



Balancing Civil Liberties and Public Health Emergencies During a Pandemic



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Alberta Civil Liberties Research Centre

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Balancing Civil Liberties and Public Health Emergencies During a Pandemic

By the

Alberta Civil Liberties Research Centre

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Acknowledgments



Dedication

This project is dedicated to the memory of Linda McKay-Panos, B.Ed., J.D., LL.M., Executive Director (1992-2024), whose vision, dedication, and contributions were integral to this report.

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I- Introduction

COVID-19 was declared a pandemic by the World Health Organization (WHO) in March 2020.¹ At the time, there were no vaccines or treatments to control the disease. As a result, the WHO urged governments “to take urgent and aggressive action to stop the spread of the virus”.²

To address the COVID-19 outbreak, governments around the world implemented strict measures that severely restricted citizens’ freedom of movement. Borders between countries, states, provinces, counties, and cities all over the world were closed. Lockdowns and quarantines prevented non-essential travel, requiring people to stay home and refrain from going to work or school. Restaurants, stores, offices, museums, playgrounds, gyms, and other public venues were shut down. Public gatherings including religious services, concerts, social and sporting events were cancelled. Additionally, government and health officials advised people to maintain physical distance from others whenever they did need to go out.³

The COVID-19 pandemic created a crisis for democracy worldwide, worsening human rights conditions in many countries. Government authorities often abused their power, silenced their critics, and undermined crucial democratic institutions.⁴

In most countries, the government response to the COVID crisis involved unprecedented policy interventions. Given the virus’s highly contagious nature, the large number of infections,

¹ World Health Organization, WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020, online: <<https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>>.

² Human Rights Watch, Human Rights Dimensions of COVID-19 Response (19 March 2020), online: <<https://www.hrw.org/news/2020/03/19/human-rights-dimensions-covid-19-response>>.

³ Myrna El Fakhry Tuttle, “Freedom of Movement during COVID-19” (1 September 2020), LawNow <<https://www.lawnow.org/freedom-of-movement-during-covid-19/>>.

⁴ Sarah Repucci and Amy Slipowitz, “Democracy under Lockdown, The Impact of COVID-19 on the Global Struggle for Freedom” (October 2020), online: Freedom House <https://freedomhouse.org/sites/default/files/2020-10/COVID-19_Special_Report_Final_.pdf> at 1 [Sarah Repucci and Amy Slipowitz].

and the lack of a vaccine at the outset, social distancing became essential to curb the virus's spread and protect public health systems.⁵ Citizens had the option to voluntarily comply with public health guidelines such as social distancing, or face government-imposed measures, including quarantines and lockdowns, which restricted basic civil liberties through the use of exceptional powers.⁶

In Canada, to control the spread of the COVID-19 virus, federal, provincial, and territorial governments declared public health emergencies. These measures included limiting travel between provinces and outside Canada, restricting social gatherings, imposing isolation or quarantine periods, and making masks mandatory in indoor public spaces.⁷

The COVID-19 pandemic, as a global public health crisis, posed a new challenge for modern democracies. Governments had to navigate the delicate balance between protecting public health and preserving civil liberties while implementing measures to contain the virus.⁸

Civil liberties protect individuals from government overreach, but in times of crisis, citizens have to strike a balance between social well-being and the protection of their liberties. In response to the pandemic, governments around the world enforced lockdowns by restricting civil liberties that had been guaranteed in democratic societies – such as freedom of movement, freedom of assembly, freedom of religion, and the right to liberty and security of the person – in order to safeguard public health.⁹

⁵ Francesc Amat et al., “Pandemics meet democracy: Experimental evidence from the COVID-19 crisis in Spain” (5 April 2020), online: <https://osf.io/preprints/socarxiv/dkusw_v1> at 12 [Francesc Amat].

⁶ Francesc Amat, at 2.

⁷ Canadian Museum of History, Lost Liberties – The War Measures Act, online: <<https://www.historymuseum.ca/teachers-zone/lost-liberties/activities/>> [Canadian Museum of History].

⁸ Colleen M. Flood et al, Reconciling civil liberties and public health in the response to COVID-19” (September 2020), online: <https://rsc-src.ca/sites/default/files/CL%20PB_EN.pdf>.

⁹ Marcella Alsan et al., “Civil liberties during the COVID-19 pandemic” (13 November 2020), online: <<https://voxeu.org/article/civil-liberties-during-covid-19-pandemic>> [Alsan 2020]

Protecting civil liberties and providing public goods - two fundamental responsibilities of government - can sometimes be in conflict. For example, individual privacy rights can be compromised in the name of national security. Similarly, to safeguard public health, governments may impose strict limitations on civil liberties.¹⁰

According to Marcin Orzechowski et al.:

The COVID-19 crisis presents an enormous spectrum of legal, ethical, and public health dilemmas. These range from allocation of scarce medical resources, equitable access to healthcare including medical care for vulnerable groups, intrusion into individuals' private spheres through surveillance, decreasing free speech, and to questions of coercion in implementing rules about personal isolation and physical distancing. The last three issues imply significant limitations of basic civil liberties.¹¹

However, citizens around the world largely agreed to temporarily sacrifice some of their rights in order to combat the virus. As Marcella Alsan et al. stated:

Civil liberties – such as due process, freedom of expression, and the right to privacy – are foundational values that the state commits to respecting to the largest possible extent... individuals agree to surrender some of their freedom and be part of the state precisely to ensure better protection of their remaining rights and liberties.¹²

The Covid-19 pandemic led to extraordinary limitations on civil liberties in many democratic countries around the world. While these limitations were crucial to save lives and protect public health systems, they often conflicted with fundamental democratic freedoms. Additionally, some feared that these restrictions could outlast the virus in some countries.¹³

¹⁰ Alson 2020.

¹¹ Marcin Orzechowski, Maximilian Schochow and Florian Steger, “Balancing public health and civil liberties in times of pandemic (18 January 2021), online: National Library of Medicine <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7812333/>> [Marcin Orzechowski].

¹² Alson 2020.

¹³ Pavlos Vasilopoulos et al., “The fragility of democratic freedoms in the Covid-19 pandemic”, online: The Loop <<https://theloop.ecpr.eu/the-fragility-of-civil-liberties-during-the-covid-19-pandemic/>> [Pavlos Vasilopoulos, Fragility].

II- What are Civil Liberties?

In democratic countries, civil liberties trace their origins back to the Middle Ages particularly the *Magna Carta* of 1215. These liberties are protected rights and freedoms that include “freedom of expression, freedom of peaceful assembly, the presumption of innocence, and the right to a fair, just and prompt trial.”¹⁴

The classical liberal philosopher, J.S. Mill, said: “the only [liberty] which deserves the name is that of pursuing our own good, in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it.”¹⁵ This concept protects freedom of individuals from government intervention if it does not hurt others.

According to the Canadian Encyclopedia, civil liberties are traditionally categorized into four types:

The political civil liberties, the legal civil liberties, the egalitarian civil liberties and economic civil liberties.

The political civil liberties are called fundamental freedoms and include the freedoms of religion, expression (speech and press), assembly and association. The legal civil liberties refer to rights afforded persons in contact with the criminal justice system and include due process of law, the principles of fundamental justice including prohibition of arbitrary arrest or detention, and unreasonable search or seizure; the rights to *habeas corpus*, retaining counsel, bail, presumption of innocence and a fair hearing; and the right not to be subjected to torture or to cruel and inhuman treatment or punishment. The egalitarian civil liberties refer to rights relating to equality and may be protected by legislation prohibiting discrimination by public and private officials against persons because of such grounds as their race, colour, creed, religion or national origin. The economic civil liberties traditionally referred to those rights contemplated by the term civil rights in s.92(13) of the Constitution Act, described above.¹⁶

¹⁴ Canadian Museum of History.

¹⁵ Karen Selick, Derek From and Chris Schafer, “The Evisceration of Liberty in Canadian Courts” online: <<https://www.fraserinstitute.org/sites/default/files/ch9-evisceration-of-liberty-in-canadian-courts.pdf>> at 1 [Karen Selick].

¹⁶ Gerald Gall, Walter Tarnopolsky, “Civil Liberties” (December 16 2013) online: The Canadian Encyclopedia <<https://www.thecanadianencyclopedia.ca/en/article/civil->

Colleen M. Flood et al. gave the following definition:

The term “civil liberties” refers to a range of activities that citizens are (or should be) generally free to engage in without government restraint—including things like freedom of religion, freedom of expression, freedom of assembly, and so on. Some civil liberties may be given legal protection through a range of legal sources, most fundamentally through entrenchment in the Canadian *Charter of Rights and Freedoms*.¹⁷

The *Charter of Rights and Freedoms* (The *Charter*),¹⁸ a key part of the Canadian Constitution, cites rights and freedoms essential to a free and democratic society. The Constitution is the supreme law of Canada, which means that all other laws must be consistent with its provisions. If a law is found to be inconsistent with the Constitution, it can be declared invalid.

III- What is a Public Health Emergency?

Christopher Nelson et al. define public health emergencies based on their potential to overwhelm a community's ability to respond. These emergencies are characterized by their scale, timing, or unpredictability. Their definition aligns with an all-hazards approach to preparedness, focusing on building broad capabilities rather than preparing for specific, isolated events. This helps communities better prepare for a wide range of potential risks.¹⁹

[liberties#:~:text=Civil%20liberties%2C%20generally%2C%20freedoms%20to.not%20obliged%20to%20publish%20them>.](#)

¹⁷ Colleen M. Flood at 6.

¹⁸ *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act* (UK), 1982, c 11.

¹⁹ Christopher Nelson et al., “Conceptualizing and Defining Public Health Emergency Preparedness” (April 2007), online: National Library of Medicine <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1854988/>>.

A- Public Health Emergency of International Concern (PHEIC)

In January 2020, the WHO declared the outbreak of coronavirus a “global public health emergency.” When viral outbreaks cross international borders, the WHO intervenes to declare a global health emergency in order to contain the virus.²⁰

In the event of a deadly disease outbreak, experts at the WHO can declare a "public health emergency of international concern" (PHEIC), to establish global action.²¹ A PHEIC is defined in the International Health Regulations as “an extraordinary event which is determined to constitute a public health risk to other States through the international spread of disease and to potentially require a coordinated international response.”²²

This means the situation is:

- serious, sudden, unusual or unexpected;
- carries implications for public health beyond the affected State’s national border; and
- may require immediate international action.²³

In the case of a PHEIC, the International Health Regulations Emergency Committee meets to discuss the situation. The Committee evaluates evidence such as human-to-human transmission rates, but the final decision to declare a PHEIC stays with the WHO Director General.²⁴

²⁰ Nadine Daher, “Last Week, the World Health Organization Declared Coronavirus a Global Health Emergency. What Does That Mean?” (5 February 2020), online: Smithsonian Magazine <<https://www.smithsonianmag.com/smart-news/last-week-world-health-organization-declared-coronavirus-global-health-emergency-what-does-mean-180974128/>>.

²¹ Elliot Douglas and Rebecca Staudenmaier, “What constitutes an international public health emergency?” (30 January 2020), online: Deutsche Welle (DW) <<https://www.dw.com/en/what-constitutes-an-international-public-health-emergency/a-52114823>> [Elliot Douglas].

²² Emergencies: International health regulations and emergency committees, online: World Health Organization (19 December 2019) <<https://www.who.int/news-room/questions-and-answers/item/emergencies-international-health-regulations-and-emergency-committees>> [WHO 2019].

²³ WHO 2019.

²⁴ Elliot Douglas.

On 30 January 2020, following the recommendations of the Emergency Committee, the WHO Director General declared that the COVID-19 outbreak constituted a Public Health Emergency of International Concern.²⁵

B- Public Health Emergency in Canada

According to the Canadian Medical Protective Association:

A possible definition might be an urgent and critical situation of a temporary nature that seriously endangers the lives, health and/or safety of the population. It would require prompt action beyond normal procedures to prevent or limit health consequences to the affected population. Such events are usually promptly recognized and lead to the initiation of emergency responses by virtually all involved authorities. Examples of recent North American catastrophic events include the 9/11 attacks, Hurricane Katrina, H1N1, and COVID-19.²⁶

Section 5 of the *Emergencies Act* reads:

Public welfare emergency means an emergency that is caused by a real or imminent

- (a) fire, flood, drought, storm, earthquake or other natural phenomenon,
- (b) disease in human beings, animals or plants, or
- (c) accident or pollution.²⁷

When it comes to a pandemic, and under the *Emergencies Act*, the federal Government of Canada can declare a national public welfare emergency if there are reasonable grounds (section 6) to believe that the pandemic seriously endangers the lives, health and safety of Canadians and cannot be effectively addressed under any other law of Canada (section 3).

²⁵ COVID-19 Public Health Emergency of International Concern (PHEIC) Global research and innovation forum (12 February 2020), online: World Health Organization <[https://www.who.int/publications/m/item/covid-19-public-health-emergency-of-international-concern-\(pheic\)-global-research-and-innovation-forum](https://www.who.int/publications/m/item/covid-19-public-health-emergency-of-international-concern-(pheic)-global-research-and-innovation-forum)>.

