

Le Printemps Érable and the Silencing of Students

Introduction

In the spring of 2012, the province of Quebec experienced widespread student protests and a general strike by many postsecondary students opposed to a government-proposed university tuition hike. The ensuing “Printemps érable” (or “Maple Spring”) involved not only a large number of frequent protest actions, but also a multilayered response by police, legislators and the courts. The response included police use of pepper spray, stun grenades and rubber bullets, mass arrests of demonstrators, the enactment of extraordinary antiprotest laws, and the use of the courts to attempt to silence dissent and end the student protests. The multifaceted government response was met by a multifaceted civil society response. The Canadian Civil Liberties Association (CCLA) joined with numerous other civil liberties and human rights organizations to challenge the repressive legislative, law enforcement and judicial responses to the widespread protests.

CANADA



Source: Jeangagnon

The CCLA's involvement in one particular legal challenge provides a specific focal point for this case study. Gabriel Nadeau-Dubois, a student leader, was convicted and sentenced for contempt of court because of comments he made during a media interview about the legitimacy of student picket lines. His case brings into sharp focus the connection between state treatment of protesters and more subtle forms of suppression of fundamental liberties, including freedom of expression.

Student Leader as Symbol and Scapegoat

In mid-February 2012 a vote was held among some student groups in Quebec to engage in a general student strike to protest proposed tuition hikes. The provincial government planned a substantial postsecondary tuition increase (close to 80% over a period of five years) and some students felt an unlimited general strike (i.e., one with no defined end period) would put pressure on the government to change its position. The movement grew quickly. Within a week about 36,000 postsecondary students left their classes and went on strike,¹ and over the course of several weeks protests went from hundreds, to thousands, to tens of thousands. (Some estimates even put the number in the hundreds of thousands). At its peak, the student strike was reported as having the support of around 300,000 students, approximately three quarters of the province's student body.

The strike lasted until September, when an election ousted the party that had proposed the tuition hikes, but between February and September 2012, and particularly in the spring, demonstrations were taking place in Montreal and in other parts of the province regularly, with large assemblies happening on a monthly basis. In seven months of student activism, over 3500 people were arrested and the police used a variety of harsh techniques to disperse protesters. One young man, Francis Grenier, lost the use of one eye when a stun grenade detonated close to his face.²

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In addition to the police presence and use of force to try to curb protests on the ground, the provincial legislature, the Montreal City Council and the Quebec judiciary all waded into the fray. Although the student strike involved a large number of students and the protests drew big crowds, not all students agreed with the strike and many other members of Quebec society had little sympathy for students given the province's comparatively low tuition rates. Some students who did not support the strike took to the courts and sought court orders on the basis that the student pickets were preventing them from accessing the classes that they wanted to attend. An injunction obtained by a student from Université Laval on 12 April 2012 for a ten-day period was later extended by the Quebec Superior Court until mid-September. The order required that picketing students not impede access to courses by those wishing to attend and also ordered that students not obstruct or limit access to classes by means of intimidation. On its face, this court order didn't say that students wishing to picket couldn't do so. However, it became clear relatively quickly that there was more to the injunction than met the eye.



Source: Elias Touil

In mid-May, student leader Gabriel Nadeau-Dubois was interviewed by some media about the student strike, the position of the student organizations supporting it and the court orders obtained by some students. Nadeau-Dubois said he felt it was unfortunate that a minority of students had used the courts in this way given that students had, through their representative associations, voted to strike. In his view, it was legitimate for student groups to take steps necessary to ensure the strike vote was respected and if that took the form of picket lines, that was a legitimate course of action. On their face, Nadeau-Dubois' comments were merely an expression of opinion that was both critical of students and the courts for the injunctions, and affirmed his own view that the student strike was legal.

