http://www.ctvnews.ca/politics/marois-wins-minority-in-quebec-election-fatal-shooting-disrupts-victory-speech-1.941226>.

[84] "Quebec student associations cheer PQ tuition freeze", online: CBC News < http://www.cbc.ca/news/canada/montreal/story/2012/09/20/pauline-marois-tuition-hike-bill-cancelled.html>.

[85] "Motion to amend protest bylaw rejected by Montreal city council", online: CBC News < http://www.cbc.ca/news/canada/montreal/story/2013/04/23/montreal-bylaw-p6-city-council

-vote.html>.

[86] The Canadian Press, "'Anarchopanda' raises money to fight fines" *Macleans* (20 May 2013), online: Macleans On Campus < http://oncampus.macleans.ca/education/2013/05/20/montreals-anarchopanda-raises-money-to-fight-fines/>.

[87] Bill C-309, *supra* note 7.

[88] *Standing Committee on Justice and Human Rights*, 44th Parl, 1st Sess, No 33 (1 May 2012) at 1110 < http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&Parl=41&Ses=1&DocId=5538786&File=0#T1105>.

[89] *Ibid*.

[90] *Ibid*.

[91] *Ibid*.

[92] *Ibid*.

[93] *Debates of the Senate*, 41st Parl, 1st Sess, Vol 148 (6 February 2013) at 1530 (Hon Noël A Kinsella) < http://www.parl.gc.ca/Content/Sen/Chamber/411/Debates/134db_2013-02-06-e.htm?Language=E>.

[94] *Ibid*.

[95] *Criminal Code*, RSC 1985, c C-46, ss 63-66, 351(2).

[96] *Justice and Human Rights*, *supra*, note 88.

[97] *Ibid*.

[98] *Debates*, *supra*, note 93.

[99] *Justice and Human Rights*, *supra* note 88.

[100] *Criminal Code*, *supra* note 95, ss 63-64.

[101] *Debates*, *supra* note 93 at 1640-50.

[102] *Ibid*.

[103] *Proceedings on the Standing Senate Committee on Legal and Constitutional Affairs*, 41st Parl, 1st Sess, No 34 (24 April 2013) < http://www.parl.gc.ca/Content/SEN/Committee/411/lcjc/34ev-50091-e.htm?Language=E&Parl=41&Ses=1&comm_id=11>.

[104] *Ibid*.

[105] Bylaw P-6, *supra* note 78; Bill C-309, *supra* note 7.

[106] *Charter*, *supra* note 1.

[107] See generally Jeff Shantz, ed, *Protest and Punishment: The Repression of Resistance in the Era of Neoliberal Globalization* (Durham: Carolina Academic Press, 2012).