

Submission to United Nations, Office of the High Commissioner for Human Rights,  
Special Rapporteur on the rights to freedom of peaceful assembly and of association  
and Special Rapporteur on the promotion and protection of the right to freedom of  
opinion and expression

## **FORCIBLE REMOVAL OF PEACEFUL PROTESTS IN CANADA**

### **THE TERMINATION OF "OCCUPY MOVEMENT" PROTESTS BY CANADIAN MUNICIPAL GOVERNMENTS AND POLICE UNDER THE PRETEXT OF MUNICIPAL BY-LAW ENFORCEMENT, IN VIOLATION OF THE RIGHTS TO FREEDOM OF EXPRESSION, OPINION, PEACEFUL ASSEMBLY AND ASSOCIATION**

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# THE LAW UNION OF ONTARIO

## FORCIBLE REMOVAL OF PEACEFUL PROTESTS IN CANADA

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### I. SUMMARY

- 1) Canada, as a State Member of the United Nations, has pledged to achieve the promotion of universal respect for and observance of human rights and fundamental freedoms, including the rights to freedom of opinion and expression, peaceful assembly, and association.
- 2) Since October 15, 2011, large groups of demonstrators have occupied public spaces (such as public parks) in municipal centres throughout Canada and abroad as part of the global Occupy Movement, which was inspired by the Occupy Wall Street protests and popular uprisings in Tunisia, Egypt, and elsewhere.
- 3) The Occupy Movement is characterized by both its message - it has adopted the slogan "we are the 99%" in reference to the gross disparity in wealth between the wealthiest 1% of the population and everyone else - and its form, which consists of occupying public spaces on a long-term basis. By and large, these protests have been peaceful.
- 4) Since about November 9, 2011, municipal governments in Canada have taken steps in several municipalities to forcibly evict the protestors and terminate the protests. Occupy protests have already been dismantled in Halifax, London, and Regina and evictions are threatened in Toronto, Calgary, Vancouver and Victoria.
- 5) The actions of government officials and police in these Canadian municipalities indicate a widespread disregard for fundamental freedoms such as the rights to freedom of expression and peaceful assembly. In each of these municipalities, government officials seek to elevate the enforcement of municipal by-laws related to park use and maintenance above fundamental civil and political rights. However, municipal by-law enforcement does not constitute legitimate justification for violations of the rights to freedom of expression, opinion, peaceful assembly and association in international human rights law.

- 6) The actions of government officials in Canada stand in sharp contrast to the positions taken by the Canadian government about the human rights of protestors abroad. Canadian government officials have called on foreign governments and security forces to "respect the human rights of protestors and uphold their commitment to freedom of speech and the right to assembly" in the context of the Arab Spring demonstrations. At home, the Canadian government is silent as to the Occupy protestors' fundamental human rights, while municipal governments forcibly remove them and terminate their protests.
- 7) The Law Union of Ontario calls on the State Party to respect fundamental human rights to peacefully assemble and protest in the same spirit that it is standing up in favour of the rights of protestors abroad.
- 8) The Law Union of Ontario requests that the Special Rapporteurs investigate the violations of the rights to freedom of opinion, expression, peaceful assembly and association which are occurring as part of efforts to dismantle the Occupy Movement protests in several Canadian municipalities, and report these abuses to the Human Rights Council.

## **II. THE RIGHTS TO FREEDOM OF EXPRESSION, OPINION, PEACEFUL ASSEMBLY AND ASSOCIATION IN CANADA**

- 9) Canada, as a State Member of the United Nations, has pledged to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms
- 10) Canada is a member of the United Nations General Assembly, which passed the United Nations' *Universal Declaration of Human Rights*. This Declaration provides in Article 19 that "everyone has the right to freedom of opinion and expression" and in Article 20(1) that: "Everyone has the right to freedom of peaceful assembly and association."<sup>1</sup>
- 11) Canada is a State Party to the *International Covenant on Civil and Political Rights*, which provides:

### **Article 19**

1. *Everyone shall have the right to hold opinions without interference.*
2. *Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all*

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<sup>1</sup> The Universal Declaration of Human Rights: <http://www.un.org/en/documents/udhr/>

*kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*

*3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:*

*(a) For respect of the rights or reputations of others;*

*(b) For the protection of national security or of public order (ordre public), or of public health or morals.*

### **Article 21**

*The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.*

### **Article 22**

*1. Everyone shall have the right to freedom of association with others...<sup>2</sup>*

- 12) Further, the United Nations' *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms* in its preamble stresses that "the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State" and provides in Article 1 that: "Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels."<sup>3</sup>
- 13) The same Declaration provides that:

### **Article 5**

*For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:*

*a) To meet or assemble peacefully;*

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<sup>2</sup> International Covenant on Civil and Political Rights: <http://www2.ohchr.org/english/law/ccpr.htm>

<sup>3</sup> Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: <http://www2.ohchr.org/english/law/freedom.htm>

## **Article 12**

*1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.*

*2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.<sup>4</sup>*

- 14) The Human Rights Council has recognized that the rights to freedom of peaceful assembly and of association are essential components of democracy, providing individuals with invaluable opportunities to express their political opinions. It has further recognized that exercising the rights to freedom of peaceful assembly and of association free of restrictions, subject only to the limitations permitted by international law, in particular international human rights law, is indispensable to the full enjoyment of these rights, particularly where individuals may espouse minority or dissenting religious or political beliefs.<sup>5</sup>
- 15) The Human Rights Council has recognized that the effective exercise of the right to freedom of opinion and expression is essential for the enjoyment of other human rights and freedoms, and constitutes a fundamental pillar for building a democratic society and strengthening democracy, bearing in mind that all human rights are universal, indivisible, interdependent and interrelated.<sup>6</sup>
- 16) Resolution A/HRC/RES/15/21 of the Human Rights Council:

*1. Calls upon States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law...*

*3. Encourages civil society, including non-governmental organizations and other relevant stakeholders, to promote the enjoyment of the rights to*

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<sup>4</sup> *Ibid.*

<sup>5</sup> Human Rights Council Resolution A/HRC/RES/15/21 on the rights to freedom of peaceful assembly and of association; October 6, 2010 <http://www.icnl.org/knowledge/themes/dcs/UNHRCResolution.pdf>

<sup>6</sup> Human Rights Council Resolution A/HRC/RES/16/4 on Freedom of opinion and expression: mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression April 8, 2011, <http://www.unhcr.org/refworld/pdfid/4dc105e42.pdf>

*freedom of peaceful assembly and of association, recognizing that civil society facilitates the achievement of the aims and principles of the United Nations;*<sup>7</sup>

- 17) The State Party has also enshrined the rights to freedom of opinion and expression, peaceful assembly and association in its Constitution. The *Canadian Charter of Rights and Freedoms* provides:

*1. The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.*

*2. Everyone has the following fundamental freedoms:*

- (a) freedom of conscience and religion;*
- (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;*
- (c) freedom of peaceful assembly; and*
- (d) freedom of association.*<sup>8</sup>

### **III. THE LAW UNION OF ONTARIO**

- 18) The Law Union of Ontario, founded in 1974, is a coalition of progressive lawyers, law students and legal workers. The Law Union provides for an alternative bar in Ontario, Canada, which seeks to counter the traditional protections afforded by the legal system to social, political and economic privilege. By demystifying legal procedures, challenging discriminatory and oppressive legislation, arguing for progressive new applications of the law, and democratizing legal practice, the Law Union strives to develop collective approaches to bring about social justice.

### **IV. THE OCCUPY MOVEMENT**

- 19) On September 17, 2011, a large group of protestors gathered in a park in the Wall Street financial district of New York City, motivated by dissatisfaction with a social, political and economic system in which multinational corporations have undue influence, and which has created massive wealth and income disparities, unemployment, and environmental and social problems. Many of the protestors camped in the park and remained there nightly. This series of demonstrations became known as Occupy Wall Street.