The Quebec Superior Court found that Nadeau-Dubois, simply by making these statements, was guilty of contempt of court.³ It was claimed that he breached the court's order and that his comments interfered with the orderly administration of justice or impaired the authority or dignity of the court.⁴ The court reasons recognize that Nadeau-Dubois had a right to disagree with the court's orders, but say he had no right to incite individuals to contravene it or to impede students' access to classes. In fact, there was no evidence that Nadeau-Dubois himself had prevented any students from attending their classes or that anyone else had blocked access to students based on his comments. Nadeau-Dubois was sentenced to 120 hours of community service for his contempt of court.⁵ He is currently appealing the lower court's decision to the Quebec Court of Appeal.

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In May, just a few days after Nadeau-Dubois made his statements to Quebec media, the province's Bill 78 (Law 12) came into effect.⁶ Bill 78, An Act to enable students to receive instruction from the postsecondary institutions they attend, was enacted specifically in response to the student strike. It suspended academic terms, set up guidelines about how and when classes were to resume and included a number of provisions that were specifically designed to curb, if not eliminate, student protests that might hinder access to schools or classes. For example, Bill 78 required organizers of demonstrations involving 50 people or more to provide police with written notice of the time, duration, venue and route of their demonstration at least eight hours prior to its start. The police had the power to unilaterally decide whether the proposed route or venue posed a serious risk for public security and require the organizers to submit a new plan. As a result, Bill 78 created broad and vague requirements and the potential for police to engage in discretionary, and possibly arbitrary and abusive, enforcement.

Along similar lines, Montreal's City Council amended their bylaw P-6 (a municipal bylaw concerning the prevention of breaches of the peace, public order and safety, and the use of public property)⁷ to include a requirement that demonstrators provide route and itinerary information to police in advance of a demonstration and to prohibit demonstrators from covering their faces without "reasonable motive."



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Source: Bernard Bujold (lestudio1.com)

Advocacy on Multiple Fronts

The Quebec student strike was a strong social movement with regular protests taking place in major centers across the province. While some groups became involved with the movement in reaction to the proposed tuition increases, the police and government reaction to the strike raised broader concerns regarding the respect for constitutionally protected freedoms of expression and peaceful assembly.

It was concern for these fundamental constitutional guarantees that prompted the Canadian Civil Liberties Association (CCLA) to become involved. CCLA strongly opposed both Bill 78 and bylaw P-6, and as soon as the measures were introduced the organization spoke out against the repressive impact that the provisions would have on freedom of expression, peaceful assembly, and association. Advocacy efforts, initially focused on both legislators and the media, soon expanded to the courts as the organization attempted to support a constitutional challenge to the provincial legislation. Before the case was heard, however, mass public mobilization prompted political action. Bill 78 and, to a lesser extent, bylaw P-6, turned the tide of public opinion. Although many remained unconvinced of the student cause, a significant number were outraged by the province's attempt to curb peaceful protest activities, and themselves took to the streets in response. Bill 78 was repealed when Quebec's new government came into power in September 2012, and in many ways the election results and the law's repeal demonstrated the power and success of the student movement and the critical mass it was able to create.

Despite the repeal of the legislation, the tuition controversy continues and Montreal's P-6 bylaw remains in force. Indeed, the bylaw has been used to dissuade potential demonstrators, and over the course of just a few weeks in 2013 several hundred individuals were detained and given tickets for significant sums (over Cdn \$600 each) for failure to provide an itinerary for their demonstration. These individuals were detained preemptively, so their demonstrations were never even allowed to get off the ground. CCLA's advocacy is ongoing, engaging Montreal City Councillors and the Chief of Montreal's police force with its concerns about the way that protesters have been treated. Although the organization's contact and consultations with City Councillors suggested that many favored repealing the bylaw, ultimately a motion to do so has failed. Clearly, work remains to be done.

