THE MANITOBA HUMAN RIGHTS COMMISSION

LA COMMISSION DES DROITS DE LA PERSONNE DU MANITOBA

A human rights based approach to the COVID-19 pandemic

Principles and Actions

December 2020 Update

7th Floor, 175 Hargrave Street
Winnipeg, MB R3C 3R8

341-340 Ninth Street
Brandon, MB R7A 6C2

www.manitobahumanrights.ca

Released on December 10, 2020

This publication is available in alternate formats.
Le présent guide est également disponible en français.

Our mandate

The Manitoba Human Rights Commission is an independent agency of the Government of Manitoba responsible for administering *The Human Rights Code* ("*The Code*").

We are governed by a Board of Commissioners who are appointed by the Government to represent the geographic, cultural, social and economic profile of Manitoba. We report annually to the Minister of Justice.

We are responsible for promoting human rights principles and educating the public about the rights and responsibilities in *The Code*.

We provide human rights education and regularly present to groups and at conferences about human rights principles. We consult with the public about emerging human rights issues and use the information we gather to develop education tools to assist the public and to raise awareness about issues with the public, organizations and Government. We reach out to all Manitobans in various ways to share that "we are all equal in dignity and rights."

We are also responsible for administering a complaint process.

We take complaints of discrimination, investigate them and determine if there is sufficient evidence that *The Code* has been contravened to warrant a public hearing of the complaint. At the adjudication of a complaint, we represent the public's interest in eliminating discrimination and ensuring that employers, landlords and service providers comply with *The Code*.

We also offer mediation at various stages in the complaint process to give parties an opportunity to try and resolve their complaint without the need for a hearing.

Introduction

On April 8, 2020, the Manitoba Human Rights Commission released *A human rights based approach to the COVID-19 pandemic: Principles and Actions*. The Report calls for governments and decision-makers to centre human rights in their COVID-19 pandemic response by:

- Approaching the prevention and treatment of COVID-19 as a human rights obligation.
- Providing all healthcare services related to COVID-19, including testing, triaging and treatment, without stigma or discrimination.
- Protecting vulnerable and structurally disadvantaged communities that are at disproportionate risk to contract COVID-19 and to experience the negative impacts of enforcement measures related to COVID-19, including racialized communities, people experiencing poverty and houselessness, older people and people with disabilities, including those with compromised immune systems.
- Recognizing that any restrictive measures that deprive persons of their right to liberty must be carried out in accordance with the law and respect for fundamental human rights.

Since the release of the *Principles and Actions* Report, the Commission has been monitoring the response to the pandemic and has heard from many community members representing older Manitobans, racialized communities, people experiencing poverty and houselessness, people with disabilities, incarcerated peoples and other *Code*-protected groups. These community members are concerned that certain aspects in the management of the COVID-19 pandemic are having a negative impact on their human rights, and have raised the following immediate needs:

- That steps be taken to mitigate the significant disproportionate impact of the COVID-19 on Indigenous peoples in Manitoba.
- That individuals residing in congregate living facilities, including personal care homes and correctional facilities, should not experience an erosion in their human rights, including their right to have their basic needs met and their right to access health care and essential services on an equal level with others.
- That steps be taken to ensure that any protocols or decisions made with respect to the allocation of limited critical care services during the COVID-19 pandemic conform with human rights law, including the fundamental principle of non-discrimination.
- That enforcement measures should not disproportionately impact racialized communities, people experiencing houselessness and poverty, and people with disabilities.

- That steps be taken to address the impact of COVID-19 on people who use substances, including steps to ensure that people who use substances have access to harm reduction services and resources, access to a safe supply of substances and medication, and are not negatively impacted by enforcement measures.
- That public health measures aimed at containing the transmission of COVID-19 do not result in an erosion of the equality rights of persons with disabilities.
- That decisions related to the distribution of vaccines be driven by efforts to protect the most structurally disadvantaged communities, including older peoples, persons with disabilities, incarcerated peoples, Indigenous and racialized communities, and people facing houselessness.
- That steps be taken to immediately publicly release disaggregated data on COVID-19 and equity indicators, including race and ethnicity identifiers, so that our health system and community stakeholders can identify populations at heightened risk of contraction or transmission of COVID-19, and deploy health resources in a manner that ensures equitable access to public health protections for all Manitobans.