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<sup>7</sup> Human Rights Council Resolution A/HRC/RES/15/21 on the rights to freedom of peaceful assembly and of association; October 6, 2010 <http://www.icnl.org/knowledge/themes/dcs/UNHRCResolution.pdf>

<sup>8</sup> *Canadian Charter of Rights and Freedoms*: <http://laws.justice.gc.ca/eng/charter/>

20) The central message of the protest is reflected in the slogan "we are the 99%," which highlights the growing disparity in wealth between the wealthiest 1% of the population and everybody else. As of 2007, in the United States approximately 35% of the nation's wealth was controlled by 1% of the population, leaving only 15% of the wealth for the bottom 80% – a disparity that has been steadily increasing.<sup>9</sup> During the economic expansion between 2002 and 2007, the income of the top 1% grew 10 times faster than the income of the bottom 90%. In 2007, the top 1% had a larger share of total income than at any time since 1928.<sup>10</sup>

21) Occupy Wall Street organizers have described the nature of their protest activity:

*Occupy Wall Street is fighting back against the corrosive power of major banks and multinational corporations over the democratic process, and the role of Wall Street in creating an economic collapse that has caused the greatest recession in generations. The movement is inspired by popular uprisings in Egypt and Tunisia, and aims to expose how the richest 1% of people are writing the rules of an unfair global economy that is foreclosing on our future.*<sup>11</sup>

22) The Occupy Wall Street demonstrations have in turn inspired an international movement (the Occupy Movement) in 1,500 cities in over 82 countries around the world,<sup>12</sup> with some occupy protests engaging over 100,000 people.<sup>13</sup>

23) Inspired in part by recent phenomena such as the Arab Spring and Spanish Indignants, the Occupy Movement voices its positions while occupying and reclaiming public space, as opposed to solely engaging in traditional protest marches.

24) Those participating as a part of the Occupy Movement largely accept and encourage participatory democracy as an operational framework, with an emphasis on facilitating and safeguarding the presence of those from traditionally marginalized groups – such as women, people of colour, and people living with disabilities.

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<sup>9</sup> *Wealth, Income, and Power* by G. William Domhoff; available via:

<http://www2.ucsc.edu/whorulesamerica/power/wealth.html>

<sup>10</sup> "Tax Data Show Richest 1 Percent Took a Hit in 2008, But Income Remained Highly Concentrated at the Top, Recent Gains of Bottom 90 Percent Wiped Out" story from the Centre on Budget and Policy Priorities, May 25, 2011, available via: <http://www.cbpp.org/cms/index.cfm?fa=view&id=3309>

<sup>11</sup> Occupy Wall Street webpage statement: <http://www.occupywallst.org/about/>

<sup>12</sup> *Ibid*; List of Occupy Movement protest locations compiled by Wikipedia, available via:

[http://en.wikipedia.org/wiki/List\\_of\\_Occupy\\_movement\\_protest\\_locations](http://en.wikipedia.org/wiki/List_of_Occupy_movement_protest_locations)

<sup>13</sup> "'Indignant' protests go global on Saturday" story by France 24 International News, October 15, 2011 available via: <http://www.france24.com/en/20111015-indignant-protests-go-global-saturday>

- 25) Starting on October 15, 2011, Occupy protests began in municipal centres throughout Canada, including Toronto, Montreal, Vancouver, Ottawa, Victoria, Calgary, Edmonton, Winnipeg, Halifax, London, and over 20 smaller cities.
- 26) The demonstrations have involved occupations of public spaces in each city (generally public parks), marches, rallies, attempts to engage political decision makers, and other expressive activities.
- 27) The activities of the demonstrators have been peaceful, with the exception of a few isolated incidents which were not related to Occupy Movement activities.
- 28) The messages of the protestors in various locations have been multifaceted, but a key target of dissent has been social, economic and political systems that have privileged a small elite at the expense of 99% of the population, with disastrous environmental, social and economic impacts.
- 29) The attainment and protection of civil rights have historically been won with civil disobedience and protest, as is being proven again in the context of the "Arab Spring" protests that the world has recently witnessed, and continues to witness. The Occupy Movement has arisen in that tradition.

## **V. ACTIONS TAKEN BY CANADIAN GOVERNMENTS TO BREACH THE PROTESTORS' CIVIL AND POLITICAL RIGHTS**

- 30) Since approximately November 9, 2011, some Canadian municipal governments have taken steps to forcibly remove Occupy protestors from the locations in which they have peacefully assembled, thereby terminating or limiting their freedom to express themselves and to assemble and associate with each other peacefully. Municipal government officials in other cities have indicated that they will take similar measures.
- 31) In London, Ontario, police moved in to forcibly evict a group of Occupy protestors during the early hours of November 9, 2011. London police stated they were doing so to "enforce the by-law." Previously, London city officials had issued eviction notices citing by-laws against erecting structures in the park and against being there overnight.<sup>14</sup>
- 32) In Halifax, on November 11, 2011, 15 peaceful protestors were arrested in the course of the police dismantling the Occupy protests there. The Police Chief

