



Ontario
Civil Liberties
Association

“The OCLA takes a vigorous and highly principled approach to defending free speech rights, which is an approach that is sorely needed in Canada today.”

—John Carpay,
President,
Justice Centre for
Constitutional Freedoms

“I am very pleased to learn of the Ontario Civil Liberties Association, and wish it the greatest success in its work, which could not be more timely and urgent as elementary civil rights, including freedom of speech, are under attack in much of the world, not excluding the more free and democratic societies.”

—Noam Chomsky,
Institute Professor, MIT

“Freedom of expression is our most fundamental and most precious freedom. It has been under attack in Canada for years. The Ontario Civil Liberties Association has taken a position on freedom of expression that is both courageous and principled. The OCLA now stands alone and its position should be supported by all Canadians who cherish democracy and freedom.”

—Robert Martin,
Professor of Law,
Emeritus,
Western University

November 26, 2017

By Email

Toronto City Council
Toronto City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Members of City Council:

Re: City Council must not bar and censor public demonstrations

On November 28, 2017, the Executive Committee of Toronto City Council will consider Councillor James Pasternak’s request that the City prohibit what he calls “hate-sponsored” public demonstrations taking place on city or provincial property.¹

Mr. Pasternak’s proposal would impose prior restraint on unknown expression that has yet to be made, on the basis of assumed emotional motives of demonstrators, and reactions of participants and observers. The contemplated prohibition is a violation of democratic values and would strip individuals of their fundamental human rights of freedom of expression and freedom of association. It is unconstitutional, and a violation of the *International Covenant on Civil and Political Rights*, which Canada has ratified.

The government must never be an agent of pre-emptive censorship by physical force.

Furthermore, it is not illegal to feel or express “hate”. By prohibiting the expression of any human emotion and by barring demonstrations, the State deprives society of essential information about inter-group and inter-individual conflicts that exist within the society. Free expression and interaction between groups with opposing views is required for a multicultural and democratic society to flourish and adapt to always changing circumstances, and must be allowed on open public venues.

The government must not — here, on the basis of projected or inferred beliefs and motives of others — label groups at large as “fascist”, “communist”, “anti-Semitic”, “Islamophobic”, etc., in order to pre-emptively bar demonstrations by physical force or civil-liability coercion. Doing so is unacceptable and repugnant fundamentally to the same degree as government suppression of rights on the basis of gender, race or religion. It would be an egregious police-state-like violation of universal principles.

¹ Letter from Councillor James Pasternak to the Toronto City Clerk, Sept. 19, 2017: <https://www.toronto.ca/legdocs/mmis/2017/ex/bgrd/backgroundfile-109011.pdf>

Governments must guard from using expressed or inferred positions, opinions, and beliefs in the same way that in the recent past Western governments including Canada have used race and religion to strip citizens of their fundamental rights.

Lawmakers must consistently and duly reject using the bogeyman of “hate” as a pretext to suppress the constitutional rights of citizens, which has become too common a knee-jerk reaction in devising ways to censor expression that one finds distasteful or emotionally threatening.

Canada’s *Criminal Code* already has provisions that amply and constitutionally deal with crimes involving occurrences and threats of actual harm to specific actual persons.

We ask that you deny Mr. Pasternak’s censorship proposal and close that door. We ask that you uphold and reaffirm the rights of all individuals and groups to engage in demonstrations on public property.

Yours truly,



Joseph Hickey
Executive Director
Ontario Civil Liberties Association (OCLA) <http://ocla.ca>
613-252-6148 (c)
joseph.hickey@ocla.ca