The following analysis outlines key observations by the Commission within the first ten months of Manitoba's pandemic response, including key areas for action to ensure that Manitoba's approach to the pandemic aligns with fundamental human rights principles.

Addressing the disproportionate impact of COVID-19 on Indigenous peoples

Article 24 of *The United Nations Declaration on the Rights of Indigenous Peoples* recognizes the right of all Indigenous peoples to the highest standard of physical and mental health attainable and access, without discrimination, to all health and social services. In his July 20, 2020 report to the United Nations General Assembly, UN Special Rapporteur on the Rights of Indigenous Peoples José Francisco Calí Tzay notes that Indigenous peoples are among the most harshly impacted by the COVID-19 pandemic. He states "Indigenous societies, already facing numerous existential threats, face higher risks of dying of the disease, of experiencing discrimination and a disproportionate impact as a result of confinement measures, and of being left without support to defend their peoples from intensifying rights violations even as the pandemic rages."[1]

The December 9th report of the Manitoba First Nations COVID-19 Pandemic Response Coordination Team supports the UN Special Rapporteur's concerns regarding the disproportionate impact of COVID-19 on Indigenous peoples: specific to First Nations peoples, the Coordination Team reports that First Nations peoples comprise 20% of total COVID-19 cases in Manitoba[2] which is significant considering that First Nations peoples make up 10.5% of Manitoba's total population. Further, First Nations people in Manitoba represent 29% of all hospitalizations in the province and 45% of all ICU patients.[3] As of the December 9th report, fifty-six First Nations people have died of COVID-19 in Manitoba, and the median age of deaths in First Nations people is 64 years old, in comparison to 83 years of age for the rest of Manitoba.[4] As of December 9th, data on the impact of COVID-19 on Métis and Inuit peoples has not been released in Manitoba (see "Immediately publicly release disaggregated data on COVID-19 and equity indicators").

As stated by the UN Special Rapporteur, an "essential element for an efficient State response to the pandemic for indigenous peoples is to respect the autonomy of indigenous peoples to manage the situation locally while providing them with the information and the financial and material support they identify as necessary. Coordination between indigenous and non-indigenous leaders as equals is essential to the overall effort to respond to the pandemic."[5] In our *Principles and Actions* Report, the Commission notes that respecting Indigenous rights is a central and necessary tenet to any human rights compliant pandemic response. Given data suggests that COVID-19 is already having a significant disproportionate impact on Indigenous peoples, steps must be immediately taken to strengthen the ability of Indigenous communities to effectively respond to the pandemic. These strategies must continue to recognize that the experiences of Indigenous peoples with COVID-19 reflect the economic, environmental, and socio-political contexts of their lives, a context inextricable from experiences of colonialism and structural racism.[6]

The Commission continues to stress the importance of ensuring that Indigenous peoples have access to the necessary medical and essential services in a culturally-safe manner, including personal protective equipment, clean water and sanitation supplies, testing, treatment, medical personnel and equipment, and alternative isolation accommodations. Indigenous peoples must have equitable access to these services and supports without discrimination resulting from their ancestry or geographic localities and in a manner that recognizes the heightened impact of COVID-19 within their communities. Additionally, given that the Manitoba First Nations COVID-19 Pandemic Response Coordination Team reports disproportionately higher rates of COVID-19 transmission amongst "off-reserve" First Nations peoples, targeted efforts must be made to ensure that Indigenous peoples in urban centres have access to the supports necessary for mitigating heightened risk for contracting the illness.

The disproportionate impact of COVID-19 on Indigenous peoples highlights the need to ensure they are provided with priority access to preventative measures, including vaccination. This aligns with a human rights based approach to vaccination, ensuring that communities that are structurally disadvantaged and at heightened risk for COVID-19 are prioritized in the distribution of a vaccine.

The Commission also emphasizes the importance of ensuring that where there is the potential for competing jurisdiction, federal and provincial governments provide necessary funding and services to Indigenous communities and peoples consistent with spirit and intent of Jordan's Principle. Jurisdictional boundaries should not limit access to necessary medical and other essential services throughout the COVID-19 pandemic.