²⁶ Public health emergencies and catastrophic events (March 2020), online: The Canadian Medical Protective Association (CMPA) <<https://www.cmpa-acpm.ca/en/membership/protection-for-members/principles-of-assistance/public-health-emergencies-and-catastrophic-events-the-cmpa-will-help>>.

²⁷ *Emergencies Act*, RSC 1985, c 22.

In Alberta, section 1(hh.1) of the *Public Health Act* states:

“Public health emergency” means an occurrence or threat of (i) an illness, (ii) a health condition, (iii) an epidemic or pandemic disease, (iv) a novel or highly infectious agent or biological toxin, or (v) the presence of a chemical agent or radioactive material that poses a significant risk to the public health.²⁸

In Ontario, section 1 of the *Emergency Management and Civil Protection Act* reads:

“Emergency” means a situation or an impending situation that constitutes a danger of major proportions that could result in serious harm to persons or substantial damage to property and that is caused by the forces of nature, a disease or other health risk, an accident or an act whether intentional or otherwise.²⁹

IV- Civil Liberties during Public Health Emergencies

Restraining a pandemic often requires governments to take serious actions, such as imposing quarantines, isolation, and social distancing measures, which can contradict the fundamental nature of civil liberties. These liberties are fundamental in democratic societies and are considered “sacred values” that should not be compromised.³⁰

However, during health emergencies such as pandemics, civil liberties can clash with the government’s broader responsibility to protect the welfare of citizens. In such situations, curtailing certain civil liberties may be seen as a necessary response to safeguard public health and prevent further harm.³¹

²⁸ *Public Health Act*, RSA 2000, c P-37.

²⁹ *Emergency Management and Civil Protection Act*, RSO 1990, c E.9.

³⁰ Stephanie Stantcheva, “Civil Liberties in a Pandemic” (30 October 2020), online: Project Syndicate < <https://www.project-syndicate.org/onpoint/public-attitudes-on-civil-liberties-vs-public-health-during-pandemic-by-stefanie-stantcheva-2020-10?barrier=accesspaylog> > [Stephanie Stantcheva].

³¹ Stephanie Stantcheva.

In his book *Law, Legislation and Liberty*, Friedrich Hayek said: “emergencies have always been the pretext on which the safeguards of individual liberty have been eroded.”³²

A- International Law

The severity and global impact of the COVID-19 pandemic posed a significant threat to public health worldwide. As a result, restrictions on certain fundamental rights and freedoms, such as travel bans, and quarantine measures were deemed necessary.³³

In 2020, Human Rights Watch acknowledged that the seriousness of the pandemic and its threat to public health safety might justify temporary limitations on specific rights - provided such measures were necessary and proportionate to the crisis.³⁴

According to the Siracusa Principles – guidelines that determine the conditions under which restrictions on civil liberties are justified – any steps taken to protect the public and limit rights and freedoms must be “legal, proportionate and necessary.”³⁵ Furthermore, these measures should be time-limited and account for their impact on vulnerable and marginalized groups.³⁶

³² Friedrich Hayek, *Law, Legislation and Liberty*, vol 3: The political order of a free people, (University of Chicago Press, 1981).

³³ According to the WHO, in the context of the COVID-19 pandemic, there are two scenarios in which quarantine may be implemented: (1) the restriction of movement of travellers upon arrival from areas with community transmission and (2) for contacts of individuals with confirmed or probable SARS-CoV-2 infection. World Health Organization, Considerations for quarantine of contacts of COVID-19 cases, Interim Guidance (25 June 2021) at 1.

³⁴ Civil Liberties in a Lockdown: The Case of COVID-19, online: < <https://philpapers.org/archive/DIRCLI-2.pdf>> at 6 [Civil Liberties in a Lockdown].

³⁵ American Association for the International Commission of Jurists, *Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights* (1985), online: <https://www.icj.org/wp-content/uploads/1984/07/Siracusa-principles-ICCPR-legal-submission-1985-eng.pdf>

³⁶ Ethical and Legal Considerations in Mitigating Pandemic Disease: Workshop Summary, online: National Library of Medicine < <https://www.ncbi.nlm.nih.gov/books/NBK54163/>>.

Section 25 of these principles state “public health may be invoked as a ground for limiting certain rights in order to allow a state to take measures dealing with a serious threat to the health of the population or individual members of the population”.

Section 11 reads: “In applying a limitation, a state shall use no more restrictive means than are required for the achievement of the purpose of the limitation.” Section 51 specifies that the duration “of any derogation measure shall be such only as are strictly necessary to deal with the threat to the life of the nation and are proportionate to its nature and extent.”

In addition, the Siracusa Principles emphasize that any limitations on human rights must be in accordance with the law and must not be arbitrary or unreasonable (sections 15&16).

Silva and Smith stated:

A right to health also includes the right to control the spread of infectious diseases via a variety of control measures, some of which are restrictive. The use of restrictive measures during infectious disease outbreaks, including measures like quarantine, isolation, and travel prohibitions, restrict or limit basic human rights prescribed by the Universal Declaration of Human Rights, such as freedom of movement (Article 13) and the right to peaceful assembly (Article 20), for the sake of protecting and promoting the health of individuals and communities.³⁷

Article 4 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)³⁸ states that all rights within it can be limited to maintain democracy, but it also mentions that some of its rights can be limited in states of emergency.

³⁷ Diego S. Silva, Maxwell J. Smith, “Commentary: Limiting Rights and Freedoms in the Context of Ebola and Other Public Health Emergencies: How the Principle of Reciprocity Can Enrich the Application of the Siracusa Principles” (2 June 2015), online: Health and Human Rights Journal <[³⁸ International Covenant on Economic, Social and Cultural Rights \(ICESCR\), Adopted by the General Assembly of the United Nations on 16 December 1966, online: <<https://www.refworld.org/docid/3ae6b36c0.html>>.](https://www.hhrjournal.org/2015/06/commentary-limiting-rights-and-freedoms-in-the-context-of-ebola-and-other-public-health-emergencies-how-the-principle-of-reciprocity-can-enrich-the-application-of-the-siracusa-principles/#:~:text=This%20reasoning%20is%20further%20clarified,individual%20members%20of%20the%20population.>”.></p></div><div data-bbox=)

Similarly, article 19 of the International Covenant on Civil and Political Rights (ICCPR)³⁹ protects the freedom of opinion and expression. Article 19 (1) states that freedom of opinion may not be subject to any interference, while article 19 (2) defines freedom of expression. However, article 19 (3) mentions that freedom of opinion can be restricted in accordance with the law and if deemed necessary.

The ICCPR also acknowledges that certain rights can be restricted during public health crises. These rights can include “freedom of movement, freedom to manifest one's religion or beliefs, freedom of expression, the right to peaceful assembly and freedom of association.”⁴⁰

The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye asserted:

... under the necessity principle, when a State invokes a legitimate ground for restriction of freedom of expression, it must establish a direct and immediate connection between the expression and the threat said to exist. It is the State's obligation to demonstrate necessity, not a complainant's obligation to demonstrate its failure. The judgment of the European Court of Human Rights – that, to meet the test of necessity, any restriction must be something more than “useful”, “reasonable” or “desirable” – is the correct one. Necessity implies proportionality, according to which restrictions must target a specific objective and not unduly intrude upon other rights of targeted persons, and the ensuing interference with third parties' rights must be limited and justified in the light of the interest supported by the intrusion. The restriction must be the least intrusive instrument among those which might achieve the desired result.⁴¹

³⁹ International Covenant on Civil and Political Rights (ICCPR). Adopted by the General Assembly of the United Nations on 16 December 1966, online: <<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>>.

⁴⁰ Paul Gregoire, “COVID-19 restrictions and the Civil Liberties - Human Rights quagmire” (6 October 2021), online: mondaq <<https://www.mondaq.com/australia/human-rights/1119122/covid-19-restrictions-and-the-civil-liberties--human-rights-quagmire>>.

⁴¹ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (15 June-3 July 2020), A/HRC/44/49 – OHCHR, online: <<https://www.ohchr.org/en/documents/thematic-reports/ahrc4449-disease-pandemics-and-freedom-opinion-and-expression-report>> at 6 [Special Rapporteur].

The UN Special Rapporteur emphasized that the principles of legality, necessity and proportionality should be applied when responding to the public health threat posed by COVID-19. This is particularly important given the ICCPR's strong protection of freedom of expression and because these principles advance public health policies in a way that respects individual rights while addressing the crisis.⁴²

Regarding the emergency measures taken in response to the COVID-19 pandemic, a group of UN experts stated:

To prevent such excessive powers to become hardwired into legal and political systems, restrictions should be narrowly tailored and should be the least intrusive means to protect public health.⁴³

In addition, these experts made it clear that these restrictions should be motivated by legitimate public health goals and should not target specific groups or individuals.⁴⁴

According to the WHO:

Countries have an obligation to minimize the burden of disease on individuals and communities, but they must do so in a way that is respectful of individual rights and liberties. The need to balance the interests of the community and the rights of the individual is of particular importance in the implementation of public health measures such as isolation, quarantine, social distancing and border control. While all of these measures can legitimately be attempted in order to delay the spread or mitigate the impact of an influenza pandemic, the burden they place on individual liberties requires that their use be carefully circumscribed and limited to circumstances where they are reasonably expected to provide an important public health benefit.⁴⁵

⁴² Special Rapporteur at 6.

⁴³ Civil Liberties in a Lockdown at 7.

⁴⁴ Civil Liberties in a Lockdown at 7.

⁴⁵ Ethical considerations in developing a public health response to pandemic influenza, online: World Health Organizations < https://apps.who.int/iris/bitstream/handle/10665/70006/WHO_CDS_EPR_GIP_2007.2_eng.pdf > at 9.

The WHO noted that during a public health emergency, individual human rights and civil liberties may be restricted if such measures are deemed “necessary, reasonable, proportional, equitable, non-discriminatory, and in compliance with national and international laws.”⁴⁶

B- Canadian Law

The *Charter* prohibits the government from passing laws that violate individual freedoms without justification.

Section 1 of the *Charter* states:

The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

This means that while rights and freedoms are guaranteed, they are not absolute. The government may limit these rights if it can prove the limitation is reasonable and justified within a democratic society.

Section 2 of the *Charter* reads:

Everyone has the following fundamental freedoms:

- (a) freedom of conscience and religion;
- (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
- (c) freedom of peaceful assembly; and
- (d) freedom of association.

These freedoms are foundational to Canadian democracy but can be restricted if they meet the criteria in Section 1. For example, during emergencies like a pandemic, governments may

⁴⁶ Marcin Orzechowski.

need to limit certain rights, such as freedom of assembly or religion, to protect public health and safety.⁴⁷

While individuals have rights under the Charter, these rights can be limited in specific circumstances. For instance, measures like self-isolation or quarantine orders may restrict freedoms such as religious practice, expression, assembly, and association. However, such restrictions can be justified under Section 1 of the *Charter* if the government can demonstrate they are reasonable and necessary.⁴⁸

In *R v Oakes*, The Supreme Court of Canada stated:

The rights and freedoms guaranteed by the *Charter* are not, however, absolute. It may become necessary to limit rights and freedoms in circumstances where their exercise would be inimical to the realization of collective goals of fundamental importance.

The onus of proving that a limit on a right or freedom guaranteed by the *Charter* is reasonable and demonstrably justified in a free and democratic society rests upon the party seeking to uphold the limitation. It is clear from the text of s. 1 that limits on the rights and freedoms enumerated in the *Charter* are exceptions to their general guarantee. The presumption is that the rights and freedoms are guaranteed unless the party invoking s. 1 can bring itself within the exceptional criteria which justify their being limited.⁴⁹

Linda McKay-Panos, the late Executive Director of the Alberta Civil Liberties Research Centre, argued that:

For a law to justifiably infringe on Charter rights, the goal must be “pressing and substantial.” In addition, the Court must take a proportional analysis to determine if the crown has proved that the law is rationally connected to the objective, that it minimally impairs on the right in question, and weigh the relative effects infringing on the right in question would have.⁵⁰

⁴⁷ Sujit Choudhry, “COVID-19 & the Canadian Constitution” (16 April 2020), online:

< <https://sujitchoudhry.medium.com/covid-19-the-canadian-constitution-52221ef31dc3> > [Sujit Choudhry].

⁴⁸ Covid-19: An Excuse For Repressing Human Rights And Civil Liberties, online: McCain Institute, Arizona State University < <https://www.mccaininstitute.org/resources/reports/covid-19-an-excuse-for-repressing-human-rights-and-civil-liberties/> >.

⁴⁹ *R v Oakes*, [1986] 1 SCR 103 at paras 65-66.

⁵⁰ Lauren Peebles, “Can the provincial government infringe on the rights of Albertans? Professor Linda McKay-Panos weighs in” (14 February 2021), online: <<https://thegauntlet.ca/2021/02/14/can-the-provincial-government-infringe-on-the-rights-of-albertans-professor-linda-mckay-panos-weighs-in/>>.