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<sup>14</sup> "Police move against Occupy protestors in London, Ont." *Montreal Gazette* November 9, 2011 at: <http://www.montrealgazette.com/news/canada/Police+move+against+Occupy+protesters+London/5680943/story.html>

indicated that they could face obstruction charges after the city announced that they were breaking by-laws and had to leave.<sup>15</sup> The arrests in Halifax occurred on Remembrance Day, a day of national recognition for veterans of both World Wars and other modern conflicts. In speaking of the arrests, an opposition politician observed that the decision to evict the protesters on Remembrance Day "is a disgrace and undermines the very rights and freedoms our veterans fought for."<sup>16</sup>

- 33) On November 14, 2011, by-law officers in Calgary posted signs and handed out tickets warning protestors to remove their tents or lose them. However, more recently the city has said that it has no plans to forcibly remove the protestors or their tents. The current status is uncertain.<sup>17</sup>
- 34) On November 16, 2011, Regina police and by-law enforcement officials removed the remnants of the Occupy protest after protestors were given eviction notices and issued tickets for violating a city by-law that forbids people from staying in parks between 11 p.m. and 6 a.m.<sup>18</sup>
- 35) In Vancouver and Victoria, municipal governments are seeking authority from the courts to clear the Occupy sites of the tents and structures marking the protest movements in those cities, and to arrest and detain those who do not comply. They are basing their arguments on such grounds as trespassing, littering, and trampling of city plants.<sup>19</sup>
- 36) Municipal government officials in Toronto have also served notice that they intend to evict the protestors, citing by-laws against erecting tents in public parks and against remaining in parks between midnight and 5:30 a.m. These efforts are described in more detail below.
- 37) The actions of government officials and police in these Canadian municipalities indicate a widespread disregard for fundamental freedoms such as the rights to freedom of expression and peaceful assembly. In each of these municipalities, government officials seek to elevate the need to enforce municipal by-laws related to such pedestrian matters as park use and maintenance above fundamental civil

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<sup>15</sup> "Occupy Halifax protesters evicted" story by CTV News November 11, 2011 available at: <http://www.ctv.ca/CTVNews/TopStories/20111111/occupy-halifax-protesters-evicted-111111/>

<sup>16</sup> *Ibid.*

<sup>17</sup> "Occupy Calgary protesters stay put," story by CBC News November 16, 2011 available at: <http://www.cbc.ca/news/canada/calgary/story/2011/11/16/occupy-calgary.html?cmp=googleeditorspick>

<sup>18</sup> "Occupy Regina camp torn down by police" *Vancouver Sun* November 17, 2011 available via: <http://www.vancouver.sun.com/news/Occupy+Regina+camp+torn+down+police/5719264/story.html>;

"Judge delays T.O eviction as deadline looms in Calgary" *Montreal Gazette* November 16, 2011 at: [www.montrealgazette.com/news/Judge+delays+eviction+deadline+looms+Calgary/5717053/story.html](http://www.montrealgazette.com/news/Judge+delays+eviction+deadline+looms+Calgary/5717053/story.html)

<sup>19</sup> "Vancouver wants to remove protesters for trespassing" CTV News November 16, 2011 available via: <http://www.ctv.ca/CTVNews/Canada/20111116/occupy-vancouver-trespassing-injunction-111116/>

and political rights. Municipal by-law enforcement does not constitute legitimate justification for violations of the rights to freedom of expression, opinion, peaceful assembly and association in international human rights law.

- 38) In comparison, municipal government officials in other municipalities, such as Montreal, continue to take an approach of restraint, respect, co-operation, and non-confrontation,<sup>20</sup> even though the municipal by-laws there are similar to those in other municipalities. This further demonstrates that the hawkish approach to by-law enforcement as described above is unnecessary and unjustified.