Protecting the dignity and worth of older Manitobans by challenging age-based discrimination and ensuring that personal care homes are able to meet the essential health care needs of residents

Since the emergence of COVID-19 in Manitoba, the Commission has observed that older Manitobans in congregate living facilities, such as personal care homes (PCHs), are at a higher risk for infection and adverse outcome from COVID-19 due to living in close proximity to others and compounded health challenges. Older people who experience physical and/or mental disabilities, particularly where cognitive disabilities may impact the ability to understand and follow health and hygiene advice, are also at heightened risk for contracting COVID-19.

Data provided to the Commission by Manitoba Health suggests that, as of November 27, 2020, there have been 66 known outbreaks at PCHs in Manitoba.[7] Five hundred and eighty-eight (588) personal care home residents have contracted COVID-19.[8] Only 29 residents have fully recovered, with 117 residents deceased from COVID-19.[9] Almost half of all cases (46.6%) are centered in two personal care homes: Parkview Place and Maples Long Term Care, where the "attack rate" of COVID-19 is significant.[10] At Maples LTC, there are 200 resident beds and 154 residents have COVID-19 (an "attack rate" of 77.1%) and in Parkview Place there are 261 beds and 120 residents have COVID-19 (an attack rate of 46.1%).[11] Of the 117 residents deceased of COVID-19 in Manitoba, 70.1% were never hospitalized.[12]

The significant number of PCH-related outbreaks and serious adverse outcomes for PCH residents in Manitoba points to the need of an immediate strengthened response to COVID-19 within PCHs, premised on the fundamental right of all people – including older Manitobans – to equal enjoyment of the highest attainable standard of health. Steps must be taken to stem the disproportionate impact of COVID-19 within PCHs to ensure that residents, by virtue of living in a care facility, are not placed at heightened risk for contracting the illness or having a severe outcome related to the illness.

The United Nations Policy Brief entitled *COVID-19 and Older Persons: A Defining Moment for an Informed, Inclusive and Targeted Response* also points to the importance of ensuring that policies and decisions around the use of scarce medical resources and supports, including ICU admissions and ventilator usage, are not based on age.[13] As outlined in the brief, "Governments should develop and follow triage protocols and policies that ensure medical decisions are based on clinical assessment, medical need, ethical criteria and on the best available scientific evidence, while respecting the will and preference of the person. Decisions on access to screening and care should not be based on non-medical characteristics, including chronologic age, or discriminatory beliefs of social worth whereby older persons' lives may be deemed less valuable than others."[14] While it is unclear why so few PCH residents who died from COVID-19 were never admitted to hospital, steps should be immediately taken to ensure that decisions related to medical access and care are not premised on discriminatory attitudes or assumptions related to age.

While physical distancing is an important component of COVID-19 prevention, social isolation presents risks to the overall health and wellbeing of older people. Many older Manitobans, particularly those living alone and/or in poverty, rely upon a broad network of community supports for food, housing security, and social and community connection. Efforts must continue to ensure that public health measures do not place disproportionate burdens on older Manitobans, or place older Manitobans at risk of contracting COVID-19 or having a severe outcome related to the illness.

Finally, it has been reported that COVID-19 is escalating entrenched ageism, including age-based discrimination and stigmatization of older persons.[15] With expressions of age-based hate speech and inter-generational discrimination appearing in public discourse and social media, steps must be taken to challenge age-based discrimination and ensure that responses to COVID-19 do not further stigmatize older peoples.

Protecting the dignity and worth of incarcerated persons by committing to ongoing preventative measures and ensuring that correctional facilities are able to meet their essential health care needs.

As outlined in our *Principles and Actions* Report, the Commission recognizes that individuals living in congregate living facilities, including correctional facilities, are at heightened risk for contracting COVID-19 and having adverse outcomes related to the illness.[16]

Data from the Manitoba First Nations COVID-19 Pandemic Response Coordination Team suggests that as of November 23, 2020, there were 309 cases of COVID-19 in Manitoba linked to correctional facilities.[17] Of these cases, 278 were amongst incarcerated peoples. Approximately 69% of these cases are linked to one facility: The Headingly Correctional Centre.[18]

While the data suggests that COVID-19 is also impacting staff of correctional centres, a significant majority of COVID-19 cases in correctional facilities occur in incarcerated people, reflecting the higher risk conditions in which they live.