The *Charter* may, in some cases, require government intervention to protect public health. Sujit Choudhry noted that governments might have positive *Charter* duties to take measures to protect vulnerable populations, such as the elderly, immunocompromised individuals, and healthcare workers, especially during a pandemic.⁵¹

In the context of public health, Ewa Krajewska et al. argued that mandatory masking represents a collective action, not merely an individual freedom. They stated:

While adults can generally decide what risks to take for themselves, that changes when their actions endanger others, especially in the context of a contagious disease spreading throughout the community. The liberty to go about unmasked is not absolute.⁵²

Section 7 of the *Charter* reads:

Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

Section 7 is crucial when government actions put an individual's life, liberty, or security of the person at risk. In such cases, an individual may argue that their rights under section 7 have been infringed.⁵³

To determine if a government action violates section 7, the court will first assess whether any of the rights - life, liberty, or security of the person - were affected. If so, the court will then determine whether the government's action align with the principles of fundamental justice. If a

⁵¹ Sujit Choudhry.

⁵² Ewa Krajewska, Veronica Sjolín and Teagan Markin, "Making Masks Mandatory Is Not A Civil Liberties Issue" (26 June 2020), online: mondaq <<https://www.mondaq.com/canada/operational-impacts-and-strategy/958426/making-masks-mandatory-is-not-a-civil-liberties-issue>> [Ewa Krajewska].

⁵³ Karen Selick at 4.

violation is found, the court will consider whether the government's action can be justified as a reasonable limit prescribed by law.⁵⁴

V- Global Government Responses to the COVID-19 Pandemic

Around the world, countries responded differently to the issue of COVID-19. Some imposed national lockdowns, while others relied on individual responsibility and adopted less restrictive measures.⁵⁵

According to Human Rights Watch, 83 governments restricted free speech and free assembly during the pandemic. In some countries, enforcement of these restrictions was particularly harsh. In the Philippines, youths who violated the curfew, were reportedly locked in dog cages. In India, journalists who reported on COVID-19 roadblocks preventing villagers from reuniting with their families were physically assaulted by police. Meanwhile, South Africa imposed a ban on cigarettes and alcohol and established checkpoints to search vehicles for smuggled goods.⁵⁶

Throughout the pandemic, governments around the world implemented various restrictions, many of which raised significant human rights concerns. Below is an overview of what transpired in different countries.

⁵⁴ Karen Selick at 2.

⁵⁵ Stephanie Stantcheva.

⁵⁶ Stephen Humphries, "To fight pandemic, people gave up liberties. Will they get them back?" (25 March 2021), online: The Christian Science Monitor <<https://www.csmonitor.com/USA/Justice/2021/0325/To-fight-pandemic-people-gave-up-liberties.-Will-they-get-them-back>> [Stephen Humphries].

A- Hungary and Poland

Both Hungary and Poland introduced public health measures including compulsory quarantine, isolation, and social distancing along with special governmental emergency powers aimed at halting the spread of the virus. These measures were similar to those implemented by other democratic countries. However, organizations like the Hungarian Helsinki Committee⁵⁷ and Amnesty International Hungary expressed concerns that the emergency powers might be exploited for political gain.⁵⁸

In March 2020, Hungary's parliament passed regulations granting the government the authority to issue special decrees under emergency rule. The emergency declaration included provisions that allowed prison sentences of up to five years for individuals accused of spreading misinformation about COVID-19 and the measures taken to contain it. However, the term "misinformation" was not clearly defined, which sparked fears of the law being misused.⁵⁹

In Poland, some of the strictest restrictions on freedom of movement and association in Europe were enforced. Travel was prohibited, except for work or returning home. Parks, forests, and roads were closed, and people in public spaces were required to maintain a two-meter distance. Additionally, minors were not allowed to leave their homes unless accompanied by a legal guardian.⁶⁰

⁵⁷ The Hungarian Helsinki Committee is a public benefit human rights organization that protects human dignity through legal and public activities. They provide help to refugees, detainees and victims of law enforcement violence, online: Hungarian Helsinki Committee < <https://helsinki.hu/en/about/>>.

⁵⁸ Never-ending story? (27 May 2020), online: Hungarian Helsinki Committee < <https://helsinki.hu/en/never-ending-story/>>.

⁵⁹ Marcin Orzechowski.

⁶⁰ Marcin Orzechowski.

B- Spain and Italy

Civil liberties were suspended as strict lockdowns were imposed in Spain and Italy to slow the spread of COVID-19. While these measures were effective in saving lives, their enforcement raised concerns in both countries.

In 2020, Spain recorded one of the highest COVID-19 infection and death rates in the world. To combat this crisis, the government implemented stay-at-home orders, with the armed forces assisting in enforcement. Those who violated the restrictions faced fines.⁶¹

Francesc Amat et al. stated:

The Spanish government made use of the state of alarm, a constitutional device that allows the government to impose strict limitations on civil liberties and centralize power in the Spanish executive. The military started to patrol the streets, and the central government seized power from the autonomous regional and local authorities in order to impose a unified strategy against the virus.⁶²

Italy implemented similar restrictions and was among the first European countries to face a major COVID-19 outbreak. It also endured one of the longest lockdowns in the region. Fines were imposed, and both the police and military were deployed to enforce stay-at-home orders. However, these strict measures disproportionately affected those unable to work remotely, forcing some to seek alternative means of survival outside the law.⁶³

C- The United States (US)

The US was among the first few countries to report COVID-19 infections. In January 2020, the US declared a public health emergency. Then, in March 2020, a national emergency was

⁶¹ Javier Dichupa, “How COVID-19 is Eroding Civil Liberties and Damaging Society”, online: Europe Canada Network < <https://www.eucanet.org/how-covid-19-is-eroding-civil-liberties-and-damaging-society/> > [Javier Dichupa].

⁶² Francesc Amat at 7-8.

⁶³ Javier Dichupa.

declared, prompting many states and localities to order people to stay home and to practice physical distancing. Schools and businesses were also closed.⁶⁴

The US government also imposed travel restrictions, and nation-wide social distancing measures were enforced, limiting gatherings to no more than ten people. Additionally, people were urged to avoid public places, such as restaurants and bars and avoid non-essential travel.⁶⁵

D- Australia

The Australian government enforced restrictions, lockdowns, and stay-at-home orders during the pandemic. People were required to quarantine and isolate according to the directions of public health authorities.⁶⁶

In the state of Victoria, harsh enforcement of lockdowns by police took place. For example, police surrounded a public housing building to enforce lockdown of its 3,000 low-income residents. This led to anti-lockdown protests.⁶⁷

E- Israel

The Israeli government imposed a nationwide lockdown and tough restrictions on the right to protest during the pandemic, particularly targeting those advocating for the removal of the government in power at the time. In addition, Israel was one of the first countries to rely on

⁶⁴ David M. Studdert, “Disease Control, Civil Liberties, and Mass Testing — Calibrating Restrictions during the Covid-19 Pandemic” (9 July 2020), online: The New England Journal of Medicine < <https://www.nejm.org/doi/full/10.1056/NEJMp2007637>>.

⁶⁵ Coronavirus in the US: COVID-19 outbreak, measures and impact (30 March 2020), online: Pharmaceutical Technology < <https://www.clinicaltrialsarena.com/features/coronavirus-affected-countries-usa-covid-19-measures-impact-pharma-hotel-tourism-medical/>>.

⁶⁶ Restrictions, lockdowns and stay at home orders, online: Australian Government, Department of Health < <https://www.health.gov.au/health-alerts/covid-19/restrictions-and-lockdowns>>.

⁶⁷ Stephen Humphries.

surveillance technology, using cell phone data, to track individuals who might have been infected or were already infected. This raised significant privacy concerns.⁶⁸

Tehilla Shwartz Altshuler, a privacy expert, commented: “I can understand the decision-making process that was done in Israel, but I cannot justify it.” She added, “Hundreds of thousands of people moves were tracked by the secret service, which is really unheard of.”⁶⁹

F- India

In response to the COVID-19 pandemic, the Indian government invoked the National Disaster Management Act and imposed a nationwide lockdown. The measures implemented included social distancing, widespread COVID testing, isolation protocols, and contact tracing to contain the virus’s spread. However, given that India is the world’s second-most populous country, enforcing social distancing posed significant challenges. High population density and limited access to resources made it difficult for many to adhere to these guidelines, leading to significant logistical and social challenges across the nation.⁷⁰

G- Britain

Britain enforced very strict lockdown measures during the pandemic. Nonessential travelers were fined £5,000 (\$6,850), and outdoor gatherings of two or more people were banned. In March 2021, a nurse in Manchester “was fined £10,000 for organizing a 40-person protest over pay for health care workers.”⁷¹

⁶⁸ Protecting civil liberties during COVID-19 and beyond (11 May 2021), online: American Friends Service Committee < <https://www.afsc.org/story/protecting-civil-liberties-during-covid-19-and-beyond> > [American Friends Service].

⁶⁹ Oliver Holmes, Justin McCurry and Micahel Safi, “Coronavirus mass surveillance could be here to stay, experts say” (18 June 2020), online: The Guardian < <https://www.theguardian.com/world/2020/jun/18/coronavirus-mass-surveillance-could-be-here-to-stay-tracking> > [Oliver Holmes].

⁷⁰ Tanushka Sharma and Arunima, “Management of Civil Liberties During Pandemic” (September 2021), online: The Indian Journal of Public Administration < https://www.researchgate.net/publication/354579083_Management_of_Civil_Liberties_During_Pandemic > at 442

⁷¹ Stephen Humphries.

Tom Hickman et al. noted:

...every person in the country, other than a homeless person, is subject to an obligation to remain in their home until further notice.

Breach of the obligation is a criminal offence. There is an accompanying power for a “relevant person”, which (except in Scotland) extends to persons who are not police officers, to use physical force to return a person to their home if, in the relevant person’s opinion, they are outside the place where they are living without reasonable excuse. The restrictions also close shops and businesses, leaving hundreds of thousands of people out of work. Gatherings of more than two people outside the home are prohibited. Relevant persons can disperse such gatherings by using reasonable force.⁷²

H- South Korea

South Korea was one of the first countries to implement widespread contact tracing during the pandemic.⁷³ Initially, the government proposed using electronic wristbands to track the movements of tens of thousands of individuals in self-isolation. However, the Korean Bar Association raised concerns, arguing that such devices would violate individuals' constitutional rights. In response, the government revised its approach, deciding to use the “gadgets only on people who had broken quarantine, and only with their consent.”⁷⁴

I- Kenya

In Kenya, police used “heavy-handed enforcement” to impose lockdowns. In March 2020, several people were injured by police as they rushed to get home from work before the curfew took place in the city of Mombasa.

⁷² Tom Hickman, Emma Dixon and Rachel Jones, “Coronavirus and Civil Liberties in the UK” (29 September 2020), online: Judicial Review < <https://www.tandfonline.com/doi/full/10.1080/10854681.2020.1773133>>.

⁷³ Justin McCurry, “Test, trace, contain: how South Korea flattened its coronavirus curve” (23 April 2020), online: The Guardian < <https://www.theguardian.com/world/2020/apr/23/test-trace-contain-how-south-korea-flattened-its-coronavirus-curve>>.

⁷⁴ Oliver Holmes.

Africa Regional Director Kennedy Akolo said:

We saw the police using very big sticks to beat up people who were trying to cross by ferry, when not everybody can get on the ferry at the same time. Some people were beaten up or rounded up. There was excessive violence and total mistreatment where people were beaten for absolutely nothing.⁷⁵

VI- Government Actions: Federal, Provincial, and Territorial Responses in Canada

In Canada, the declaration of states of emergencies across the country, granted authorities enormous powers, leading to various restrictions on daily life.⁷⁶ As a result, many restrictions were imposed including the closure of non-essential businesses, schools and offices, in an effort to curb the spread of the virus and to protect public health.⁷⁷

A- Federal Government

When the pandemic first started, the federal government did not invoke the *Emergencies Act*. Instead, in March 2020, the government invoked the *Quarantine Act*⁷⁸ which grants the federal health minister broad powers to prevent the introduction and spread of communicable diseases. These powers include screenings for all travellers entering or exiting Canada, establishing quarantine facilities, and issuing mandatory isolation orders. Those who refuse to comply may face fines or imprisonment.⁷⁹

⁷⁵ American Friends Service.

⁷⁶ Giuseppe Valiante, “‘The Charter still applies’: Canadians urged to monitor civil liberties during pandemic” (4 April 2020), online: <<https://everythinggp.com/2020/04/04/the-charter-still-applies-canadians-urged-to-monitor-civil-liberties-during-pandemic/>>.

⁷⁷ Sujit Choudhry.

⁷⁸ *Quarantine Act*, SC 2005, c 20.

⁷⁹ Tom Hawthorn, “Quarantine Act” (27 May 2020), online: The Canadian Encyclopedia <<https://www.thecanadianencyclopedia.ca/en/article/quarantine-act>>.

