

Government Restraining Order Against Peaceful Protest Is a Naked Attack on Albertans' Freedoms

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by [John Carpay](#), [The Western Standard](#)

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“Rather than relying on regular law enforcement, it’s far more effective, and far more efficient, to terrorize Albertans with an injunction like that issued by Justice Rooke on May 6, which leaves citizens unable to assert their Charter freedoms upon being arrested and imprisoned.”

On May 6, 2021, Associate Chief Justice John Rooke of the Alberta Court of Queen’s Bench issued what might be the broadest restraining order in common law history.

Justice Rooke’s [injunction](#) allows police to arrest and detain immediately any Albertan who exercises her or his Charter freedoms in the face of Alberta Premier Jason Kenney’s unscientific and unconstitutional lockdown orders and restrictions. Sixteen people attending a church service, or eleven people attending a funeral, or six people meeting outside, now face a far greater risk than that of receiving a \$2,000 fine, which can be disputed in court after a “not guilty” plea.

As of May 6, Albertans aware of this injunction can now be arrested and then imprisoned until brought before a judge, for violating what may be the broadest injunction in Canadian history. Once before the judge, the individual will have the “choice” of making a solemn promise to comply with Charter-violating laws, or staying in jail. It’s the same “choice” imposed on Pastor James Coates this past February; he spent [35 days in jail](#) rather than deny his conscience. The only saving grace is that this injunction applies only to those who are aware of it, so ignorance offers some protection.

Normally, courts issue injunctions only against specific individuals (or organizations, businesses, governments) to deal with specific and extreme situations. For example, a court may issue a restraining order against a violent domestic partner.

Departing from this norm, Justice Rooke’s injunction is not limited to Christopher Scott, Glen Carritt and Whistle Stop Café in Mirror, Alberta. It expressly applies to “John Doe(s) and Jane Doe(s)” which means every Albertan, even those who have no contact with Whistle Stop or its owners, who is acting independently “to like effect.”

Justice Rooke’s injunction applies to any Albertan who “promotes” an “Illegal Public Gathering” via social media or otherwise, and any Albertan who “incites” others to attend.

When I speak at peaceful public gatherings and declare that the Charter – not Jason Kenney’s latest lockdown order – is the highest law in the land, am I “promoting” or “inciting” illegal activities? When I now urge Albertans, in this column, to continue to exercise their freedoms of speech, association, religion, conscience and peaceful assembly as protected by the Charter, am I in violation of Justice Rooke’s injunction?

Alberta Health Services sought and obtained Justice Rooke’s injunction without providing any notice to Whistle Stop Café

and its owners; they had no opportunity to present evidence or legal arguments to Justice Rooke before he issued his order. The hearing was held in secret, without media or members of the public being notified of it, and without Whistle Stop Café's defence counsel present. There was no opportunity to cross-examine Dr. Deena Hinshaw on the affidavit she swore, which enabled Alberta Health Services to obtain this injunction. This injunction now applies to all Albertans who have heard about it. The court won't hear a challenge to it until next week, well after the weekends protests are scheduled to take place.

Why does this matter?

It matters because prior to this May 6 injunction, police and health authorities already had the power to issue steep fines (now \$2,000 instead of \$1,000) to those violating lockdown orders and other restrictions. Those receiving tickets for committing apparently grave evils (like playing hockey outdoors, spending time with friends and family in person, or peacefully protesting outdoors against violations of their Charter freedoms) can plead "not guilty," and then challenge the public health order in court, at trial. The accused person can subpoena Chief Medical Officer Deena Hinshaw as a witness, and force her to answer questions in court, and to provide scientific evidence at trial, if she has any.

This is what [Pastor James Coates and GraceLife Church](#) are now doing: forcing the Alberta government to place medical and scientific evidence before the court, to attempt to justify Jason Kenney's Charter-violating cabinet orders.

Conversely, those accused of violating Justice Rooke's injunction cannot defend themselves by arguing in court that governments have failed to produce the medical and scientific evidence that might justify public health orders. Upon being arrested and detained (with or without also being issued a

ticket) the accused person's only way to regain her liberty is to consent to having her Charter freedoms of association, conscience, religion and peaceful assembly violated by the government's health orders.

An injunction is supposed to be an extra-ordinary remedy for an extra-ordinary problem, used sparingly, directed only at specific individuals or organizations, and only when regular law enforcement is insufficient.

Jason Kenney and Dr. Deena Hinshaw have made it abundantly clear that their orders are not supported by science. If these restrictions on Albertans' Charter freedoms were based on medical and scientific evidence, the Alberta government would have already presented such evidence at the trial of Pastor James Coates. This trial commenced on May 3, 2021, more than 13 months after the Alberta Government began to violate our Charter freedoms in March of 2020. But instead, the Alberta Government refuses to make a commitment as to when they will produce this evidence, and instead seeks an indefinite delay.

Jason Kenney obviously doesn't like regular law enforcement, because it allows the accused person to challenge the constitutionality of his irrational and arbitrary health orders.

Rather than relying on regular law enforcement, it's far more effective, and far more efficient, to terrorize Albertans with an injunction like that issued by Justice Rooke on May 6, which leaves citizens unable to assert their Charter freedoms upon being arrested and imprisoned.

By way of this injunction, Alberta Health Services now has the court acting as a police force, rather than as the protector of citizens' Charter rights and freedoms.

John Carpay is a Columnist for the Western Standard. He is also president of the [Justice Centre](#), which represents Pastor James Coates and GraceLife Church, and other clients challenging the constitutionality of Alberta's public health orders in court.

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