The number of cases amongst incarcerated peoples highlights the need for a strengthened response to the prevention and treatment of COVID-19 in correctional facilities. The Commission continues to emphasize the importance of the actions outlined in our *Principles and Actions* Report , including approaching COVID-19 in correctional facilities through a human rights and public health lens. As noted in the Federal Court's decision in *Latham v. Canada* [2020] F.C.J. No. 683, the COVID-19 pandemic requires correctional institutions and the courts to employ new ways of accounting for the specific risks posed by COVID-19 in bail and sentencing decisions, and when dealing with releases pending the disposition of appeals (at paras 80-85). The pandemic also represents "a material change in circumstances warranting a bail review" for some incarcerated peoples, or "a factor that undermines the necessity of detention" (at para 83).[19]

The pandemic also requires correctional institutions to ensure that incarcerated peoples enjoy a right to the highest attainable standard of health while confined, which means guaranteeing that they have access to the necessary medical and essential services including personal protective equipment, clean water and sanitation supplies, testing, treatment, adequate medical personnel and equipment, and alternative isolation accommodations.

The First Nations COVID-19 Pandemic Response Coordination Team's November 23rd report suggests that First Nations people are overrepresented in Manitoba's corrections related COVID-19 cases, totaling 178 of the 278 cases.[20] As noted in their report, the disproportionate number of cases amongst Indigenous incarcerated peoples underscores the need to "address factors like racism in the justice system that lead to the over-representation of First Nations people in correctional facilities."[21]

Finally, while physical distancing is an important measure for preventing the transmission of COVID-19, isolation is a complex and major concern in correctional facilities. In some facilities, the only cells that allow for quarantine will be administrative segregation cells, which are normally used to house people placed in solitary confinement. Moving people suspected of contracting COVID-19 – or those at high risk of suffering serious illness once they contract COVID-19 - to segregation units raises serious human rights concerns. Given recent court rulings that prolonged periods of administrative segregation are unconstitutional,[22] correctional facilities must ensure that approaches to physical distancing, quarantine and isolation do not reproduce the conditions of solitary confinement.

Ensuring that any protocols or decisions made with respect to the allocation of limited critical care services during the COVID-19 pandemic conform with human rights law, including the fundamental principle of non-discrimination.

As of December 4th, 2020, Shared Health Manitoba was reporting that capacity within Manitoba's health care system is stretched, with Manitoba ICUs operating at 161% of their normal capacity.[23] On this date, there were 55 COVID-19 patients in ICUs in Manitoba.[24]

Capacity limitations within Manitoba's health care system not only present important public health concerns, but also raise human rights considerations. As evidenced in other jurisdictions where health care systems are pushed beyond their limits, there may be the need for triaging protocols or rationing of acute care services and/or critical medical equipment. While these protocols are important for ensuring medical professionals are making ethically informed and justifiable decisions, they may also have the potential of discriminating against groups who have experienced historic and ongoing structural disadvantage in the health care system, including older people, people with disabilities and racialized communities. As a group of UN experts states, "the scarcity of resources… should never be a justification to discriminate against certain groups of patients. Everyone has a right to health."[25]

Any triage protocol implemented in Manitoba should prioritize human rights principles, in accordance with the paramountcy clause of *The Code* and avoid potentially discriminatory criteria, including the prioritization of utilitarian considerations, or criteria that maximizes "life-years saved" or quality-of-life considerations.[26] Learning from the Ontario experience, any Manitoba protocol should exclude the Clinical Frailty Scale as a triage tool, as it has the potential of disproportionately impacting *Code*-protected groups and may not be in keeping with human rights principles, including the duty to accommodate.[27]

Furthermore, the Commission urges governments and decision makers to ensure that structurally disadvantaged groups including Indigenous peoples, racialized peoples, persons with disabilities, older persons and others are meaningfully engaged in the process of developing and implementing a protocol to ensure that its use does not harm their communities.