According to Carter and Awad:

... the Federal Government announced an Emergency Order under the *Quarantine Act* to require any person entering Canada by air, sea or land to self-isolate for 14 days regardless of whether they are showing symptoms of COVID-19. Failure to comply with the Emergency Order may result in a fine of up to \$750,000 or imprisonment for six months. If an individual contravenes the Emergency Order and, while doing so, causes risk of imminent death or serious bodily harm to another person, that individual could be liable for a fine of up to \$1 million or imprisonment for three years, or both.⁸⁰

International and interprovincial travel fall under federal jurisdiction. Under the *Aeronautics Act*,⁸¹ the federal government imposed a temporary order requiring air carriers to screen Canadian citizens returning to Canada and prevent those displaying COVID-19 symptoms from boarding.⁸²

Additionally, the federal government restricted travel into Canada by closing its borders to all foreign nationals. It also made masking mandatory on airplanes and trains, both of which fall within its jurisdiction.⁸³

Two years later, on February 14, 2022, the federal government invoked the *Emergencies Act* for the first time by issuing a proclamation of a public order emergency in order to end disruptions, border blockades and the occupation of Ottawa.⁸⁴ The occupation carried out by protesters, largely known as the "Freedom Convoy," was driven by opposition to COVID-19

⁸⁰ Rose M. Carter and Dina I. Awad, "The use of extraordinary government powers to protect public health in light of COVID-19 in Canada" (26 March 2020), online: Dentons < <https://www.canadaregulatoryreview.com/the-use-of-extraordinary-government-powers-to-protect-public-health-in-light-of-covid-19-in-canada/>> [Carter and Awad].

⁸¹ *Aeronautics Act*, RSC 1985, c A-2.

⁸² Sujit Choudhry.

⁸³ Ewa Krajewska.

⁸⁴ Government of Canada, Orders in Council, (14 February 2022), online: < <https://orders-in-council.canada.ca/attachment.php?attach=41560&lang=en>>.

mandates, particularly the vaccine requirements for truck drivers. This led to widespread demonstrations and blockades.⁸⁵ The proclamation was followed by an *Emergency Economic Measures Order*⁸⁶ (the Order) and *Emergency Measures Regulations*⁸⁷ (the Regulations).

The Canadian Government argued that the protests and blockades, which had been taking place since January 2022, constituted an emergency that warranted the invocation of the *Emergencies Act*.⁸⁸

The Regulations prohibited individuals from participating in a public assembly that could reasonably be expected to lead to a breach of the peace through:

1. the serious disruption of the movement of persons or goods or the serious interference with trade;
2. interference with the functioning of critical infrastructure; or
3. support of the threat or use of acts of serious violence against persons or property (section 2(1)).

The Regulations also prohibited individuals from directly or indirectly using, collecting, providing, making available or inviting others to provide property to facilitate or participate in any assembly, or for the purpose of benefiting any person facilitating or participating in such an activity (section 5).

The Order required banks to freeze the accounts of these individuals without a court order mandating banks and other financial institutions to cease providing any financial or related services to designated persons.⁸⁹

⁸⁵ “The convoy crisis in Ottawa: A timeline of key events” (17 February 2022), online: CBC News <<https://www.cbc.ca/news/canada/ottawa/timeline-of-convoy-protest-in-ottawa-1.6351432>>.

⁸⁶ *Emergency Economic Measures Order* SOR/2022-22.

⁸⁷ *Emergency Measures Regulations* SOR/2022-21.

⁸⁸ Myrna El Fakhry Tuttle and Linda McKay-Panos, “Canada’s Extraordinary Use of the Emergencies Act Poses Human Rights Concerns” (April 2022), online: Brief – The Law Society of Western Australia <<https://issuu.com/lswa/docs/brief-apr-2022/s/15460084>> [Myrna El Fakhry Tuttle and Linda McKay-Panos].

⁸⁹ Myrna El Fakhry Tuttle and Linda McKay-Panos.

B- Provincial and Territorial Governments

Like the federal government, provinces and territories can declare a state of emergency when an urgent situation requires immediate action that cannot be addressed with other resources. As a result, most Canadian provinces and territories declared states of emergency to manage the COVID-19 pandemic.

Additionally, under provincial and territorial legislation, governments are granted extraordinary powers that can include the right to:

acquire and utilize property necessary to deal with the COVID-19 emergency; procure or fix prices for necessities, such as food and housing, for the duration of the state of emergency; control or prohibit travel to, from and within the province or territory; or authorize entry into any building or onto any land without a warrant.⁹⁰

Provinces and territories can declare a public health emergency if the situation is serious but does not yet meet the criteria for a full state of emergency. Public health emergencies grant more limited authority than a state of emergency, allowing governments to implement safety and security measures within their regions.

Carter and Awad stated:

Governments who enact a public health emergency may have the power to limit mass gatherings, close public spaces, authorize warrantless entry into any building or onto any land, distribute essential healthcare and medical supplies, or conscript persons required to meet the needs of an emergency. Governments may also impose fines or prison terms for any contravention of a public health emergency order.⁹¹

To manage the COVID-19 pandemic, most Canadian provinces and territories declared states of public health emergencies.⁹²

⁹⁰ Carter and Awad.

⁹¹ Carter and Awad.

⁹² Carter and Awad.

Below are some of the measures taken by some provincial governments during COVID-19.

i- Alberta

In March 2020, in response to the COVID-19 pandemic, Alberta declared a public health emergency under section 52.1 of the *Alberta Public Health Act*.⁹³

Section 52.1(1) of the *Public Health Act* reads:

Where, on the advice of the Chief Medical Officer, the Lieutenant Governor in Council is satisfied that

- (a) a public health emergency exists or may exist, and
- (b) prompt co-ordination of action or special regulation of persons or property is required in order to protect the public health,

the Lieutenant Governor in Council may make an order declaring a state of public health emergency relating to all or any part of Alberta.

Once a public health emergency is declared under the *Public Health Act*, the Cabinet can order:

- the closure of any public place (s. 38(1)(a));
- the postponement of an election for up to 3 months (s. 38(1)(b)); and
- the immunization of persons who are not then immunized against the disease (s. 38(1)(c)).
- For the purposes of “preventing, combating or alleviating the effects of the public health emergency and protecting the public health”, the provincial government may:
 - acquire or use any real or personal property (s. 52.6(1)(a));
 - authorize or require any qualified person to render aid of a type the person is qualified to provide (s. 52.6(1)(b));
 - authorize the entry into any building or on any land, without warrant, by any person (s. 52.6(1)(d)); and
 - provide for the distribution of essential health and medical supplies and provide, maintain and co-ordinate the delivery of health services (s. 52.6(1)(e)).⁹⁴

⁹³ *Public Health Act*, RSA 2000, c P-37.

⁹⁴ Eric S. Block, Adam Goldenberg and Grace Waschuk, “COVID-19: Can they do that? Part IV: Alberta’s Public Health Act and Emergency Management Act” (19 March 2020), online: mccarthy < <https://www.mccarthy.ca/en/insights/articles/covid-19-can-they-do-part-iv-albertas-public-health-act-and-emergency-management-act> > [Eric S. Block].

The declaration enabled the Alberta government to take the following measures:

- limiting mass gatherings, including worship gatherings and weddings, to no more than 50 attendees (excluding grocery stores, shopping centres, health care facilities and other essential services);
- prohibiting attendance at public recreational facilities and private entertainment facilities (including gyms, pools, areas, galleries and museums, children’s play centres, community centres, racing centres, libraries and casinos);
- limiting restaurants, cafés, coffee shops, food courts and other food-serving facilities to 50% capacity to a maximum of 50 people (while still permitting take-out, delivery and drive-thru service);
- prohibiting attendance at buffet-style restaurants (excluding not-for-profit community kitchens, religious kitchens and food services at work camps); and prohibiting attendance at bars and nightclubs.⁹⁵

The Alberta government also used its emergency powers to enforce these restrictions, taking action against entities that failed to comply. In April 2021, the Alberta government closed and fenced off a church that did not comply with public health measures imposed to reduce the spread of the COVID-19 virus.

At the time, Alberta Health Services stated that they “closed Grace Life Church and has prevented access to the building until (the church) can demonstrate the ability to comply with Alberta’s Chief Medical Officer of Health’s restrictions.”⁹⁶ They further emphasized, “ with COVID-19 cases increasing and the more easily transmitted and potentially more severe variants becoming dominant, there is urgent need to minimize spread to protect all Albertans.”⁹⁷

⁹⁵ Eric S. Block.

⁹⁶ Canadian Press, “Charged with ignoring COVID-19 health rules: Alberta church shut down, fenced off” (7 April 2021), online: < <https://www.sudbury.com/beyond-local/charged-with-ignoring-covid-19-health-rules-alberta-church-shut-down-fenced-off-3611797>> [Canadian Press].

⁹⁷ Canadian Press.

ii- British Columbia

On March 17, 2020, a public health emergency was declared in British Columbia under its *Public Health Act*.⁹⁸

This *Act* grants the government powers similar to those under the Alberta *Public Health Act*. It gives a health officer the right to conduct inspections without a warrant, of any premises including private dwellings. The officer may also collect or disclose information, including personal information, which could not otherwise be collected, used, or disclosed.⁹⁹

On March 18, 2020, a provincial state of emergency was declared in British Columbia under the *Emergency Program Act*¹⁰⁰ which governs the management of disasters and emergencies. The *Act* grants the government the authority to do the following:

- implement a provincial emergency plan or measures;
- authorize or require a local authority to implement a local emergency plan or measures;
- acquire or use any land or personal property considered necessary to respond to the emergency;
- authorize or require any qualified person to provide assistance to others to respond to the emergency;
- control or prohibit travel to or from any area of BC;
- provide for the restoration of essential facilities and the distribution of essential supplies;
- provide, maintain, and coordinate emergency medical, welfare and other essential services in BC;
- authorize the entry into any building or on any land, without warrant, by any person in the course of implementing an emergency plan, if the Minister considers it necessary;
- construct something that the Minister considers necessary to respond to the emergency; and procure, fix prices for, or ration food, clothing, fuel, equipment, medical supplies or other essential supplies and the use of any property, services, resources, or equipment within any part of BC.¹⁰¹

⁹⁸ *Public Health Act*, SBC 2008, c 28.

⁹⁹ Gerald D. Chipeur et al., “COVID-19: The power of the government in a public health emergency” (20 March 2020), online: Miller Thomson < <https://www.millerthomson.com/en/insights/health/covid-19-the-power-of-the-government-in-a-public-health-emergency/> /> [Gerald D. Chipeur].

¹⁰⁰ *Emergency Program Act*, RSBC 1996, c 111.

¹⁰¹ Gerald D. Chipeur.

In response to rising COVID-19 cases, British Columbia introduced sweeping measures in November 2020, including mandatory mask-wearing in all indoor public spaces. Other actions included restrictions on social gatherings, travel limitations, and capacity limits for certain businesses and services. These measures were aimed at curbing the spread of the virus and protecting public health, as the province experienced a surge in infections.¹⁰²

iii- Ontario

The Ontario *Health Protection and Promotion Act* outlines “the organization and delivery of public health programs and services, the prevention of the spread of diseases and the promotion and protection of health.”¹⁰³

This *Act* determines the roles and authority of public health units, local medical officers of health, and the Chief Medical Officer of Health for the province. Each local Board of Health is “responsible for delivering local public health programs and services, including control of infectious diseases and diseases of public health significance,” such as COVID-19.¹⁰⁴

In March 2020, Ontario declared a state of emergency under the *Emergency Management and Civil Protection Act*.¹⁰⁵ Under this Act, municipalities and provincial government bodies are required to establish emergency management programs. It also grants the government the authority to declare an emergency in part or all of the province if:

¹⁰² Bethany Lindsay, “B.C. brings in sweeping new measures to control COVID-19, including mandatory masks” (19 November 2020), online: CBC News < <https://www.cbc.ca/news/canada/british-columbia/b-c-brings-in-sweeping-new-measures-to-control-covid-19-including-mandatory-masks-1.5808617>>.

¹⁰³ *Health Protection and Promotion Act*, RSO 1990, c H.7, at s 2.

¹⁰⁴ Gerald D. Chipeur.

¹⁰⁵ *Emergency Management and Civil Protection Act*.

- There is an emergency that requires immediate action to prevent, reduce or mitigate a danger of major proportions that could result in serious harm to persons; and
- One of the following circumstances exists: i) the resources normally available to government cannot be relied upon without the risk of serious delay; ii) the resources are insufficient to effectively address the emergency; or iii) it is not possible, without the risk of serious delay, to ascertain whether the resources can be relied upon.¹⁰⁶

An emergency order¹⁰⁷ was imposed under the *Emergency Management and Civil*

Protection Act. Section 2 of this order reads:

(1) A police officer or other provincial offences officer who has reasonable and probable grounds to believe that an individual has committed an offence under section 7.0.11 of the *Act* may require the individual to provide the officer with the individual's correct name, date of birth and address.

(2) Every individual who is required under subsection (1) to provide a police officer or other provincial offences officer with their correct name, date of birth and address shall promptly comply.