## **VI. EFFORTS TO DISMANTLE THE OCCUPY TORONTO PROTESTS**

- 39) The Occupy Toronto protesters have occupied part of a public park in downtown Toronto called St. James Park since October 15, 2011. They have indicated that “an important principle and component of this international political protest movement is the encampment, including overnight, of groups of protesters in public spaces” and that “the ‘Occupy’ encampment and the activities associated with the encampment are in fact exercises... of their *Charter* rights of expression, conscience, assembly and association.”<sup>21</sup>
- 40) Nevertheless, on November 15, 2011, municipal government officials delivered a letter from the City Manager and a notice that the protesters must immediately leave St. James Park. The City advised protesters that “if all tents and other structures, equipment and debris are not removed immediately, the City will take the necessary steps to itself remove the tents and other structures.”<sup>22</sup>
- 41) The City of Toronto indicated that it is relying on authority such as the *Trespass to Property Act* and the *City of Toronto Act, 2006* in order to enforce city by-laws. Like the by-laws cited by other municipalities, these by-laws include restrictions on camping in public parks and loitering in public parks after certain hours.
- 42) The City also stated in its Notice that “every person who engages in an activity on premises when the activity has been prohibited under the [*Trespass to Property Act*] is guilty of an offence and is liable, on conviction, to a fine of not more than

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<sup>20</sup> “City chips away at Occupy Montreal site” *Montreal Gazette* November 17, 2011 available via:

<http://www.montrealgazette.com/news/City+chips+away+Occupy+Montreal+site/5722644/story.html>

<sup>21</sup> Quoted in *Batty v. City of Toronto*, 2011 ONSC 6785 (Ontario Superior Court proceeding related to the impending eviction of Occupy Toronto)

<sup>22</sup> Letter to Occupy Toronto protesters from City Manager Joe Pennachetti, available via:

<http://www.toronto.ca/newsroom/occupy.htm> and <http://www.toronto.ca/newsroom/OccupyLetter.pdf>

\$2000.”<sup>23</sup> The *Trespass to Property Act* also gives police officers the power to arrest and forcibly remove trespassers.

43) The reasons given by the City of Toronto for threatening eviction are:

*The City recognizes the rights of Canadians to gather and protest. However, the City has determined that it cannot allow the current use of St. James Park to continue. In particular, the City can no longer permit the appropriation of St. James Park by a relatively small group of people to the exclusion of all others wishing to use the park and to the detriment of those in the vicinity of the park. In addition, the current use of the park by Occupy Toronto and others occupying St. James Park is causing damage to the park and interfering with necessary winter maintenance of the park.*

*There are many activities currently being carried out at St. James Park which are contrary to the City of Toronto's by-laws, policies and practices with respect to the use of City parks and other public spaces.*<sup>24</sup>

44) It appears from these ostensible reasons that City of Toronto government officials:

- a) have arbitrarily determined that there is a time limit on the rights to freedom of expression and peaceful assembly, and that such rights need only be indulged for a limited period of time;
- b) approach the issue as a mathematical calculation, referring to a "relatively small" group of people (although what this size is relative to is not specified), compared to the "all others" who are being inconvenienced (presumably referring to those who wish to use the park to walk their dogs or for other recreational purposes), as if to say that inconvenience to some members of the public can trump the fundamental civil and political rights of others;
- c) in reality are motivated by a desire that the park be used for any purpose other than protest (given that the City's proposed mathematical equation does not work in its favour, as the number of people in the "all others" category would appear to be fewer than the number of people using the park currently for the purpose of protest);

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<sup>23</sup> Notice under the *Trespass to Property Act*, available via: <http://www.toronto.ca/newsroom/occupy.htm> and <http://www.toronto.ca/newsroom/OccupyNotice.pdf>

<sup>24</sup> Letter to Occupy Toronto protesters from City Manager Joe Pennachetti, available via: <http://www.toronto.ca/newsroom/occupy.htm> and <http://www.toronto.ca/newsroom/OccupyLetter.pdf>