There have also been serious questions raised regarding police conduct during the student protests. In the wake of the 2012 protests, Quebec-based civil liberties group la Ligue des droits et libertés was particularly active, conducting a large scale fact-finding mission that culminated in a lengthy report. The report, released in 2013, found violations of individuals'



Source: Pedro fait de la photo, flickr user

rights to freedom of expression, peaceful assembly, association, security of the person, legal rights and equality.⁸ The CCLA joined with la Ligue to strongly call for a public inquiry into government and police conduct. Although the provincial government announced an inquiry in May 2013, at least some of the proceedings will be held behind closed doors – a decision that has been criticized by a wide range of stakeholders, including both student leaders and police organizations.⁹

With respect to the Nadeau-Dubois case specifically, CCLA will appear before the Quebec Court of Appeal to support the appeal of the contempt conviction. The CCLA strongly believes that this use of the contempt power is both abusive and potentially dangerous. It is, of course, important to respect court orders and to use proper legal channels to

challenge orders with which individuals might disagree. It is equally important, however, to allow for critical debate and discussion regarding the role of the justice system.

In airing his views on the legitimacy of student strikes and raising concerns about the court's injunction orders, Nadeau-Dubois was exercising one of the most fundamental of freedoms: the freedom of expression. Contrary to the court's decision, statements that are critical of the courts do not undermine the administration of justice or impair the court's authority or dignity. Rather, allowing our judicial system to silence its critics by finding them in contempt of court does the most damage to our system. The judgment convicting Nadeau-Dubois of contempt failed to even reference freedom of expression or consider how a contempt conviction for comments made in a media interview might impact upon the willingness of others to speak out on issues of importance or take issue with the status quo.

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Source: scottmontreal, flifkr user

Conclusion

The student protests in Quebec were unusual for Canada in terms of their size, strength, and sustained nature. The governmental response – the enactment of a law that significantly curbed peaceful assembly and expressive activities – was highly troubling. The police response also gave cause for significant concerns and raised questions about the adequacy of oversight and accountability mechanisms in the province. Finally, the role of the legal system and the judiciary in the Printemps érable, and in particular the Nadeau-Dubois contempt conviction, demonstrate the ongoing need for vigilance to ensure that constitutionally protected freedoms of expression and assembly are respected and promoted. The work of a variety of civil society organizations, including that done by CCLA, remains a crucial aspect of protecting the rights of individuals to protest.

¹ *Montreal students protest tuition hikes*, CBC NEWS, 24 May 2012, <http://www.cbc.ca/news/interactives/montreal-protest>.

² *Police stun grenade blamed for student's eye injury*, CBC NEWS, 8 March 2012, <http://www.cbc.ca/news/canada/montreal/story/2012/03/08/montreal-student-protest-eye.html>. For a more detailed discussion of the student protests and the treatment of protesters, see LA LIGUE DES DROITS ET LIBERTÉS, ET AL., *Répression, discrimination et grève étudiante : Analyse et témoignages*, April 2013, available at <http://liguedesdroits.ca/wp-content/fichiers/rapport-2013-repression-discrimination-et-greve-etudiante.pdf>.

³ *Morasse c. Nadeau-Dubois*, 2012 QCCS 5438 [CanLII].

⁴ Art. 50, C.C.P. (Quebec Code of Civil Procedure).

⁵ *Morasse c. Nadeau-Dubois*, 2012 QCCS 6101 [CanLII].

⁶ An Act to enable students to receive instruction from postsecondary institutions they attend, S.Q. 2012, c. 12.

⁷ R.B.C.M. c. P-6; as amended by Ville de Montréal by-law 12-024.

⁸ LA LIGUE DES DROITS ET LIBERTÉS, ET AL., *Répression, discrimination et grève étudiante : Analyse et témoignages*, April 2013, available at <http://liguedesdroits.ca/wp-content/fichiers/rapport-2013-repression-discrimination-et-greve-etudiante.pdf>.

⁹ *PQ slammed for closed-door inquiry into student protests*, CBC NEWS, 8 May 2013, available at <http://www.cbc.ca/news/canada/montreal/story/2013/05/08/quebec-student-protest-inquiry.html>