

Putting human rights at the heart of Canada's response to the COVID-19 pandemic

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Across Canada and around the world, in the face of the mounting fear and suffering wrought by COVID-19 as loved ones become ill and unprecedented government restrictions lead to spiraling economic disruption and hardship, we see the very best of humanity.

Healthcare, grocery, sanitation and other workers courageously maintain the essential services that keep us healthy and safe. Friends, neighbours and strangers look out for each other, keeping a close eye to the well-being of those most vulnerable to the virus. People are keeping a distance and staying at home, to make their contribution to efforts to curtail spread of the pandemic. Some people are fortunate to be able to continue to work from home, while others are coping with lost wages in the face of lay-offs and businesses shutting down.

This sense of solidarity, community and sacrifice resonates powerfully and directly with the foundational vision of universal human rights, namely that we are all inter-connected and that all aspects of our lives are inter-twined. People around the world understand that our way through this crisis lies in that collective responsibility and the commitments we owe each other. Amnesty International urges federal, provincial, territorial and municipal governments across the country to follow the people's lead and put human rights at the heart of all aspects of their response to the COVID-19 crisis.

Canada's international human rights obligations, the Charter of Rights and Freedoms and the country's many human rights acts and codes establish clear rights, responsibilities and limitations which are directly relevant to the crisis. Governments across the country are responding to the unprecedented crisis with an extensive public health campaign, restrictions on freedom of movement and social interaction, and massive amounts of economic stimulus. Many of those measures are in line with human rights standards. However, most do not adopt an explicit human rights approach and some breach important human rights obligations.

The following ten principles provide a guiding human rights framework for Canada's COVID-19 response.

1. TREAT AND RESPOND TO COVID-19 AS A HUMAN RIGHTS OBLIGATION

It all begins with human rights. Beyond posing staggering public health and financial challenges, the pandemic and the resulting economic crisis both highlight serious human rights obligations.

- The need to pursue measures that urgently and aggressively stop the spread of COVID-19 directly implicates the obligations to uphold the right to health and the right to life.
 - Governments must move rapidly to ensure healthcare systems have the resources, personnel and equipment necessary to provide treatment. Governments must focus their attention and provide resources more quickly and to a greater amount in communities whose healthcare needs have been impoverished and neglected in the past.
 - Providing safe working conditions for healthcare workers – who are disproportionately women - is of paramount importance. This includes ensuring that safe childcare is available for those who must work outside the home at this critical time.

- Testing and treatment must be made available and accessible on an equitable and non-discriminatory basis to all individuals who require it. That will require a concerted effort to address barriers to accessing healthcare across the country that are rooted in systemic discrimination and exclusion, including those faced by remote Indigenous communities, transgender individuals, sex workers, homeless people and undocumented migrants.
- As the impact of the economic crisis deepens, leading to business closures and job losses, there is an urgent need for comprehensive action to uphold a range of human rights obligations that lie at the heart of peoples' ability to meet their basic needs on a daily basis, including the right to an adequate standard of living, including adequate food and housing; the right to just and favourable working conditions; and the right to social security.

2. KEEP MEASURES THAT INFRINGE OTHER HUMAN RIGHTS WITHIN STRICT LIMITS

Government responses to providing effective treatment and curtailing further spread of the virus to date have already included declaring states of emergency, suspending school classes, ordering restaurants and other small businesses to close, shutting down borders, and banning gatherings over a certain number of people. While such measures are expressly adopted so as to uphold the right to health, they in turn infringe on a range of other rights, including freedom of movement, freedom of assembly and rights to education and to pursuing a livelihood.

International human rights law and the Charter of Rights and Freedoms do recognize that such measures, taken to address a public health emergency, may permissibly constrain or violate other rights. However, such restrictions can never be discriminatory, and they must be demonstrably necessary, legitimate, proportionate, time-bound and no broader than strictly required. Some rights, including the right to life and the prohibition on torture, can never be restricted. These constraints on limiting rights must be strictly adhered to, reassessed on an ongoing basis, and lifted or eased as soon as possible.

This will become more pressing if governments move towards enforcing orders to self-isolate or go into quarantine through "snitch" lines, tracking and surveillance measures or arrest and imprisonment, or if they restrict access to information about the nature or spread of the virus. The potential for overreach and abuse of such powers is very real and the resulting impacts of criminalization and stigmatization can be considerable. This would require careful scrutiny.