Addressing the impact of COVID-19 on people who use substances

Since the outset of the pandemic, human rights experts have recognized that the COVID-19 presents unique risks to people who use drugs, and that this is due to criminalization, stigma, discrimination, underlying health issues, higher economic and social vulnerabilities including a lack of access to adequate housing and healthcare.[28] In our *Principles and Actions* Report, the Commission calls for the governments and decision-makers to take deliberate steps to address the impact of COVID-19 on people who use substances.

A recent report from the Public Health Agency of Canada reports an increase of overdoses during the COVID-19 pandemic.[29] The agency attributes possible causes of the increased overdose rates to changes in drug supply resulting from disruptions to the supply chain by travel restrictions and border measures, less access to supports and services for people who use drugs, and more use of substances as a way to cope with the stress and trauma associated with the global pandemic.[30]

The alarming rate of overdoses during the COVID-19 pandemic calls for a strengthened response to addressing the needs of peoples who use substances. The Commission continues to emphasize the importance of ensuring people who use substances have access to harm reduction services, including naloxone. As noted by the Manitoba Harm Reduction Network, steps must be taken to ensure that naloxone can be widely distributed and it is recommended that it continue to be classified as an unscheduled drug to allow for its distribution by service providers and people who use drugs (peers) who are not regulated health professionals.[31] In addition, the Commission continues to call for expanded access to a safe supply of drugs in Manitoba to reduce the harms linked to the overdose crisis and provide the necessary infrastructure to help communities contain COVID-19.

Finally, the Commission notes that enforcement measures related to COVID-19 must not disproportionately target people who use drugs. Given their precarious access to drugs and other structural inequities faced by people who use substances (including underlying health conditions, higher rates of poverty, unemployment, houselessness resulting in overcrowded living conditions, and a lack of access to vital resources), people who use drugs cannot always safely practice public health measures including physical distancing, limitations on gathering and social isolation. The Commission continues to emphasize the importance of a human rights and public health informed approach to the COVID-19 pandemic that takes into account the unique circumstances contributing to the vulnerability of such individuals rather than adopting a punitive approach which often results in worsened conditions for marginalized communities. Enforcement measures must not disproportionately target or criminalize people with substance dependencies and create further obstacles to the provision and accessing of services.

Ensuring public health measures aimed at containing the transmission of COVID-19 do not result in an erosion of the rights of persons with disabilities

As noted in our *Principles and Actions* Report, restrictive measures related to the COVID-19 pandemic must not discriminate against *Code*-protected groups and must be subject to reasonable limits that can be demonstrably justified as necessary, legitimate and proportionate. In particular, measures aimed at controlling the transmission of COVID-19 must not infringe upon the equality rights of persons with disabilities. Capacity restrictions or visitor policies must not limit persons with disabilities from accessing support workers or caregivers, particularly in circumstances where these support workers help to ensure persons with disabilities can access services on an equal level with others. People with disabilities who rely upon communication supports, guides, interpreters and caregivers must have their needs accommodated to the point of undue hardship.

The needs of students with disabilities must also be a key consideration in our province's response to the COVID-19 pandemic. Students with disabilities and students who experience other forms of structural disadvantage face unique and compounded barriers resulting from interruptions to the delivery of their education. Stakeholders tell us that the specific circumstances of students with special learning needs have not been consistently or sufficiently addressed by educational providers during the pandemic, placing them at risk of falling behind and experiencing greater inequities later in life. As outlined in the Commission's letter to the Minister of Education, dated September 15, 2020, all persons involved in delivering education services must work to remove barriers that impede equal access for students with disabilities.[32]

Guaranteeing that decisions related to the distribution of vaccines be driven by efforts to protect the most structurally disadvantaged communities

In its October 2020 Report *"Whoever Finds the Vaccine Must Share It" Strengthening Human Rights and Transparency Around Covid-19 Vaccines,* Human Rights Watch notes that universal and equitable access to a safe and effective COVID-19 vaccine is critical to ending and recovering from the pandemic.[33] This call is echoed by a group of UN Human Rights Experts, who state that governments must ensure that vaccines are available to people in vulnerable situations, people who are