- d) are aware that Canadians have rights to gather and protest, but nevertheless have determined that by-laws and policies that are inconsistent with those rights are more important;
  - e) have not and cannot identify any reason for threatening removal of the protest that would constitute a justifiable limit on the rights to freedom of expression, opinion, peaceful assembly and association in international law.
- 45) The suppression of political dissent and termination of the protest activities is not a limitation permitted by international law, in particular human rights law. There are no limitations on these rights in the present context that are necessary in a democratic society or in the interests of national security or public safety, public order, the protection of public health or morals or the protection of rights and freedoms of others.
- 46) It may be that the Occupy protests are causing inconvenience and discomfort for some, particularly for government officials who hold positions of privilege and who have a vested interest in preserving the status quo. However, causing some inconvenience and discomfort is inherent in the nature of the Occupy protests, as it is with other protests. History, as well as recent events in the “Arab Spring” movement, demonstrates that disruption to the status quo is necessary for protests to achieve their objectives. If protests could be silenced because they caused some inconvenience or discomfort, the rights to freedom of assembly and expression would be meaningless.
- 47) In Toronto, it appears that government authorities have simply determined, on an unidentified, arbitrary basis, that the protests have gone on long enough, that the protestors have had enough of an opportunity to get their message across, and that restraint on the use of force and respect for human rights are no longer necessary in these circumstances. For example, Toronto’s Deputy Mayor has stated: “They’ve been there for a month and they’ve had an opportunity to make their protest, and people can’t enjoy that park... Enough is enough — it’s time they left. You simply cannot occupy a city park.”<sup>25</sup>
- 48) This is not a universally held opinion. For example, one City Councillor has disputed claims that protesters are preventing others from using the park, saying “I’ve not seen anyone excluded from this park... What I see is a park that’s being more busily used than at any time in its history.”<sup>26</sup> However, City Council has not met to debate the issue, and it appears that the decision to remove the occupiers

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<sup>25</sup> “Occupy Toronto prepares for Saturday court decision” CBC news November 16, 2011, available at: <http://www.cbc.ca/news/canada/toronto/story/2011/11/16/occupy-toronto.html>

<sup>26</sup> *Ibid.*

has been made unilaterally by senior City government officials without the approval of the City Council, which is comprised of the elected municipal government representatives of the people of Toronto.

- 49) At the same time as the City of Toronto and other municipalities are taking steps to end these peaceful assemblies that make up the Occupy Movement, the State Party has taken no action to address the systemic social and economic inequalities that motivated these legitimate protests in the first place.
- 50) The State Party has also taken no action to ensure that the fundamental rights of people to peacefully assemble and express themselves are being respected.
- 51) It has become apparent that the underlying structural social and economic issues that have prompted the Occupy Movement are not going to go away without sustained protest.
- 52) The efforts to suppress the Occupy Movement come on the heels of a coordinated effort by the State and police officials to violently and illegally quell protests during the G20 summit in Toronto in June 2010, at which over 1,000 people were arbitrary arrested and detained for peacefully protesting, some of whom were physically beaten by police officers, detained for over 24 hours in inhumane conditions without criminal charges being laid, and otherwise degraded and deprived of their rights.<sup>27</sup>
- 53) The violations of civil and political rights during the G20 were in turn preceded by numerous other violent suppressions of peaceful protests in Canada. To name just two such examples:
  - a) In 1995 a paramilitary police squad marched on a group of unarmed Indigenous protestors occupying a public park at Ipperwash, Ontario during a dispute about Indigenous land, shot and killed one protester and violently assaulted and shot at other unarmed protestors.<sup>28</sup>
  - b) In 1997, peaceful demonstrators protesting the poor human rights practices of some Asian and Pacific countries during the APEC summit in Vancouver were

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<sup>27</sup> A compilation of G20 news stories and videos is available via: <http://torontonamo.com/>; examples include "A troubling picture of G20 detention" *The Toronto Sun* November 2, 2011 available via: <http://www.torontosun.com/2011/11/02/a-troubling-picture-of-g20-detention>; also see CBC Documentary "You Should Have Stayed At Home" at <http://www.cbc.ca/fifth/2010-2011/youshouldhavestayedathome/> and [http://en.wikipedia.org/wiki/You\\_Should\\_Have\\_Stayed\\_at\\_Home](http://en.wikipedia.org/wiki/You_Should_Have_Stayed_at_Home) dated February 25, 2011

<sup>28</sup> Concluding observations of the Human Rights Committee: Canada. 04/07/1999, at paragraph 11 [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/e656258ac70f9bbb802567630046f2f2?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/e656258ac70f9bbb802567630046f2f2?Opendocument); Ipperwash inquiry, [www.ipperwashinquiry.ca](http://www.ipperwashinquiry.ca)

assaulted and pepper-sprayed by members of the Royal Canadian Mounted Police.<sup>29</sup>

- 54) The response to the Occupy Movement, coming as it does in the context of other flagrant violations of civil rights during the G20 summit and other protests in Canada, suggests that the State Party demonstrates chronic disregard for the rights to freedom of peaceful assembly and freedom of expression.