Section 3 (1) states:

A police officer or other provincial offences officer may order that premises be temporarily closed if they have reasonable grounds to believe that an organized public event or other gathering is occurring at the premises and that the number of people in attendance exceeds the number permitted under the *Reopening Ontario (A Flexible Response to Covid-19) Act, 2020*.

Also in March 2020, the Ontario Ministry of Health advised Ontarians to avoid all non-essential travel outside of Canada, suspend large events and public gatherings of over 250 people, and practice social distancing. Schools were also closed as part of efforts to mitigate the spread of COVID-19.¹⁰⁸

¹⁰⁶ Gerald D. Chipeur.

¹⁰⁷ *Enforcement Of Covid-19 Measures* O Reg 8/21, filed January 12, 2021 under *Emergency Management and Civil Protection Act*.

¹⁰⁸ Enhanced Public Health Measures for COVID-19 (12 March 2020), online: Ontario Ministry of Health < <https://www.ctcmpao.on.ca/resources/Enhanced-Public-Health-Measures-for-COVID-19-2020-03-12.pdf> > at 1.

In April 2021, Ontario enforced a stay-at-home order.¹⁰⁹ Section 1(1) of the order stated that “every individual shall remain at the residence at which they are currently residing at all times unless leaving their residence is necessary for one or more of the purposes mentioned in the order,” such as attending school, going to the grocery store, accessing health care services, exercising outdoors, performing work that cannot be done remotely or attending a wedding or funeral.

To ensure compliance, the emergency order was amended to provide police officers and provincial offences officers greater authority to enforce the stay-at-home order.¹¹⁰ Therefore, officers were granted the power to: 1) require individuals to provide their home address and the purpose for being outside their residence, and 2) stop vehicles and inquire about an individual's reasons for leaving their home.

This enforcement tool applied exclusively during the stay-at-home order to ensure compliance.¹¹¹

iv- Saskatchewan

In Saskatchewan, the *Public Health Act*¹¹² grants the government the authority to issue various orders when there is a serious public health threat, including the following:

- direct the closing of a public place;
- restrict travel to or from a specific area of Saskatchewan;
- prohibit public gatherings in a specified area of Saskatchewan;
- in the case of a communicable disease, require any person who is not known to be protected against the disease to be immunized or given prophylaxis, or, where the

¹⁰⁹ *Stay-At-Home Order* O Reg. 265/21, under *Emergency Management and Civil Protection Act*.

¹¹⁰ Ontario Strengthens Enforcement of Stay-at-Home Order (16 April 2021), online: Government of Ontario <<https://news.ontario.ca/en/release/61192/ontario-strengthens-enforcement-of-stay-at-home-order>> [Ontario Stay-at-Home Order].

¹¹¹ Ontario Stay-at-Home Order.

¹¹² *The Public Health Act*, 1994, SS 1994, c P-37.1.

person infected is a pupil, to be excluded from school until the danger of infection is past;

- establish temporary hospitals;
- an investigation into matters related to the serious public health threat and that the results of the investigation are to be provided to the government;
- require any person who is likely to have information that is necessary to decrease or eliminate the serious public health threat to disclose that information to the government;
- authorize the confiscation of substances or materials found in any place, premises or vehicle if those substances or materials are suspected of causing or contributing to a serious public health threat;
- in the case of a communicable disease, require any person to be isolated from other persons until a medical health officer is convinced that isolation is no longer necessary to decrease or eliminate the transmission of the disease.¹¹³

This *Act* gives the government the right to detain a person “deemed to be endangering the lives, safety or health of the public as a result of a communicable disease.”¹¹⁴

In March 2020, the Saskatchewan government declared a state of emergency and introduced a series of measures to curb the spread of COVID-19. These included limiting public gatherings to 25 people with physical distancing, closing nightclubs, bars, and recreational facilities, and suspending in-person classes in schools. Visitors to healthcare facilities were restricted, and all travelers returning to Canada were required to self-isolate for 14 days. Additionally, restaurants, cafes, and personal services were either closed or restricted to specific operations, while daycare facilities were limited to eight children with strict care guidelines.¹¹⁵ These temporary measures were implemented to help reduce the transmission of the virus. However, governments faced criticism for prioritizing public health goals at the expense of civil liberties.

¹¹³ Gerald D. Chipeur.

¹¹⁴ Gerald D. Chipeur.

¹¹⁵ COVID-19: Additional Measures to Protect Saskatchewan Residents (20 March 2020), online: Saskatchewan Government < <https://www.saskatchewan.ca/government/news-and-media/2020/march/20/covid-19-update-march-20>>.

VII- Restrictions on Liberties During the COVID-19 Pandemic

Public health measures implemented by governments worldwide to combat COVID-19, significantly limited many civil liberties. Restrictions on public and private gatherings affected the freedom of peaceful assembly and association. Similarly, orders to restrict religious services limited the freedom of conscience and religion. Also, stay-at-home orders restricted freedom of movement.

A- Freedom of Peaceful Assembly

Peaceful assembly is a fundamental human right. Protests allow individuals to express their views and offer an important way of advocating for and defending other fundamental rights.¹¹⁶

The Good Law Project stated:

The very purpose of the right to protest is to enable people to register their profound unhappiness or strength of feeling in a way which compels the state to respond.¹¹⁷

Governments are usually reluctant to restrict the right to peaceful assembly, as prohibitions are difficult to justify. However, this changed during the pandemic, when restrictions on in-person gatherings became essential to slow the spread of the virus.¹¹⁸

The CIVICUS Monitor stated:

¹¹⁶ The Right of Peaceful Assembly, online: United Nations Human Rights Office of the High Commissioner < [¹¹⁷ They want to silence dissent \(10 March 2021\), online: Good Law Project < \[¹¹⁸ Kristopher Kinsinger and Brian Bird, “The Freedoms We Cannot Afford to Ignore During COVID-19” \\(29 June 2020\\), online: Centre for Constitutional Studies < \\[Alberta Civil Liberties Research Centre\\]\\(https://www.constitutionalstudies.ca/2020/06/the-freedoms-we-cannot-afford-to-ignore-during-covid-19/> \\[Kristopher Kinsinger\\].</p></div><div data-bbox=\\)\]\(https://goodlawproject.org/news/they-want-to-silence-dissent/> .</p></div><div data-bbox=\)](https://www.ohchr.org/en/peaceful-assembly#:~:text=This%20document%2C%20adopted%20on%2027%20July%202020%2C%20gives,as%20well%20as%20providing%20guidance%20for%20protest%20organizers.> .</p></div><div data-bbox=)

The fundamental right to peaceful assembly continues to be under attack. Our data shows that the detention of protesters and the excessive use of force against them are the most common tactics being used by governing authorities to restrict the right to peaceful assembly. This is not a new trend; it was consistently seen during 2019, but what changed in 2020 was that multiple governments used the pandemic as an excuse to restrict democratic activities and challenge civic freedoms.¹¹⁹

It is important to note that these measures did not prevent people from protesting to voice their concerns about COVID-19 restrictions, as they sought to protect other fundamental rights.¹²⁰

B- Freedom of Religion

Limitations on public gatherings also affected freedom of religion, leading many religious groups to express concerns and demand an end to these restrictions.¹²¹

In Canada, all provinces-imposed restrictions on religious services, with hefty fines for those who violated the rules.¹²²

According to the Centre for Constitutional Studies:

Religious gatherings are a clear example of the constitutional tightrope that governments are walking. Never before in modern Canadian history has the state shut down religious assemblies *en masse*. Though the situation varies from province to province, religious groups have until recently been largely absent from the public discourse as policymakers implement plans to reopen society, even though they are especially prone to the ongoing strain of these policies.

To their credit, a large number of churches, mosques, synagogues and other places of worship have successfully transitioned to live-streamed virtual services since the start of the pandemic. But physical gatherings are how these

¹¹⁹ COVID-19: A Pretext For Expression, online: Civicus Monitor < <https://findings2020.monitor.civicus.org/downward-spiral.html#covid-19>>.

¹²⁰ Freedom of Peaceful Assembly and the COVID-19 Pandemic: A Snapshot of Protests and Restrictions, online: Civicus Monitor < <https://monitor.civicus.org/covid/freedom-of-peaceful-assembly/>> [Civicus Freedom of Expression].

¹²¹ Colleen M. Flood at 7.

¹²² Josh Dehaas, “Are bans on religious gatherings constitutional?” (13 April 2020), online: Canadian Constitution Foundation < <https://theccf.ca/are-bans-on-religious-gatherings-constitutional/>> [Josh Dehaas].

communities attend to the collective spiritual needs of their members. For certain faith traditions, physical presence is required in order to celebrate rites, sacraments, and ceremonies. In these cases, there is no substitute for being together in person.¹²³

Maxime St-Hilaire argued that restricting freedom of religion “was easy for a government to justify under section 1 of the *Charter*, which allows governments to pass laws that limit rights and freedoms as long as those limits are reasonable and demonstrably justified in a free and democratic society.”¹²⁴

C- Freedom of Movement

To address the COVID-19 outbreak, governments worldwide implemented strict measures and curtailed their citizen’s freedom of movement. Borders between countries, states, provinces, counties, and cities were closed. Lockdowns and quarantines restricted non-essential movement outside the home and people were required to stay home, refraining from going to work or school.¹²⁵

Freedom of movement has long been recognized as a fundamental right. In 1959, Hannah Arendt stated:

Of all the specific liberties which may come into our minds when we hear the word ‘freedom,’ freedom of movement is historically the oldest and also the most elementary. Being able to depart for where we will is the prototypal gesture of being free, as limitation of freedom of movement has from time immemorial been the precondition for enslavement.¹²⁶

¹²³ Kristopher Kinsinger.

¹²⁴ Josh Dehaas.

¹²⁵ Jim Nickel, “The Right to Freedom of Movement and the COVID-19 Pandemic” (6 April 2020), online: < https://lawprofessors.typepad.com/human_rights/2020/04/the-right-to-freedom-of-movement-and-the-covid-19-pandemic.html>.

¹²⁶ Hermann Pfütze, “Freedom of Movement”, online: < <http://www.wolfgang-heuer.com/denkraum/eng/freedom.htm>>.

Freedom of movement is a fundamental human right protected by domestic laws and international treaties. In Canada, section 6 of the *Charter* gives Canadian citizens and permanent residents the right to travel freely within the country, as well as to leave and re-enter Canada at their discretion.

The *Universal Declaration of Human Rights*¹²⁷ (article 13) and the *ICCPR* (article 12) guarantee the right of everyone to leave any country, including their own, and to return to it. They also protect the right of everyone lawfully in a country to move freely within its territory.

However, article 12(3) of the *ICCPR* allows for restrictions on the right to freedom of movement in cases of public health and national emergency. These restrictions must be lawful, necessary, and proportionate. According to Human Rights Watch, “restrictions such as mandatory quarantine or isolation of symptomatic people must, at a minimum, be carried out in accordance with the law.”¹²⁸

D- Freedom of Expression

The spread of misinformation and conspiracy theories about COVID-19 on social media prompted some governments to consider enacting laws to punish those who spread false information. However, these potential measures raised concerns about infringing on the right to freedom of expression, as they could restrict individuals' ability to share opinions- even if those opinions were incorrect or misleading.¹²⁹

¹²⁷ Universal Declaration of Human Rights, G.A. Res. 217 A(III), U.N. Doc A/810 (adopted 10 December 1948), online: United Nations <<https://www.un.org/en/about-us/universal-declaration-of-human-rights>>.

¹²⁸ Human Rights Dimensions of COVID-19 Response (19 March 2020), online: Human Rights Watch <<https://www.hrw.org/news/2020/03/19/human-rights-dimensions-covid-19-response>>.

¹²⁹ Colleen M. Flood at 7.

According to the UN Human Rights Council:

Many Governments are seeking to restrict freedom of expression in the areas of access to information held by public authorities, reporting on public health data, the sharing of information online and offline, and other areas. On the assumption (for the moment) that any given restriction is aimed at protecting public health, which is permitted under article 19 (3), it must still meet the basic conditions of legality and necessity.¹³⁰

E- Liberty Rights

Public health measures implemented by governments restricted social gatherings and services and required mandatory isolation. Financial penalties were imposed on individuals who failed to isolate when required.¹³¹

In Canada, mandatory isolation and quarantine orders could be challenged under section 7 of the *Charter*. This section protects an individual's autonomy and personal legal rights from government interference. A person cannot be deprived of these rights unless it is done in accordance with the principles of fundamental justice. If the government interferes with a person's ability to make fundamental personal choices, the right to liberty under section 7 may be engaged. Liberty protects the right to "make inherently private choices free from state interference."¹³²

Further, mandatory isolation and quarantine interfere with an individual's ability to leave their home and participate in activities such as shopping or visiting family members.¹³³

¹³⁰ Special Rapporteur at 5.

¹³¹ Emmett Macfarlane, Public Policy and Constitutional Rights in Times of Crisis (7 April 2020), online: Canadian Journal of Political Science <<https://www.cambridge.org/core/journals/canadian-journal-of-political-science-revue-canadienne-de-science-politique/article/public-policy-and-constitutional-rights-in-times-of-crisis/880692758C27EA43E45ED4BFE539BD66>> [Emmett Macfarlane].

