**A call for human rights oversight of government responses to the COVID-19 pandemic**

Regard 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.**

Human rights obligations enshrined in international law, the Charter, treaties, legislation and other instruments make it clear what action governments must take to protect human rights – such as the rights to life, health, adequate housing and livelihoods – that are at risk due to the COVID-19 crisis. They establish clear requirements with respect to gender equality and non-discrimination and highlight the necessity of deliberate action to protect fully the rights of marginalized individuals and communities. And they lay out the permissible limits on restricting other rights, to the extent that is absolutely necessary to address the crisis.

The fact that the human rights obligations are clear, however, is *not* an assurance they will be upheld. That is of particular concern with many of the key human rights obligations that are at stake in the COVID-19 pandemic, including with respect to health, housing, food, safe water and other basic needs. Contrary to international human rights standards, governments across Canada have long asserted that those and other economic, social and cultural rights are not and should not be subject to the same processes of enforcement and oversight as other rights, leaving their protection to the more uncertain and arbitrary political realm.

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.

Often overlooked is the greater or differential impact of those restrictive measures on the basis of gender identity or sexual orientation, and on First Nations, Métis and Inuit communities, Black and other racialized communities, people living with disabilities, women and children at risk of violence in the home, refugees and migrants, prisoners, sex workers, people who are homeless or living in inadequate housing, precariously-employed workers, and other marginalized individuals and communities. Governments have, importantly, taken action to respond to the needs of many of these communities, but more is needed, and oversight is a vital safeguard.

At the same time, bodies and institutions that traditionally play a central role in protecting human rights – including courts, and human rights commissions and tribunals – are facing considerable constraints and limitations. While some urgent matters are still being heard by way of video and telephone conferencing, many proceedings have been indefinitely adjourned and most new cases are not being scheduled. Moreover, due to the specific nature of the pandemic and the shutdown of democratic processes and civic space, public forums, such as parliamentary committee hearings and public community meetings, that serve as human rights accountability and transparency mechanisms of a sort, are now also unavailable.

We are therefore calling on governments at all levels – federal, provincial, territorial and municipal – to **take urgent steps to enhance and strengthen human rights oversight** of their responses to the COVID-19 pandemic, including by:

* Ensuring that Indigenous knowledge-keepers, representatives of federal, provincial and territorial human rights commissions, and representatives of relevant municipal human rights offices have an **official advisory role** to special committees, emergency task forces, crisis response working groups and other bodies established by governments to coordinate their response to the COVID-19 pandemic.
* Immediately establishing **independent human rights oversight committees** made up of representatives of First Nations, Métis and Inuit organizations, impacted communities, frontline service providers, human rights advocates and academics, with mandates to:
  + Identify measures needed to strengthen human rights protection in COVID response strategies;
  + Monitor for human rights violations associated with COVID response measures, including through police enforcement;
  + Highlight information and statistics needed to improve human rights protection;
  + Ensure that governments apply intersectional gender-based analysis plus, anti-racist and anti-oppression frameworks to all dimensions of their responses to the COVID crisis;
  + Make regular recommendations to governments; and
  + Report publicly on a regular basis, through mechanisms to be determined by the Committee, once established.

Endorsed by: