

**PROTESTERS' GUIDE
TO THE LAW AND**

CIVIL DISOBEDIENCE

IN BRITISH COLUMBIA



BY LEO MCGRADY Q.C.





Civil disobedience is not our problem. Our problem is civil obedience.

Our problem is that numbers of people all over the world have obeyed the dictates of the leaders of their government and have gone to war, and millions have been killed because of this obedience...

Our problem is that people are obedient all over the world in the face of poverty and starvation and stupidity, and war, and cruelty.

Our problem is that people are obedient while the jails are full of petty thieves, and all the while the grand thieves are running the country. That's our problem.

– HOWARD ZINN



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INTRODUCTION

I have written this paper to help inform you of your rights when dealing with the police at public demonstrations. It is designed to help you exercise your right to engage in non-violent civil disobedience, and to avoid committing any criminal offence. It's also designed to assist you in the event you are arrested.

Everyone must make their own individual choice about whether or not to engage in civil disobedience. It is your responsibility to become fully informed about what consequences may follow from engaging in any form of protest.

The information here offers a general road map of your rights in a conflict situation. It will not answer every question you have, and may not apply in every case. I have written about the law as it applies in Canada and specifically in BC as of December 1, 2001.

It's important to note that the information in this paper should not be relied upon in any legal proceeding, as it is not a replacement for proper legal advice.

There is no doubt that civil disobedience can be particularly effective in motivating social and political change when exercised in collective action. The long history of civil disobedience as practiced by different peoples around the world is mirrored here in British Columbia.

Aboriginal peoples in BC have engaged in various forms of creative civil disobedience since their

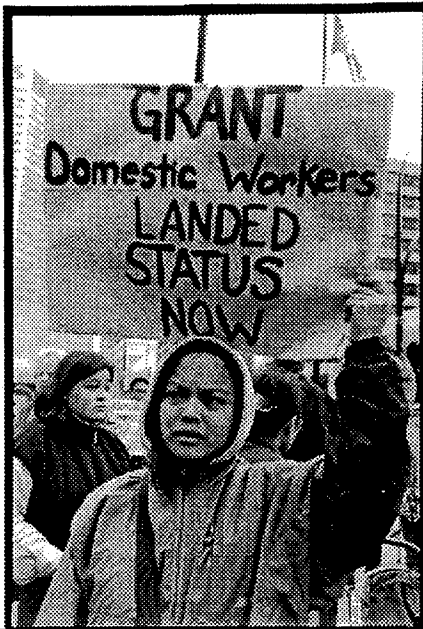
lands were first colonized under British and then Canadian law. The Gitksan and Wet'suwet'en nations of northern BC successfully combined blockading and court actions which led to the Supreme Court of Canada's unanimous Delgamuukw decision in 1997 recognizing aboriginal title. The Neskonlith people occupied the Sun Peaks resort development site near Kamloops in assertion of their territorial claims, through 2001.

Our province has an extensive record of conflict between lawmakers, bosses, and working people. In July 1918, United Mine Workers organizer and pacifist Albert "Ginger" Goodwin was shot by a private policeman outside Cumberland. His murder sparked Canada's first General Strike as BC workers walked off the job in protest.

Today, health care, community social service and government workers consider taking mass action in response to the breaking of their contracts by the Campbell Liberal government.

The Doukhobors who settled in the Kootenays have used a variety of civil disobedience techniques to defend their pacifist and religious beliefs over the past century.

The "Clayoquot Summer" of 1993 was a non-violent environmental protest that led to the arrest of almost 1000 people. It was the largest act of civil disobedience in Canadian history, and resulted in reforms to BC's forest practice laws. In 1998, irate BC fishers blockaded American boats and a ferry to protest rapidly diminishing wild salmon runs amid the collapse of international salmon treaty talks.



Since 1984 the Nanoose Conversion Campaign has included a series of civil disobedience actions by protestors opposed to American underwater nuclear weapons testing in Georgia Strait.