¹³² Teresa Holmes, "Caging the Virus: Is Mandatory Isolation Constitutional?" (9 July 2020), online: Centre for Constitutional Studies <<https://www.constitutionalstudies.ca/2020/07/caging-the-virus-is-mandatory-isolation-constitutional/>>.

¹³³ Emmett Macfarlane.

F- Privacy Rights

Contact tracing apps, widely used in many countries to combat COVID-19, raised significant privacy concerns. These apps aimed to identify individuals who had been in close contact with someone who tested positive, notifying them and instructing them to self-isolate.¹³⁴ While they were an important tool in slowing the spread of the virus, concerns arose over data collection, potential government surveillance, and the protection of personal information. Balancing public health benefits with privacy rights became a key issue in their implementation.

Kelly Servick stated:

... there is no consensus as to how any such apps should use, disclose, and retain individuals' COVID-19 information. Nor do we know what governance mechanisms would be implemented for the contact tracing programs that such apps would enable.¹³⁵

In Canada, the *Charter* does not explicitly protect the right to privacy. However, privacy rights under the *Charter* have been developed by the Supreme Court in the criminal context, particularly regarding the right to be secure against unreasonable search or seizure. The use of tracking and contact tracing, however, raises constitutional questions regarding the extent to which these measures might infringe upon privacy protections.¹³⁶

VIII- Citizens' Reaction to COVID-19 Restrictions

Civil liberties are fundamental to democratic societies, but during crises such as wars, natural disasters, and pandemics, governments often impose restrictions in the interest of public

¹³⁴ Sujit Choudhry.

¹³⁵ Kelly Servick, "Cellphone tracking could help stem the spread of coronavirus. Is privacy the price?" (22 March 2020), online: Science < <https://www.science.org/content/article/cellphone-tracking-could-help-stem-spread-coronavirus-privacy-price>>.

¹³⁶ Sujit Choudhry.

safety. The extent to which citizens are willing to accept policies that limit their freedoms depends on factors such as perceived threat levels, trust in government, and the effectiveness of the measures. But the real question is: Are citizens willing to support policies that violate their civil liberties in times of crisis?

Amnesty International noted:

Too often, in times of crisis, human rights are dismissed by governments as being irrelevant and unnecessary at best, or unhelpful barriers to an effective response at worst. That is certainly so with the current COVID crisis. Governments face enormous challenges and need to make decisions rapidly. The public health risk is dramatic and the economic fall-out is spiralling exponentially. Understandably fearful and facing an information overload, people are less likely to second-guess government action and are inclined to give greater latitude to measures that significantly restrict their rights.¹³⁷

To study how citizens viewed the trade-offs between civil liberties and government-imposed restrictions during the COVID-19 crisis, a team of researchers surveyed more than 400,000 people in 15 countries: Australia, Canada, China, France, Germany, India, Italy, Japan, the Netherlands, Singapore, Spain, South Korea, Sweden, the UK, and the US.¹³⁸

The survey concluded that “a large fraction of people around the world reported being willing to sacrifice their own rights and freedoms in order to improve public health conditions during the COVID-19 pandemic.”¹³⁹ The survey also found that “more than 80% of respondents reported being willing to sacrifice at least some of their own rights during a crisis like the COVID-19 one.”¹⁴⁰ The survey added that “people reported being least willing to give up their

¹³⁷ A call for human rights oversight of government responses to the COVID-19 pandemic, online: Amnesty International < https://amnesty.ca/wp-content/uploads/2021/08/COVID-and-human-rights-oversight-public-statement-FINAL_0.pdf > at 1 [Amnesty International].

¹³⁸ Alson 2020.

¹³⁹ Alson 2020.

¹⁴⁰ Alson 2020.

right to privacy or activities central to democracy, and most willing to endure personal restrictions or economic losses.”¹⁴¹

According to the survey, around 40% of respondents in the US were unwilling to give up their own rights during a crisis. In contrast, only about 17% of respondents in China expressed the same reluctance. A small number of respondents in the Netherlands, Germany, France, the United Kingdom, Spain, Italy, India, Canada, and Australia were unwilling to sacrifice their rights. However, a larger percentage of respondents in Sweden and Japan were unwilling to make such sacrifices.¹⁴²

The survey also revealed that individuals at a higher risk of contacting the virus were more willing to give up their civil liberties for public health safety. These individuals were generally more inclined to accept restrictions on their rights.¹⁴³

Stefanie Stantcheva, who was on the research team, stated:

Overall, recent surveys suggest that most people around the world are indeed willing to sacrifice at least some of their civil liberties in the name of public health. Even in liberal-democratic strongholds, most people do not view civil liberties as “sacred values” that must be upheld in all circumstances. Among the majority who accept trade-offs, an individual’s willingness to accept fewer civil liberties correlates strongly with her own perceived health risks. Personal circumstances thus appear to play a significant role in the formation of attitudes toward democratic rights and freedoms in times of crisis.¹⁴⁴

Despite their restrictive nature, government measures such as lockdowns, curfews, and mobile phone surveillance were largely accepted by the public. This indicates that during crises,

¹⁴¹ Alson 2020.

¹⁴² Marcella Alsan et al. “Civil Liberties in Times of Crisis” (October 2020, Revised July 2021), online: < https://www.nber.org/system/files/working_papers/w27972/w27972.pdf > at 12-13.

¹⁴³ Alson 2020.

¹⁴⁴ Stephanie Stantcheva.

people are generally willing to forgo certain freedoms and rights to safeguard their health and protect others from harm.¹⁴⁵

As Pavlos Vasilopoulos et al. put it :

Trust toward the government has been identified as a key factor affecting the willingness to restrict civil liberties. This is especially true in times of threat ... citizens who trust the government may be more willing to sacrifice their civil liberties in order to protect themselves and others from harm. This is because these individuals are more optimistic of the good-intentioned and benevolent nature of the civil-restricting measures as well as more confident that their liberties will be restored once the threat ends.¹⁴⁶

It is important to note that people's willingness to sacrifice their rights and freedoms tends to decline over time, especially when it comes to long-term public health policies. This raises concerns that governments and political leaders may use crises as an excuse to suspend civil liberties permanently.¹⁴⁷

IX- Threat to Civil Liberties

When facing a national threat, governments often adopt policies to protect the public interest. However, research indicates that civil rights declined in nearly every country in the world during the Covid-19 pandemic, with many governments using the crisis as an excuse to restrict rights and freedoms.¹⁴⁸ In some cases, leaders exploited the crisis for political gain,

¹⁴⁵ Pavlos Vasilopoulos, Fragility.

¹⁴⁶ Pavlos Vasilopoulos et al., "Emotions, governmental trust and support for the restriction of civil liberties during the covid-19 pandemic", online: European Journal of Political Research (2022) <<https://ejpr.onlinelibrary.wiley.com/doi/epdf/10.1111/1475-6765.12513>> at 6 [Pavlos Vasilopoulos, Emotions].

¹⁴⁷ Stephanie Stantcheva.

¹⁴⁸ Country Rating Changes, online: Civicus Monitor <<https://findings2020.monitor.civicus.org/rating-changes.html>> [Civicus Country Rating Changes].

undermining public health by implementing measures that went beyond what was necessary or proportionate.¹⁴⁹

A- Measures Taken Worldwide

Restrictions imposed during public health crises should be carefully balanced with civil liberties. While governments have a responsibility to protect public health, limitations on individual freedoms must be necessary, proportionate, and justified. Civil liberties should not be curtailed when that can be avoided.¹⁵⁰

However, during COVID-19, many governments struggled to strike a balance between respecting civil liberties and containing the spread of a highly contagious and deadly virus.

In its report “Democracy under Lockdown,” Freedom House stated:

The research strongly supports the hypothesis that the COVID-19 pandemic is exacerbating the 14 years of consecutive decline in freedom. Not only has democracy weakened in 80 countries, but the problem is particularly acute in struggling democracies and highly repressive states—in other words, settings that already had weak safeguards against abuse of power are suffering the most. The findings illustrate the breadth and depth of the assault on democracy.¹⁵¹

As mentioned earlier, under international human rights law, while limitations on rights are allowed during a health crisis, these limitations must be “necessary, proportionate, non-discriminatory and in place for a limited period of time.”¹⁵²

¹⁴⁹ Marcin Orzechowski at 145.

¹⁵⁰ Peter D. Jacobson, “COVID-19 Orders Respect Civil Liberties and Do Not Intrude on Personal Freedoms” (18 May 2021), online: The Network for Public Health Law <<https://www.networkforphl.org/news-insights/covid-19-orders-respect-civil-liberties-and-do-not-intrude-on-personal-freedoms/>>.

¹⁵¹ Sarah Repucci and Amy Slipowitz at 3.

¹⁵² Civicus Freedom of Expression.

The WHO noted:

Enjoyment of individual human rights and civil liberties during pandemic emergency situations may have to be limited in the public interest; however, these measures need to be necessary, reasonable, proportional, equitable, non-discriminatory, and in full compliance with national and international laws. A concern remains that governmental responses to the current pandemic may result in measures that will reach deeper than necessary and will outlast the Covid-19 crisis.¹⁵³

In a statement published in March 2020, the UN Office of the High Commissioner on Human Rights encouraged countries to deal with the pandemic responsibly, fearing human rights violations while implementing measures to contain the virus¹⁵⁴

According to CIVICUS's 2020 report entitled People Power Under Attack, some governments worldwide used the pandemic as an excuse to impose harsher limitations on rights and freedoms.¹⁵⁵

In many countries, governments seized the opportunity to grant themselves unnecessary extraordinary powers under the guise of safeguarding public health. These powers were often used to crack down on political opponents, interfere with the justice system, and to undermine legislative processes.¹⁵⁶ For example, Hungarian Prime Minister Viktor Orban used the crisis to expand his emergency powers, a move mirrored in Poland, Slovenia, and Serbia.¹⁵⁷

During the pandemic, independent observation bodies, such as the Hungarian Helsinki Committee or Amnesty International Hungary, raised concerns that some restrictions were used for political gains. Extraordinary emergency powers and limitations of media freedoms in

¹⁵³ Marcin Orzechowski at 145-146.

¹⁵⁴ Sahar Vardi, "Are governments violating human rights and civil liberties in coronavirus response?" (10 September 2020), online: Melbourne Activist Legal Support < <https://mals.au/2020/04/01/are-governments-violating-human-rights-and-civil-liberties-in-coronavirus-response/>>.

¹⁵⁵ People Power under Attack 2020, online: Civicus Monitor < <https://findings2020.monitor.civicus.org/>>.

¹⁵⁶ Sarah Repucci and Amy Slipowitz at 3.

¹⁵⁷ Civil Liberties in a Lockdown at 8.

Hungary and Poland put these two countries on the list of those where government actions jeopardized democratic institutions.¹⁵⁸

Regarding the measures imposed during the pandemic, a group of UN experts (UNHR 2020) stated that “to prevent such excessive powers to become hardwired into legal and political systems, restrictions should be narrowly tailored and should be the least intrusive means to protect public health.”¹⁵⁹

The UN experts made it clear that emergency measures taken to halt the spread of the COVID-19 virus should not be used as a justification to target specific groups or individuals, including human rights defenders. “Restrictions taken to respond to the virus must be motivated by legitimate public health goals and should not be used simply to quash dissent” the experts asserted.¹⁶⁰

Moreover, according to *The Economist*, while governments used emergency powers to deal with the pandemic, some took advantage of the global focus on public health to abuse these powers and overlook human rights.¹⁶¹

Amnesty International stated:

Respect for human rights is essential in times of crisis. Human rights principles provide a valuable framework for government action and establish crucial safeguards against abuses. Yet respect for human rights is particularly vulnerable – tenuous at best – in times of crisis. That holds true whether the crisis is related to national security, natural disasters or a public health emergency such as the COVID-19 pandemic. It is, therefore, a vital time to ensure robust human rights oversight: to encourage strong human rights measures are adopted by governments, and to guard against intentional or unintended human rights violations.¹⁶²

¹⁵⁸ Marcin Orzechowski at 147.

¹⁵⁹ Civil Liberties in a Lockdown at 6-7.

¹⁶⁰ COVID-19: States should not abuse emergency measures to suppress human rights – UN experts (16 March 2020), online: United Nations < <https://www.ohchr.org/en/press-releases/2020/03/covid-19-states-should-not-abuse-emergency-measures-suppress-human-rights-un?LangID=E&NewsID=25722>>.

¹⁶¹ Stephanie Stantcheva.

¹⁶² Amnesty International at 1.