3. ADDRESS VULNERABILITY WITHIN PARTICULAR COMMUNITIES

Central to a human rights-based response to an emergency such as the COVID-19 pandemic is recognition that the virus itself -- as well as restrictions adopted to contain it -- may cause particular harm to communities that already disproportionately experience human rights abuses. It is incumbent upon governments to adopt measures that anticipate and address those vulnerabilities.

- Due to the impact of racism, isolation, and long-standing concerns about inadequate housing, and access to healthcare, safe water and sanitation, and other essential services, extra measures are needed to uphold human rights in **Indigenous communities**. It will be crucial to respond in ways that recognize and do not repeat the trauma associated with the callousness and human rights violations that marked previous public health measures in Indigenous communities, such as the SARS crisis or tuberculosis epidemics.
- Self-isolation and quarantine and the impact of stress and economic uncertainty may increase the risk of intimate partner and family **violence within the home**. Amnesty's research has shown that when resource sector workers return home, family stress and rates of intimate partner violence rise. This risk of violence is particularly heightened as laid-off industry workers return home at this stressful time.
- Because of ongoing gender-based discrimination, the burden of care work is disproportionately undertaken by women. Women continue to be paid less on average than men, and during this crisis, some women will be **forced out of the labour force to fulfill caregiving responsibilities**, particularly if they earn less than a male partner.
- Resources must be dedicated to meet the needs of individuals who are experiencing homelessness or living in situations of **inadequate housing**, and steps taken to ensure that evictions at this time do not lead to increased homelessness.
- The widespread scaling back and shutting down of business activity has a disproportionate impact on workers who are **precariously employed**, including hourly-wage employees, low-paid casual workers, workers without legal status in Canada, and the self-employed, for whom a significant reduction or loss of income may have devastating impact on the ability to meet basic needs including rent, utilities and food.
- **People living with disabilities** may face heightened susceptibility to contracting the virus and be more severely impacted by restrictive measures that have been introduced and already face extra challenges obtaining services and supplies, and accessing basic needs. All solutions and measures must consider the accessibility needs of people.
- The stress of the pandemic and the impact of social-distancing, isolation, quarantine and other restrictive measures may lead to or exacerbate serious **mental health** concerns.
- COVID-19 could spread rapidly in **prisons and immigration detention centres**, given the close quarters and inadequate health and sanitation services in those facilities. Measures to reduce that risk must be implemented on an urgent basis, including releasing prisoners and detainees who are particularly vulnerable to contracting the virus and those who do not pose a serious risk to public safety, as well as providing safe housing and other services to provide support upon their release.

- Closing Canada's borders to most people except Canadian citizens, permanent residents and their immediate family, means that other individuals without permanent status, including **migrant workers and international students**, who have an established and lawful right to enter Canada and have strong ties to the country, may face considerable hardship if denied entry. Migrant workers and international students have been exempted from the border closure at this time.
- Turning **refugee claimants** away -- including as a result of the decision to shut down the Canada/US border -- exposes refugees, who face increased hardship, danger and ostracization worldwide related to this pandemic, to serious human rights violations in other countries, including inhumane immigration detention conditions and the risk of *refoulement* to torture and other human rights abuses.

4. IMPLEMENT INTERSECTIONAL GENDER ANALYSIS OF ALL ASPECTS OF THE PANDEMIC

Any human rights crisis impacts people in different ways because of their multiple and intersecting identities including gender, race, religion, disability, sexual orientation, gender identity, age, and immigration status. The most marginalized people experience the most severe impacts. Governments must commit to assessing both the impact of the pandemic and the consequences of restrictive measures using an intersectional Gender-based Analysis Plus (GBA+) framework.

5. RESPOND TO RACISM AND XENOPHOBIA

There have been extensive reports of racism and xenophobia related to the virus, including acts of violence, directed in particular at ethnic Chinese individuals. There are reports that this has included instances of individuals disparaging or even refusing service from taxi-drivers and healthcare workers who are perceived to be of East Asian ethnicity. US President Donald Trump regularly uses racist language to refer to COVID-19. Our shared responsibility to express solidarity and counter such racism is urgent.

6. STRENGTHEN INTER-GOVERNMENTAL HUMAN RIGHTS COORDINATION

United Nations human rights bodies have long decried the fact that federal, provincial and territorial governments in Canada fail effectively to coordinate their efforts to meet their shared responsibility to uphold Canada's international human rights obligations.

Canada will not come through the COVID-19 crisis without strong collaboration across all levels of government. That must include strengthening inter-governmental human rights coordination in the face of this crisis, in way that meaningfully involve Indigenous and municipal governments in the process. This should start with a concerted effort to provide more consistent and coherent public health information and advice across all levels of government.

7. INCREASE INTERNATIONAL COOPERATION

Around the world, governments struggle to meet the challenges of treating and preventing the spread of COVID-19. Many governments do so relying on overstretched and under-resourced national health systems. Other governments face the needs of overcrowded refugee camps.

The UN Committee on Economic, Social and Cultural Rights has highlighted that in the face of diseases that are “easily transmissible beyond the frontiers of a State, the international community has a collective responsibility” to act, and that states that are more economically developed have a “special responsibility and interest to assist” other states.

Canada’s level of international development assistance is already far below the recommended target of 0.7% of gross national income. At a time when the impulse is to focus inward, maintaining and increasing Canada’s international cooperation is essential, including by sharing COVID-related information and expertise, and significantly boosting levels of development assistance. It is also a vital time to end embargoes and blockades that prevent needed medical supplies from reaching those that need it most.

8. EMBRACE OUR COLLECTIVE RESPONSIBILITY TO UPHOLD HUMAN RIGHTS

While governments hold legally-binding human rights obligations, through international human rights treaties, the Charter of Rights and Freedoms and other laws, all of us in society share the responsibility to act in ways that advance respect for and uphold human rights. We can do so through social distancing, offering assistance to vulnerable individuals, supporting healthcare and other essential workers, and numerous other ways. We can and must go further in recognizing that the pandemic does not impact everyone equally and that it is incumbent upon those of us who have not yet suffered financially and otherwise, to offer support and solidarity to those who have.

The UN Committee on Economic, Social and Cultural Rights has stressed how important it is to empower people, through participation and community action, to be integrally involved in developing health strategies. That is already happening spontaneously and should be encouraged further.

Through that spirit of solidarity and collective action we all help strengthen human rights protection in the midst of this crisis.

9. STRENGTHEN HUMAN RIGHTS ACCOUNTABILITY AND OVERSIGHT

The current crisis highlights the inconsistencies and inadequacies in the information, institutions and remedies available in Canada to provide strong human rights accountability and oversight. Statistics are often not meaningfully disaggregated in ways that would provide a clear picture of the differential human rights impact on various communities. With few exceptions, governments at all levels in Canada continue to deny access to effective remedies for violations of economic, social and cultural rights. Federal, provincial and territorial human rights commissions across the country have varying mandates which do not extend to the totality of Canada’s international human rights obligations. These gaps will be felt acutely during this crisis, when decisions are taken and policies developed rapidly and without the benefit of reflection and consultation, invariably leaving consideration of any human rights consequences for another time, if at all.

Rather than scramble to reverse or redress human rights shortcomings and violations after the fact, there needs to be a deliberate and comprehensive approach to human rights accountability and oversight that ensures violations are anticipated, prevented and mitigated from the outset.

Governments across the country should put in place a Human Rights Oversight Committee, made up of experts reflective of the full-range of human rights implicated in the COVID-19 crisis, tasked with providing governments with ongoing assessments and issuing regular public reports of the human rights impact of decisions, policies and laws adopted to address the pandemic.

At the same time, Amnesty International urges governments to ensure that Indigenous knowledge keepers, and representatives of federal, provincial and territorial human rights commissions and relevant municipal human rights offices, are included in special committees, emergency task forces and other bodies that have been established to oversee and coordinate their responses to the COVID-19 crisis.

10. PREPARE FOR A LONG-TERM HUMAN RIGHTS AGENDA

Time, attention and resources are presently necessarily being devoted to the immediate response to this public health emergency and associated economic crisis. When the urgency diminishes it will be vital to identify a longer-term human rights agenda that documents and draws upon the lessons of this pandemic and the challenges and opportunities that have arisen in responding to it. It will be time to critically examine institutional structures which have caused and exacerbated human rights crises and advance global reforms with respect to providing universal healthcare, addressing poverty and homelessness, and ensuring gender equality.

With that longer-range view in mind, measures taken now to provide financial stimulus to industries impacted by the economic crisis should avoid initiatives that would stand to exacerbate the global climate crisis should be human rights-centred and help lay the ground for a transition to a carbon-neutral economy.

Even in the midst of crisis it is never too soon to consider the long-term.

FOR FURTHER INFORMATION:

[Americas at a Crossroads: Human rights response to COVID-19](#)

[COVID-19: How human rights can help protect us](#)

[Responses to COVID-19 and states' human rights obligations: Preliminary observations](#)