## **VII. CANADA'S SUPPORT FOR PROTEST MOVEMENTS ABROAD**

- 55) Recent events around the world have highlighted the importance of the need to safeguard the rights to freedom of opinion and expression, peaceful assembly, and association.
- 56) In North Africa and the Middle East, the "Arab Spring" is being heralded internationally for toppling oppressive and undemocratic regimes. Those changes have been instigated by widespread public uprisings in countries such as Tunisia, Egypt and Libya. Protests are continuing in places such as Syria, Yemen, Bahrain, Algeria and other countries. There has been a global outcry over efforts in those states by the governments in power and their security forces to suppress those protests, often with the use of violence.
- 57) The Canadian Government played an active role in the Libya campaign, by sending approximately 600 Canadian Armed Forces personnel into the region,<sup>30</sup> and implementing sanctions that went beyond the sanctions agreed upon by the UN Security Council.<sup>31</sup> Prime Minister Stephen Harper condemned the violent actions of the Gadhafi regime in Libya and former Foreign Affairs Minister Lawrence Cannon called on the Libyan security forces to "respect the human rights of protesters and uphold their commitment to freedom of speech and the right to assembly".<sup>32</sup>
- 58) On the international stage, current Foreign Affairs Minister John Baird spoke publicly and championed the importance of humans rights and Canada's duty to

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<sup>29</sup> "Protest and pepper spray at the APEC Conference" CBC News Broadcast November 5, 1997 available via: [http://archives.cbc.ca/war\\_conflict/civil\\_unrest/clips/2016/](http://archives.cbc.ca/war_conflict/civil_unrest/clips/2016/)

<sup>30</sup> "Canada's proud role in Libya" *National Post* October 21, 2011 available via: <http://www.canada.com/news/Canada+proud+role+Libya/5585246/story.html>

<sup>31</sup> "Canada imposes additional Libyan sanctions" CBC News February 27, 2011 available via: <http://www.cbc.ca/news/politics/story/2011/02/27/harper-libya.html>

<sup>32</sup> "Harper 'vigorously condemns' violence in Libya" Canada.com News February 21, 2011 at: <http://www.canada.com/news/Harper+vigorously+condemns+violence+Libya/4319868/story.html>; "Libyan crackdowns 'outrageous': PM" CBC News February 21, 2011 available via: <http://www.cbc.ca/news/canada/story/2011/02/21/libya-canada-react.html>

protect them: “As citizens of the global community, we have a solemn duty to defend the vulnerable, to challenge the aggressor, to protect and promote human rights and human dignity, at home and abroad: Canada is a vigorous defender of freedom, democracy, human rights and the rule of law.”<sup>33</sup>

- 59) More recently, in response to the Syrian uprising, Prime Minister Harper reiterated Canada’s commitment to freedom and democracy by denouncing the Assad regime’s repeated attempts to silence the Syrian peoples: “Canada stands with the Syrian people in their efforts to secure freedom and democracy, and looks forward to a new Syria that respects the rights of its people, and lives in peace with its neighbours”.<sup>34</sup> Although Canada has abstained from taking military action, Canada has imposed sanctions on the regime and called for the resignation of President Bashar al-Assad.<sup>35</sup>
- 60) Canada has made similar public statements in response to government attempts to end protests in Iran, Egypt, Yemen, and Bahrain,<sup>36</sup> including a statement by the Minister of Foreign Affairs in January 2011 that “We urge the Egyptian government to ensure full freedom of political expression for its citizens.”<sup>37</sup>
- 61) The Canadian public has also shown support for protesters employing their right to freedom of opinion and expression, peaceful assembly and association in the “Arab Spring” context. For example, shortly after Egyptians took to the streets, Canadians showed their support by gathering at the Egyptian embassy in Ottawa and in Montreal.<sup>38</sup> In addition, Canadians rallied in support of protesters in Libya at gatherings in Toronto, Montreal, Winnipeg, Calgary, Edmonton, and Vancouver.<sup>39</sup>
- 62) While the Canadian government and the public have taken a strong and principled stand in support of the rights of protestors abroad, the Canadian government has said nothing about efforts by municipal governments and police to forcibly terminate or curtail the rights of peaceful demonstrators within its borders.