Using COVID-19 as a pretext, governments restricted the right to peaceful assembly by detaining protesters and using excessive force against them. Censorship, attacks on journalists, and the harassment and intimidation of human rights defenders also took place.¹⁶³

The implementation of lockdowns and surveillance measures during the pandemic led to severe restrictions on freedom of movement. In 28 countries, governments used contact tracing apps, while 35 other nations relied on platforms like Google and Facebook for tracking. While these measures, intended to protect public health, raised significant concerns about privacy and government control over citizens' movements.¹⁶⁴

B- Measures Taken in Canada

As mentioned earlier, the federal government imposed a temporary order under the *Aeronautics Act*, requiring the screening of Canadian citizens returning to Canada, and preventing those exhibiting COVID-19 symptoms from boarding a plane.

This measure may raise constitutional concerns under section 6(1) of the *Charter*, which guarantees the right of every Canadian to enter Canada. The key question is whether the federal government's actions, potentially infringing on section 6(1), were justified and necessary. There is a risk of false positives, where individuals without COVID-19 are prevented from boarding, as well as false negatives, where asymptomatic COVID-19 carriers are allowed to board.¹⁶⁵

¹⁶³ Civicus Country Rating Changes.

¹⁶⁴ Pavlos Vasilopoulos, *Emotions at 2*.

¹⁶⁵ Sujit Choudhry.

Additionally, it can also be argued that limitations on social gatherings and stay-at-home orders may have violated section 6(1) of the *Charter*, particularly if these measures were not deemed necessary to effectively stop the virus' spread and protect public health. If the restrictions were disproportionate or overly broad, they could be seen as infringing on Canadians' right to move freely within the country.

On February 14, 2022, the Canadian federal government, for the first time, invoked the *Emergencies Act* by issuing a Proclamation of a public order emergency aimed at ending disruptions, blockades, and the occupation of Ottawa.¹⁶⁶ This proclamation was followed by an Emergency Economic Measures Order and Emergency Measures Regulations, granting temporary, additional powers to address the blockades and public assemblies disrupting public order. According to the Department of Justice in Canada, the *Act* was invoked to provide the federal government with the necessary powers to make orders and/or regulations deemed on reasonable grounds, necessary to address the blockades and public assemblies.¹⁶⁷

In February 2022, the Canadian Frontline Nurses and the Canadian Civil Liberties Association (CCLA), launched a judicial review challenging the invocation of the *Emergencies Act*. The CCLA argued that the high standard required to invoke the “massive powers” of the *Act* had not been met. In their view, “many ordinary laws and police powers allow governments to respond to difficult and complex law enforcement situations.”¹⁶⁸ The CCLA contended that the federal emergency powers were not needed to manage the border blockades and protests

¹⁶⁶ Myrna El Fakhry Tuttle, “Federal Court Rules that the Government’s Invocation of the Emergencies Act on February 14, 2022, was Unreasonable and not Justified” (February 2024), online: Alberta Civil Liberties Research Centre <<https://www.aclrc.com/blog/federal-court-rules-that-the-governments-invocation-of-the-emergencies-act-on-february-14-2022-was-unreasonable-and-not-justified/>> [Myrna El Fakhry Tuttle 2024].

¹⁶⁷ Canada’s Emergencies Act, online: Government of Canada <<https://www.canada.ca/en/departement-justice/news/2022/02/canadas-emergencies-act.html>>.

¹⁶⁸ Canadian Civil Liberties Association, "Emergencies Act Challenge: CCLA in Court Today to Defend Historic Victory" (4 February 2025), online: <<https://ccla.org/fundamental-freedoms/emergencies-act-challenge-ccla-in-court-today-to-defend-historic-victory/>> [Canadian Civil Liberties Association].

occurring across the country. They stated: “after invoking the *Act*, the federal Cabinet had the power to create laws (emergency orders) without the usual checks and balances of a democratic system such as transparency, accountability, and public participation.”¹⁶⁹

In January 2024, Justice Mosley of the Federal Court ruled that the government was unreasonable and not justified and violated certain rights under the *Charter*, when it invoked the *Emergencies Act* on February 14, 2022, in order to deal with protests in various parts of the country.¹⁷⁰

Justice Mosley ruled that the Regulations violated section 2(b) by overly restricting freedom of expression—criminalizing protest participation even without disruptive behavior—and violated section 8 by allowing unreasonable seizures, such as freezing financial accounts and disclosing private information.¹⁷¹ Justice Mosley found no breaches of the rights to peaceful assembly (section 2(c)), association (section 2(d)), or personal security (section 7), and concluded that these infringements were not minimally impairing, thus not justified under section 1 of the Charter.¹⁷²

Following the decision, the federal government expressed its intention to appeal the Federal Court's ruling. As of the preparation of this report, the case is before the Federal Court of Appeal.¹⁷³

¹⁶⁹ Myrna El Fakhry Tuttle and Linda McKay-Panos.

¹⁷⁰ Myrna El Fakhry Tuttle 2024.

¹⁷¹ *Canadian Frontline Nurses v. Canada (Attorney General)*, 2024 FC 42, at para 309, 341.

¹⁷² Myrna El Fakhry Tuttle 2024.

¹⁷³ Canadian Civil Liberties Association.

X- Recommendations

While emergency measures implemented by governments during a pandemic may protect public health safety and help stop the spread of the virus, the Alberta Civil Liberties Research Centre recommends the following.

1. Measures taken to restrict civil liberties during the pandemic should align with international human rights standards.
2. These measures should be necessary, proportionate and applied for a limited time only.
3. The rights to the freedom of peaceful assembly, freedom of movement, freedom of expression and freedom of religion should be protected during a public health crisis, in accordance with international law.
4. Emergency legislation should be regularly reviewed to ensure it remains necessary and proportionate. It should be revoked when it no longer meets these criteria.
5. Limitations on civil liberties should be lifted, and individuals should regain full enjoyment of their rights once the public health emergency ends.
6. Governments should aim to adopt measures that do not infringe on civil liberties.
7. If governments determine they can control the virus without restricting civil liberties, they should adjust their policies, accordingly, striving to balance public health needs with the protection of fundamental rights.
8. Pandemics should not be used as a pretext to undermine rights and freedoms.
9. Measures taken during a public health emergency should never be normalized; they should end once the emergency is contained.
10. Governments should be prepared to respond to future pandemics while upholding democratic norms and protecting civil liberties.

Bibliography

Legislation

Aeronautics Act, RSC 1985, c A-2.

Canadian Charter of Rights and Freedoms, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act* (UK), 1982, c 11.

Emergency Economic Measures Order SOR/2022-22.

Emergency Management and Civil Protection Act, RSO 1990, c E.9.

Emergency Measures Regulations SOR/2022.

Emergency Program Act, RSBC 1996, c 111.

Emergencies Act, RSC 1985, c 22.

Enforcement Of Covid-19 Measures O Reg 8/21

Health Protection and Promotion Act, RSO 1990, c H.7, at s 2.

Public Health Act, RSA 2000, c P-37.

Public Health Act, SBC 2008, c 28.

Quarantine Act, SC 2005, c 20.

Stay-At-Home Order O Reg 265/21.

The Public Health Act, 1994, SS 1994, c P-37.1.

Jurisprudence

Canadian Frontline Nurses v Canada (Attorney General), 2024 FC 42.

R v Oakes, [1986] 1 SCR 103.

International Instruments and Documents

American Association for the International Commission of Jurists, Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights (1985), online: <<https://www.icj.org/wp-content/uploads/1984/07/Siracusa-principles-ICCPR-legal-submission-1985-eng.pdf>>.

International Covenant on Civil and Political Rights (ICCPR). Adopted by the General Assembly of the United Nations on 16 December 1966, online: <<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>>.

International Covenant on Economic, Social and Cultural Rights (ICESCR), Adopted by the General Assembly of the United Nations on 16 December 1966, online: <<https://www.refworld.org/docid/3ae6b36c0.html>>.

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (15 June-3 July 2020), A/HRC/44/49 – OHCHR, online: <<https://www.ohchr.org/en/documents/thematic-reports/ahrc4449-disease-pandemics-and-freedom-opinion-and-expression-report>>.

Universal Declaration of Human Rights, G.A. Res. 217 A(III), U.N. Doc A/810 (adopted 10 December 1948), online: United Nations <<https://www.un.org/en/about-us/universal-declaration-of-human-rights>>.

World Health Organization, Ethical considerations in developing a public health response to pandemic influenza, online: <https://apps.who.int/iris/bitstream/handle/10665/70006/WHO_CDS_EPR_GIP_2007.2_eng.pdf>.

Secondary Materials: Books & Articles

Alsan, Marcella et al., “Civil Liberties during the COVID-19 pandemic” (13 November 2020), online: <<https://voxeu.org/article/civil-liberties-during-covid-19-pandemic>>.

Alsan, Marcella et al., “Civil Liberties in Times of Crisis” (October 2020, revised July 2021), online: <https://www.nber.org/system/files/working_papers/w27972/w27972.pdf>.

Amat, Francesc et al., “Pandemics meet democracy: Experimental evidence from the COVID-19 crisis in Spain” (5 April 2020), online: <https://osf.io/preprints/socarxiv/dkusw_v1/>.

Block, Eric S., Adam Goldenberg and Grace Waschuk, “COVID-19: Can they do that? Part IV: Alberta’s Public Health Act and Emergency Management Act” (19 March 2020), online: <<https://www.mccarthy.ca/en/insights/articles/covid-19-can-they-do-part-iv-albertas-public-health-act-and-emergency-management-act>>.

Canadian Press, “Charged with ignoring COVID-19 health rules: Alberta church shut down, fenced off” (7 April 2021), online: <<https://www.sudbury.com/beyond-local/charged-with-ignoring-covid-19-health-rules-alberta-church-shut-down-fenced-off-3611797>>

Carter, Rose M. and Dina I. Awad, “The use of extraordinary government powers to protect public health in light of COVID-19 in Canada” (26 March 2020), online: Dentons <<https://www.canadaregulatoryreview.com/the-use-of-extraordinary-government-powers-to-protect-public-health-in-light-of-covid-19-in-canada/>>

CBC News, “The convoy crisis in Ottawa: A timeline of key events” (17 February 2022), online: <<https://www.cbc.ca/news/canada/ottawa/timeline-of-convoy-protest-in-ottawa-1.6351432>>.

Chipeur, Gerald D. et al., “COVID-19: The power of the government in a public health emergency” (20 March 2020), online: Miller Thomson <<https://www.millerthomson.com/en/insights/health/covid-19-the-power-of-the-government-in-a-public-health-emergency/>>.

Choudhry, Sujit, “COVID-19 & the Canadian Constitution” (16 April 2020), online: <<https://sujitchoudhry.medium.com/covid-19-the-canadian-constitution-52221ef31dc3>>.

Civil Liberties in a Lockdown: The Case of COVID-19, online: <<https://philpapers.org/archive/DIRCLI-2.pdf>>

Daher, Nadine, “Last Week, the World Health Organization Declared Coronavirus a Global Health Emergency. What Does That Mean?” (5 February 2020), online: Smithsonian Magazine <<https://www.smithsonianmag.com/smart-news/last-week-world-health-organization-declared-coronavirus-global-health-emergency-what-does-mean-180974128/>>.

Dehaas, Josh, “Are bans on religious gatherings constitutional?” (13 April 2020), online: Canadian Constitution Foundation <<https://theccf.ca/are-bans-on-religious-gatherings-constitutional/>>.

Dichupa, Javier, “How COVID-19 is Eroding Civil Liberties and Damaging Society”, online: Europe Canada Network <<https://www.eucanet.org/how-covid-19-is-eroding-civil-liberties-and-damaging-society/>>.

Douglas, Elliot and Rebecca Staudenmaier, “What constitutes an international public health emergency?” (30 January 2020), online: Deutsche Welle (DW) <<https://www.dw.com/en/what-constitutes-an-international-public-health-emergency/a-52114823>>.

El Fakhry Tuttle, Myrna, “Federal Court Rules that the Government’s Invocation of the Emergencies Act on February 14, 2022, was Unreasonable and not Justified” (February 2024), online: Alberta Civil Liberties Research Centre <<https://www.aclrc.com/blog/federal-court-rules-that-the-governments-invocation-of-the-emergencies-act-on-february-14-2022-was-unreasonable-and-not-justified/>>.

El Fakhry Tuttle, Myrna, “Freedom of Movement during COVID-19” (1 September 2020), online: LawNow <<https://www.lawnow.org/freedom-of-movement-during-covid-19/>>.

El Fakhry Tuttle, Myrna and Linda McKay-Panos, “Canada’s Extraordinary Use of the Emergencies Act Poses Human Rights Concerns” (April 2022), online: Brief – The Law Society of Western Australia <<https://issuu.com/lswa/docs/brief-apr-2022/s/15460084>>.

Flood, Colleen M et al., “Reconciling civil liberties and public health in the response to COVID-19” (September 2020), online: <https://rsc-src.ca/sites/default/files/CL%20PB_EN.pdf>.

Gall, Gerald, Walter Tarnopolsky, “Civil Liberties” (December 16 2013) online: The Canadian Encyclopedia <<https://www.thecanadianencyclopedia.ca/en/article/civil-liberties#:~:text=Civil%20liberties%2C%20generally%2C%20freedoms%20to,not%20obliged%20to%20publish%20them>>.