In the late 1980s, gay and lesbian activists adopted ACT UP tactics to bring awareness to the need for anti-discriminatory employment and spousal rights laws.

Over the past five years, a wide range of BC citizens have joined in anti-corporate globalization actions from the APEC meetings at the University of BC, to WTO in Seattle, and the FTAA events in Quebec City.

Students occupied Premier Gordon Campbell's office for two days in February 2002 to protest increases in tuition fees.

British Columbians will continue to put themselves on the line until, as BC poet and peace activist Dorothy Livesay once said, people's demands to "give us bread, but give us peace" are met.

There is judicial recognition of the important role civil disobedience has played in the preservation of our democratic rights. The law does recognize your right to engage in civil disobedience.

However, this guide takes into account the new post-September 11, 2001 federal laws including Bills C-24, C-35, C-36, and C-42. These bills were ostensibly intended for terrorists and organized crime, but contain many additional handy provisions for use against protesters.

All of the *Criminal Code* sections, as well as the new bills, are readily accessible. See the Department of Justice website: <http://lois.justice.gc.ca/en>.

A number of publications have been helpful in my preparation for this paper. I would like to thank the Collective Opposed to Police Brutality (Quebec) for their booklet entitled *Guess What! We've Got Rights?!* (Montreal, March 1999). I have used the framework from this booklet and adapted references to laws as they apply in BC.

As well, I would like to thank the Law Union of Ontario for their informative manual *Offence/Defence: Law for Activists* (1996 edition). I have also received invaluable assistance from two lawyers Sam Black and Sarbjit Deepak with our firm (McGrady, Baugh & Whyte).

This BC guide has been written in the same spirit as the above Quebec and Ontario works. It is anti-copyright. You are invited to freely copy and reproduce this work, but credit for authorship is appreciated.

I plan to revise and add to this guide on a regular basis. Also in the works is a companion guide pertaining to the rights of union members in exercising job action.

I welcome your questions, comments and suggestions. My e-mail address is lmcgrady@axion.net.

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Workers are torn between their legal obligations on one hand and the reality of poverty on the other. A worker's concept of justice necessarily includes social justice.

- GRACE HARTMAN, CUPE PRESIDENT (1975-1983)

DEMONSTRATIONS

Protecting your identity

Many times undercover police officers go unnoticed as they mingle with the demonstrating crowd. Their main objective is to identify demonstrators, activists, organizers and speakers.

You can choose to wear a mask or other head-gear to protect your identity. However, there are some drawbacks to this. First, it is a crime to be masked or disguised with the intention of committing a crime. This may give police an excuse to target you even though you are not intending to commit a crime. Second, wearing a mask may frighten other demonstrators.

The choice to protect your identity is yours to make.

What to bring

Items that are always useful to bring to a demonstration include:

Pen and paper: handy for taking detailed notes of any incident that might occur during the demonstration. For example, if there are arrests, note the names of people arrested, their telephone numbers, contacts, details of the arrest, etc.

Still cameras and video cameras: police do not like being watched or, worse, being caught in the commission of an illegal act. Photo and video documentation may keep the police in line, or may prove useful for providing evidence in cases where police step out of line.

Tape-recorders: a tape-recording of remarks by police is another valuable form of documentation.

Clothing: ask yourself whether the shoes you are wearing are comfortable for running, and whether the clothes you are wearing will attract too much attention. Further, you don't want to be easily grabbed by your clothes or hair by someone illegally attempting to restrain you.

Water bottles: use for bathing your eyes in the event tear gas is used by the police. You may consider wearing glasses, rather than contact lenses.

Items you may wish to leave at home:

Don't bring your address book or any other document that contains sensitive information.

Don't bring any illegal drugs.

Don't bring anything that might be considered a weapon.

Bring one piece of photo identification and leave the rest at home.