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<sup>33</sup> Address by the Honourable John Baird to the United Nations General Assembly, September 26, 2011 at: <http://news.gc.ca/web/article-eng.do?mthd=advSrch&crtr.page=1&nid=624909&crtr.kw=syria>

<sup>34</sup> Statement by the Prime Minister of Canada on the situation in Syria, August 18, 2011 available via: <http://news.gc.ca/web/article-eng.do?mthd=advSrch&crtr.page=1&nid=618609&crtr.kw=syria>

<sup>35</sup> “Canada expands sanctions against Syria” Canada News Centre October 4, 2011 available via: <http://news.gc.ca/web/article-eng.do?mthd=advSrch&crtr.page=1&nid=626379&crtr.kw=syria>

<sup>36</sup> Stories re Iran, Egypt and Bahrain, Canada News Centre, February & March 2011 available via: <http://news.gc.ca/web/article-eng.do?mthd=advSrch&crtr.page=4&nid=589319&crtr.kw=egypt>; <http://news.gc.ca/web/article-eng.do?mthd=advSrch&crtr.page=5&nid=587059&crtr.kw=egypt> and <http://news.gc.ca/web/article-eng.do?mthd=advSrch&crtr.page=1&nid=598639&crtr.kw=bahrain>

<sup>37</sup> “Canadians rally to back Egypt protests” CBC News January 28, 2011 available via: <http://www.cbc.ca/news/canada/story/2011/01/28/egypt-canada-demos-012811.html>

<sup>38</sup> *Ibid.*

<sup>39</sup> “Canadians protest in support of Libyans” Canoe.ca Canadian News February 26, 2011 at: <http://cnews.canoe.ca/CNEWS/Canada/2011/02/26/17421001.html>

- 63) For Canada to have any credibility and legitimacy in its efforts to protect and promote human rights and to defend freedom and democracy abroad, it must vigorously protect those rights at home.
- 64) While the subject matter of the protests at home and abroad may differ, the fundamental rights to freedom of expression, opinion, peaceful assembly and association are universal and they must be respected in every context, subject only to those reasonable limitations permitted by international human rights instruments.
- 65) The fact that Canada is a developed state which is a member of the G8, in contrast to some of the nations that are part of the “Arab Spring,” where the traditions of democracy and respect for human rights are less entrenched, makes it all the more important that Canada and all of its levels of government vigorously defend and promote human rights within its borders.
- 66) In this context, it is hypocritical for government officials in Canada to use force to quash peaceful dissent by protesters within their own borders.

## **VIII. ACTION REQUESTED**

- 67) The Law Union of Ontario requests that the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression:
  - a) Draw to the attention of the Human Rights Council and the United Nations High Commissioner for Human Rights to efforts by the State Party and its subordinate levels of government to deprive people of their fundamental rights to expression, opinion, peaceful assembly, and association, which are matters of particularly serious concern;
  - b) Gather all relevant information relating to the violations by the State Party and its subordinate governments of the rights to freedom of opinion, expression, peaceful assembly and association, and the threats or use of violence, harassment, persecution and intimidation directed at persons seeking to exercise or to promote the exercise of these rights, including by requesting the State Party to provide information about the matters described herein and an explanation for why government authorities in Canada have taken steps to violate people’s civil and political rights contrary to Canada’s international human rights commitments;
  - c) Transmit a letter of allegation to the State Party regarding its violations of the rights to freedom of opinion, expression, peaceful assembly and association, and

include these communications in the annual reports to the Human Rights Council.

- d) Take such other action as may be within the Special Rapporteur's mandate to promote respect for the fundamental rights to freedom of expression, opinion, peaceful assembly and association in Canada.
- 68) The Law Union of Ontario calls on the State Party and all levels of government in Canada to cease and desist all activities undertaken to forcibly deprive peaceful demonstrators of their fundamental rights to freedom of opinion and expression and to peaceful assembly and association in the absence of legitimate justification for such actions in international law.