Gregoire, Paul, “COVID-19 restrictions and the Civil Liberties – Human Rights quagmire” (6 October 2021), online: Mondaq <<https://www.mondaq.com/australia/human-rights/1119122/covid-19-restrictions-and-the-civil-liberties--human-rights-quagmire>>.

Hawthorn, Tom, “Quarantine Act” (27 May 2020), online: The Canadian Encyclopedia <<https://www.thecanadianencyclopedia.ca/en/article/quarantine-act>>.

Hayek, Friedrich, *Law, Legislation and Liberty*, vol 3: The political order of a free people, (University of Chicago Press, 1981).

Hickman, Tom, Emma Dixon and Rachel Jones, “Coronavirus and Civil Liberties in the UK” (29 September 2020), online: Judicial Review <<https://www.tandfonline.com/doi/full/10.1080/10854681.2020.1773133>>.

Holmes, Oliver, Justin McCurry and Micahel Safi, “Coronavirus mass surveillance could be here to stay, experts say” (18 June 2020), online: The Guardian

<https://www.theguardian.com/world/2020/jun/18/coronavirus-mass-surveillance-could-be-here-to-stay-tracking>>.

Holmes, Teresa, “Caging the Virus: Is Mandatory Isolation Constitutional?” (9 July 2020), online: Centre for Constitutional Studies
<https://www.constitutionalstudies.ca/2020/07/caging-the-virus-is-mandatory-isolation-constitutional/>>.

Humphries, Stephen, “To fight pandemic, people gave up liberties. Will they get them back?” (25 March 2021), online: The Christian Science Monitor
<https://www.csmonitor.com/USA/Justice/2021/0325/To-fight-pandemic-people-gave-up-liberties.-Will-they-get-them-back>>.

Jacobson, Peter D., “COVID-19 Orders Respect Civil Liberties and Do Not Intrude on Personal Freedoms” (18 May 2021), online: The Network for Public Health Law
<https://www.networkforphl.org/news-insights/covid-19-orders-respect-civil-liberties-and-do-not-intrude-on-personal-freedoms/>>.

Kinsinger, Kristopher and Brian Bird, “The Freedoms We Cannot Afford to Ignore During COVID-19” (29 June 2020), online: Centre for Constitutional Studies
<https://www.constitutionalstudies.ca/2020/06/the-freedoms-we-cannot-afford-to-ignore-during-covid-19/>>.

Krajewska, Ewa, Veronica Sjolín and Teagan Markin, “Making Masks Mandatory Is Not A Civil Liberties Issue” (26 June 2020), online: Mondaq
<https://www.mondaq.com/canada/operational-impacts-and-strategy/958426/making-masks-mandatory-is-not-a-civil-liberties-issue>>.

Lindsay, Bethany, “B.C. brings in sweeping new measures to control COVID-19, including mandatory masks” (19 November 2020), online: CBC News
<https://www.cbc.ca/news/canada/british-columbia/b-c-brings-in-sweeping-new-measures-to-control-covid-19-including-mandatory-masks-1.5808617>>.

Macfarlane, Emmett, Public Policy and Constitutional Rights in Times of Crisis (7 April 2020), online: Canadian Journal of Political Science
<https://www.cambridge.org/core/journals/canadian-journal-of-political-science-revue-canadienne-de-science-politique/article/public-policy-and-constitutional-rights-in-times-of-crisis/880692758C27EA43E45ED4BFE539BD66>>.

McCurry, Justin, “Test, trace, contain: how South Korea flattened its coronavirus curve” (23 April 2020), online: The Guardian
<https://www.theguardian.com/world/2020/apr/23/test-trace-contain-how-south-korea-flattened-its-coronavirus-curve>>.

Nelson, Christopher et al., “Conceptualizing and Defining Public Health Emergency Preparedness” (April 2007), online: National Library of Medicine <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1854988/>>.

Nickel, Jim, “The Right to Freedom of Movement and the COVID-19 Pandemic” (6 April 2020), online: <https://lawprofessors.typepad.com/human_rights/2020/04/the-right-to-freedom-of-movement-and-the-covid-19-pandemic.html>.

Orzechowski, Marcin, Maximilian Schochow and Florian Steger, “Balancing public health and civil liberties in times of pandemic (18 January 2021), online: National Library of Medicine <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7812333/>>.

Peebles, Lauren, “Can the provincial government infringe on the rights of Albertans? Professor Linda McKay-Panos weighs in” (14 February 2021), online: <<https://thegauntlet.ca/2021/02/14/can-the-provincial-government-infringe-on-the-rights-of-albertans-professor-linda-mckay-panos-weighs-in/>>.

Pfütze, Hermann, “Freedom of Movement”, online: <<http://www.wolfgang-heuer.com/denkraum/eng/freedom.htm>>.

Repucci, Sarah and Amy Slipowitz, “Democracy under Lockdown, The Impact of COVID-19 on the Global Struggle for Freedom” (October 2020), online: Freedom House <https://freedomhouse.org/sites/default/files/2020-10/COVID-19_Special_Report_Final_.pdf>.

Selick, Karen, Derek From and Chris Schafer, “The Evisceration of Liberty in Canadian Courts”, online: <<https://www.fraserinstitute.org/sites/default/files/ch9-evisceration-of-liberty-in-canadian-courts.pdf>>.

Servick, Kelly, “Cellphone tracking could help stem the spread of coronavirus. Is privacy the price?” (22 March 2020), online: Science <<https://www.science.org/content/article/cellphone-tracking-could-help-stem-spread-coronavirus-privacy-price>>.

Sharma, Tanushka and Arunima, “Management of Civil Liberties During Pandemic” (September 2021), online: The Indian Journal of Public Administration <https://www.researchgate.net/publication/354579083_Management_of_Civil_Liberties_During_Pandemic>.

Silva, Diego S. and Maxwell J. Smith, “Commentary: Limiting Rights and Freedoms in the Context of Ebola and Other Public Health Emergencies: How the Principle of Reciprocity Can Enrich the Application of the Siracusa Principles” (2 June 2015), online: Health and Human Rights Journal <<https://www.hhrjournal.org/2015/06/commentary-limiting-rights-and-freedoms-in-the-context-of-ebola-and-other-public-health->

[emergencies-how-the-principle-of-reciprocity-can-enrich-the-application-of-the-siracusa-principles/>](#).

Stantcheva, Stephanie, “Civil Liberties in a Pandemic” (30 October 2020), online: Project Syndicate <<https://www.project-syndicate.org/onpoint/public-attitudes-on-civil-liberties-vs-public-health-during-pandemic-by-stefanie-stantcheva-2020-10?barrier=accesspaylog>>.

Studdert, David M., “Disease Control, Civil Liberties, and Mass Testing — Calibrating Restrictions during the Covid-19 Pandemic” (9 July 2020), online: The New England Journal of Medicine <<https://www.nejm.org/doi/full/10.1056/NEJMp2007637>>.

Valiante, Giuseppe, “‘The Charter still applies’: Canadians urged to monitor civil liberties during pandemic” (4 April 2020), online: <<https://everythinggp.com/2020/04/04/the-charter-still-applies-canadians-urged-to-monitor-civil-liberties-during-pandemic/>>.

Vardi, Sahar, “Are governments violating human rights and civil liberties in coronavirus response?” (10 September 2020), online: Melbourne Activist Legal Support <<https://mals.au/2020/04/01/are-governments-violating-human-rights-and-civil-liberties-in-coronavirus-response/>>.

Vasilopoulos, Pavlos, et al., “Emotions, governmental trust and support for the restriction of civil liberties during the covid-19 pandemic” (2022), online: European Journal of Political Research <<https://ejpr.onlinelibrary.wiley.com/doi/epdf/10.1111/1475-6765.12513>>.

Vasilopoulos, Pavlos et al., “The fragility of democratic freedoms in the Covid-19 pandemic”, online: The Loop <<https://theloop.ecpr.eu/the-fragility-of-civil-liberties-during-the-covid-19-pandemic/>>.

Secondary Materials: Government Documents

Government of Canada, Canada’s Emergencies Act, online: <<https://www.canada.ca/en/departement-justice/news/2022/02/canadas-emergencies-act.html>>.

Government of Canada, Orders in Council (14 February 2022), online: <<https://orders-in-council.canada.ca/attachment.php?attach=41560&lang=en>>.

Government of Ontario, Ontario Strengthens Enforcement of Stay-at-Home Order (16 April 2021), online: <<https://news.ontario.ca/en/release/61192/ontario-strengthens-enforcement-of-stay-at-home-order>>.

Ontario Ministry of Health, Enhanced Public Health Measures for COVID-19 (12 March 2020), online:

< <https://www.ctempao.on.ca/resources/Enhanced-Public-Health-Measures-for-COVID-19-2020-03-12.pdf> >

Saskatchewan Government, COVID-19: Additional Measures to Protect Saskatchewan Residents, online: <<https://www.saskatchewan.ca/government/news-and-media/2020/march/20/covid-19-update-march-20>>.

Secondary Materials: Other (Websites)

Amnesty International, A call for human rights oversight of government responses to the COVID 19 pandemic, online: <https://amnesty.ca/wp-content/uploads/2021/08/COVID-and-human-rights-oversight-public-statement-FINAL_0.pdf>.

Australian Government, Department of Health, Restrictions, lockdowns and stay at home orders, online: <<https://www.health.gov.au/health-alerts/covid-19/restrictions-and-lockdowns>>.

Canadian Civil Liberties Association, "Emergencies Act Challenge: CCLA in Court Today to Defend Historic Victory" (4 February 2025), online: <<https://ccla.org/fundamental-freedoms/emergencies-act-challenge-ccla-in-court-today-to-defend-historic-victory/>>.

Canadian Museum of History, Lost Liberties – The War Measures Act, online: <<https://www.historymuseum.ca/teachers-zone/lost-liberties/activities/>>.

Civics Monitor, Country Rating Changes, online: <<https://findings2020.monitor.civics.org/rating-changes.html>>.

Civics Monitor, COVID 19: A Pretext For Expression, online: <<https://findings2020.monitor.civics.org/downward-spiral.html#covid-19>>.

Civics Monitor, Freedom of Peaceful Assembly and the COVID-19 Pandemic: A Snapshot of Protests and Restrictions, online: <<https://monitor.civics.org/covid/freedom-of-peaceful-assembly/>>.

Civics Monitor, People Power under Attack 2020, online: <<https://findings2020.monitor.civics.org/>>.

Good Law Project, They want to silence dissent (10 March 2021), online: <<https://goodlawproject.org/news/they-want-to-silence-dissent/>>.

Human Rights Watch, Human Rights Dimensions of COVID 19 Response (19 March 2020), online: <<https://www.hrw.org/news/2020/03/19/human-rights-dimensions-covid-19-response>>.

Hungarian Helsinki Committee, Never ending story? (27 May 2020), online: <<https://helsinki.hu/en/never-ending-story/>>.

McCain Institute, Arizona State University, Covid 19: An Excuse For Repressing Human Rights And Civil Liberties, online: <<https://www.mccaininstitute.org/resources/reports/covid-19-an-excuse-for-repressing-human-rights-and-civil-liberties/>>.

National Library of Medicine, Ethical and Legal Considerations in Mitigating Pandemic Disease: Workshop Summary, online: <<https://www.ncbi.nlm.nih.gov/books/NBK54163/>>.

Pharmaceutical Technology, Coronavirus in the US: COVID-19 outbreak, measures and impact (30 March 2020), online: <<https://www.clinicaltrialsarena.com/features/coronavirus-affected-countries-usa-covid-19-measures-impact-pharma-hotel-tourism-medical/>>.

The Canadian Medical Protective Association, Public health emergencies and catastrophic events (March 2020), online: <<https://www.cmpa-acpm.ca/en/membership/protection-for-members/principles-of-assistance/public-health-emergencies-and-catastrophic-events-the-cmpa-will-help>>.

United Nations, COVID 19: States should not abuse emergency measures to suppress human rights – UN experts (16 March 2020), online: <<https://www.ohchr.org/en/press-releases/2020/03/covid-19-states-should-not-abuse-emergency-measures-suppress-human-rights-un?LangID=E&NewsID=25722>>.

United Nations Human Rights Office of the High Commissioner, The Right of Peaceful Assembly, online: <<https://www.ohchr.org/en/peaceful-assembly#:~:text=This%20document%2C%20adopted%20on%2027%20July%202020%2C%20gives,as%20well%20as%20providing%20guidance%20for%20protest%20organizers>>.

World Health Organization, COVID 19 Public Health Emergency of International Concern (PHEIC) Global research and innovation forum (12 February 2020), online: <[https://www.who.int/publications/m/item/covid-19-public-health-emergency-of-international-concern-\(pheic\)-global-research-and-innovation-forum](https://www.who.int/publications/m/item/covid-19-public-health-emergency-of-international-concern-(pheic)-global-research-and-innovation-forum)>.

World Health Organization, Emergencies: International health regulations and emergency committees, online: (19 December 2019) <<https://www.who.int/news-room/questions-and-answers/item/emergencies-international-health-regulations-and-emergency-committees>>.