



# Protecting Canadians' human rights and constitutional freedoms in the context of a public health emergency

Legislative proposals submitted by the  
Justice Centre for Constitutional Freedoms  
to the National Citizens Inquiry



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## Defending Charter rights and freedoms during lockdowns

The freedoms of expression, association, conscience, religion, mobility and peaceful assembly set forth in the Canadian Charter of Rights and Freedoms are the pillars of a free and democratic Canada. Protecting human dignity includes respecting and upholding these freedoms, as well as the Charter right of every person to accept or reject, without any form of coercion or duress, medical treatments including vaccinations and any other injections.

In May of 2020, two months after Canada's federal and provincial governments began violating the Charter freedoms of association, conscience, religion and peaceful assembly, the Justice Centre for Constitutional Freedoms ([jccf.ca](http://jccf.ca)) became one of the first groups in Canada to call for an end to lockdowns. Amongst advocates who claim to defend civil liberties and constitutional freedoms, the Justice Centre was the first (and often the only) Canadian non-profit to hold government accountable to the Charter. From May of 2020 to the present, the Justice Centre has been at the forefront of defending Canadians' rights and freedoms in the face of well-intentioned but irrational, unscientific and destructive government policies to combat Covid.

To better protect the Charter rights and freedoms of Canadians in future, the Justice Centre recommends the following changes (below) to legislation at the provincial and federal levels. In this document, the term



“legislature” refers to Canada’s federal Parliament or to the provincial legislative assembly, or both, as the case may be. The term “government” refers to the federal, provincial or territorial government, as the case may be, and the term “legislation” refers to federal, provincial or territorial legislation, as the case may be.

## Transparency with the public

1. Chief Medical Officers, health authorities and all arms of government must at all times disclose to the public the specific assumptions, data, statistical models, and sources for their modelling of the impacts of an epidemiological event on a population.



2. Once a public health emergency has been declared, the Chief Medical Officer must appear not less than once per week before an all-party committee of elected members of the legislature to answer questions from members who are affiliated with all parties that are represented in the legislature. The Chief Medical Officer must also provide all data and all medical, scientific and other relevant documents that are in the Chief Medical Officer's possession as requested by these elected members at these weekly hearings.



## Using existing emergency response plans

3. The government should have emergency response plans in place for various forms of public emergency which can only be deviated from to the extent that new and unanticipated information emerges and politicians and experts transparently justify any such deviation.



## Free votes and open debate as to a public health emergency

4. The declaration of a public health emergency by the Chief Medical Officer must be subjected to a free vote of the legislature, by which this declaration shall be confirmed or denied. Such a vote of the legislature must be made after a thorough debate on the issue, which may take place only after the Chief Medical Officer has tabled the reports, data and documents on which she or he relies in support of the declaration. Further, elected members (from the Government side or from the Opposition side) may table additional reports, data and evidence. These reports and documents tabled by the Chief Medical Officer and by elected members must be made public.



5. If a public health emergency is confirmed by a free vote of the legislature, the public health emergency shall expire automatically 30 days after that vote has taken place. A public health emergency can be renewed and continued by a subsequent vote (or by subsequent votes) once every 30 days to authorize its continuation.



6. The documents on which the Chief Medical Officer relies as the basis for a declaration of a public health emergency must be made available to the members of the legislature, and must also be made available to all members of the public by posting them on the government's website at least three days (72 hours) prior to such a vote taking place.







## Adopting a broad approach to public health and societal well-being

7. Legislation must expressly provide that the government subject public health rules, policies, regulations and orders to an ongoing and comprehensive cost-benefit analysis, including assessing the economic, social and global health impacts of public health measures.



8. Government officials, both elected and non-elected, should take note of the World Health Organization definition of “health” as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.” In formulating government responses to a public health emergency, elected and non-elected government officials should take into account all aspects and dimensions of human health, including physical, mental, psychological, spiritual, social and economic well-being, and should not focus exclusively on any one threat to health.



## Ongoing accountability and the proper weighing of harms and benefits

9. The government must provide the public with a comprehensive report at least once per month which evaluates, measures, monitors and explains the impact of public health measures on individuals' mental health (including rates of alcoholism, drug overdoses, spousal abuse, child abuse and suicide), on individuals' physical health (including rates of cancer, obesity and all-cause mortality, and including data on access to diagnostic procedures and surgeries) and on individuals' financial well-being (including data on unemployment, bankruptcies, homelessness and public debt).