> "often neglected from health services, goods and facilities, including those living in poverty, women, indigenous peoples, people with disabilities, older persons, minority communities, internally displaced people, persons in overcrowded settings and in residential institutions, people in detention, homeless persons, migrants and refugees, people who use drugs, LGBT and gender diverse persons. Many of them may have lived experience of poverty and find themselves in situations where they are most likely to be exposed to the risk of contagion, yet the least likely to be protected from COVID-19 or supported by adequate and timely tests and health services." [34]

The Commission is encouraged by early indications from Manitoba Health Officials that suggest initial access to vaccination will be prioritized for "those most at risk of COVID-19 including seniors, those working in the health-care system and in long-term care facilities, and Indigenous peoples."[35] In addition to these priority groups, the Commission also emphasizes the importance of ensuring that persons with disabilities who face heightened susceptibility to contracting COVID-19, incarcerated peoples, peoples facing houselessness and other racialized communities who are disproportionately impacted by the illness have access to vaccination as soon as possible. In addition, information campaigns around vaccination should be widely available in various languages and in accessible formats.

Immediately publicly release disaggregated data on COVID-19 and equity indicators, including race and ethnicity identifiers

Since May 1, 2020, Manitoba has directed all health-care providers completing COVID-19 case investigation forms to ask a mandatory question regarding racial and ethnic identity.[36] Patients are asked to identify, from a list, the racial or ethnic identity that they belong to. Options include: African, Black, Chinese, Filipino, Latin American, North American Indigenous- that is, First Nations, Metis or Inuit, South Asian, Southeast Asian, White or Other. Patients can also decline to respond to the question.[37]

The decision to gather race and ethnicity data marks an important step in ensuring that Manitoba's response to the COVID-19 pandemic addresses the impacts felt by structurally disadvantaged communities, including racialized peoples. As noted by Shared Health, early evidence related to the pandemic has demonstrated a disproportionate negative impact on Indigenous and Black communities. This is certainly borne out by the data release by the Manitoba First Nations COVID-19 Pandemic Response Coordination Team.

However, beyond data released by the Manitoba First Nations COVID-19 Pandemic Response Coordination Team under its First Nations Data Governance Agreement, as of December 9, 2020, no other data has been released by Manitoba analyzing the prevalence and impact of COVID-19 in accordance with race and ethnicity indicators. This severely impacts the ability of our health system and community stakeholders to adequately identify racialized communities at heightened risk of contraction or transmission of COVID-19, and deploy resources in an accessible and culturally-safe (including language appropriate) manner that ensures equitable access to public health protections for all Manitobans.

Accordingly, the Commission calls for the immediate and ongoing release of disaggregated data on COVID-19 and equity indicators, including race and ethnicity identifiers. The Commission calls for this data to be released in a manner that minimizes the stigmatization of racialized communities and supports the recommendations of the BC Office of the Human Rights Commissioner's September 2020 report entitled *Disaggregated demographic data collection in British Columbia: The grandmother perspective*. This includes highlighting the role that system failures (i.e. systems of oppression and ongoing negative impacts of colonialism and racism that have resulted in systemic inequality of power, resources and opportunities as well as systemic inequalities in social determinants of health and access to health care) play in the realities of COVID-19 within racialized communities.[38] The BC Office of the Human Rights Commissioner's September 2020 report further emphasizes the importance of meaningfully involving structurally disadvtanged communities, including Indigenous and racialized communities in the collection, storage, use and distribution of disaggregated data so communities can decide how to engage with their data on their own terms.[39]

Conclusion

The Commission underscores the importance of addressing the issues highlighted in this report as well as the Commission's April 8th *Principles and Actions* Report in order to ensure that Manitoba's approach to the COVID-19 pandemic aligns with human rights principles. We must safeguard the fundamental right of all Manitobans to equal enjoyment of the highest attainable standard of health. In responding to the pandemic, it is critically important to bear in mind the multiple intersecting systems of discrimination and oppression that exist in order to understand and mitigate overlapping inequalities that compound and further disadvantage certain groups and communities. Without a deliberate human rights-based approach, COVID-19 will further exacerbate existing inequalities for and stigmatization of structurally disadvantaged and disproportionately targeted persons and communities. It is clear that implementing programs and policies that align with the principles outlined in these reports will help protect public health and human rights for all Manitobans during the COVID-19 pandemic, and pave the way for our province to recover stronger together.