10. The government's monthly report must include data about the quality of care received by seniors in long-term care facilities (including frequent and reliable in-person contact with visitors from outside the facility).



11. The government's monthly reports must also evaluate the impact of non-pharmaceutical interventions (i.e. lockdowns, mandatory vaccination policies, travel restrictions) on vulnerable groups, including but not limited to very recent immigrants, vulnerable workers, youths, those experiencing cognitive or physical disabilities, those experiencing addiction or substance-abuse issues, prison inmates, children, parents, those experiencing chronic illnesses, and indigenous persons. These monthly reports must weigh the harms associated with lockdowns (non-pharmaceutical interventions) against whatever benefits may be associated with these measures, in relation to the general population and especially in relation to members of vulnerable groups.





## Respect for the right to bodily autonomy

12. The right of every individual to choose to receive or not receive any medical treatment (including a vaccine and any other substance that is injected or ingested) should be added to human rights legislation as a prohibited grounds of discrimination. This right to bodily autonomy must be fully respected by colleges, universities, employers, businesses, governments at all levels, and all public and private institutions. Legislation should make it illegal to ask people (in the context of employment and in the context of providing goods and services) about their prior medical history and about future or prospective treatment plans. An appropriate exception can be created for medical doctors and other health care providers who, in the context of providing treatment to patients, may have a valid medical reason for inquiring about prior medical history.





13. Legislation should provide for a statutory right of civil remedy against any person, government or body which participates in any form of medical coercion, with “coercion” defined broadly so as to include any direct or indirect threat, including the loss of any civil or legal rights.



14. Based on respect for science and in accordance with the pursuit of truth, the College of Physicians and Surgeons and all other professional associations which regulate nurses, midwives, chiropractors, ophthalmologists, and other medical professions must fully respect the right of all of their members to research, study, speak and write freely, without facing any direct or indirect adverse consequences for expressing heterodox opinions. Further, the College and other governing bodies must respect the doctor-patient relationship (and analogous relationships between the patient and other health care providers) by neither compelling doctors to prescribe treatments nor prohibiting doctors from prescribing treatments. Provincial legislation must be amended to achieve the foregoing.



## Transparency regarding contracts with pharmaceutical companies

15. Proposed contracts between governments and pharmaceutical companies must be made available to the public prior to being signed as well as after being signed, by prominently posting this information on government websites, such that all members of the public can easily access this information.



16. There should be no legislated liability protections for pharmaceutical companies for novel or emergency use products. The pharmaceutical company may insist on users of its products signing a waiver as a condition for using the product, and users may choose voluntarily to agree to such a condition. However, civil liability for damages should not be excluded by legislation or by other government action, such as a contract to which the government is one of the parties.



## Democratic accountability and access to justice

17. Legislation should provide expressly that any government responses to a public health emergency cannot be considered a reason for the suspension of normal parliamentary obligations and proceedings, or provincial legislative obligations and proceedings, or the proper functioning of courts. In preparation for future epidemiological events that could disrupt the normal proceedings of the legislature, plans should be made for remote voting by legislature members, for there to be no disruptions to “opposition days,” for opposition parties to be able to cast non-confidence votes, for MPs to be able to table “order papers” and private member bills, etc. In like fashion, courts must have specific plans in place to continue without interruption their obligation to provide access to justice to all members of the public.



## Mandatory Public Inquiry after conclusion of public health emergency

18. Once a public health emergency has ceased to exist for 90 days, the federal and/or provincial governments responsible for declaring the public health emergency shall commence a public inquiry to review the government's emergency-related laws, policies, regulations and health orders, to determine what harms and what benefits resulted from the government's approach. This Public Inquiry shall receive evidence for a period of 90 days, and shall release a final report to the public 90 days thereafter, such that an evaluation and analysis of the government's policies becomes available to the public 270 days after the conclusion of the public health emergency.



These submissions were prepared by John Carpay, B.A., LL.B. and other staff of the Justice Centre for Constitutional Freedoms ([www.jccf.ca](http://www.jccf.ca)).