Endnotes

1. United Nations, General Assembly, *Report of the Special Rapporteur on the rights of indigenous peoples, José Francisco Calí Tzay, A/75/185* (20 July 2020), available from https://www.undocs.org/en/A/75/185.

2. Manitoba First Nations COVID-19 Pandemic Response Coordination Team. "Weekly Bulletin" (9 November 2020), available from https://www.fnhssm.com/covid-19l Ibid.

3. Ibid.

4. Ibid

5. United Nations, General Assembly, Report of the Special Rapporteur on the rights of indigenous peoples, José Francisco Calí Tzay, A/75/185 (20 July 2020), available from https://www.undocs.org/en/A/75/185.

6. See Greenwood, Margo, Sarah de Leeuw and Nicole Lindsay. "Challenges in health equity for Indigenous peoples in Canada." The Lancet 39, 10131 (2018) and Allan, Billie and Janet Smylie. *First Peoples, Second Class Treatment: The role of racism in the health and well-being of Indigenous peoples in Canada*. Toronto: Wellesley Institute, 2015.

7. Manitoba Health "Outbreak of COVID-19 in PCH/LTC Facilities, Manitoba" (25 November 2020).

8. Ibid.

9. Ibid.

10. Ibid.

11. In data provided to the Commission, Manitoba Health notes that "the attack rates are just an approximation of the percentage of PCH/LTC residents that have tested positive for COVID-19 within each facility. Since there is some turnover within the facilities (people pass away and new people are admitted) this number may over-represent how many of the current population have been infected with COVID-19."

12. Manitoba Health "Outbreak of COVID-19 in PCH/LTC Facilities, Manitoba" (25 November 2020).

13. United Nations Department of Economic and Social Affairs, Policy Brief no.68 COVID-19 and Older Persons: A Defining Moment for an Informed, Inclusive and Targeted Response (May 2020), available from: https://www.un.org/development/desa/ageing/wp-content/uploads/sites/24/2020/05/PB_68.pdf

14. Ibid.

15. See Frangou, Christina. "The year of the pandemic has busted the myth that Canada values its seniors. Macleans (17 November 2020). Available from https://www.macleans.ca/society/health/the-year-of-the-pandemic-has-busted-the-myth-that-canada-values-its-seniors/ ; Picard, Andrew. "'Human rights don't have a best-before date': COVID-19 lays bare rampant ageism," Globe and Mail (13 April 2020), available from https://www.theglobeandmail.com/canada/article-human-rights-dont-have-a-best-before-date-covid-19-lays-bare/

16. See also "Joint Statement of the United Nations Office on Drugs and Crime, the Word Health Organization, the United Nations Joint Programme on HIV/AIDS and the Office of the High Commissioner on Human Rights on COVID-19 in prisons and other closed setting" (13 May 2020), available from https://www.who.int/news/item/13-05-2020-unodc-who-unaids-and-ohchr-joint-statement-on-covid-19-in-prisons-and-other-closed-settings

17. Manitoba First Nations COVID-19 Pandemic Response Coordination Team. "Corrections COVID-19 cases- First Nations" (23 November 2020), available from https://www.fnhssm.com/covid-19

18. Ibid.

19. Latham v Canada, [2020] FCJ No 683

20. Manitoba First Nations COVID-19 Pandemic Response Coordination Team. "Corrections COVID-19 cases- First Nations" (23 November 2020), available from https://www.fnhssm.com/covid-19

21. Ibid.

22. Canadian Civil Liberties Association v Canada (Attorney General), 2019 ONCA 243 and British Columbia Civil Liberties Association v Canada (Attorney General), 2019 BCCA 228

23. Doctors Manitoba. "Situation Update" (4 December 2020), available from https://doctorsmanitoba.ca/2020/12/covid-19-update-december-4/

24. Ibid.

25. "No exceptions with COVID-19: "Everyone has the right to life-saving interventions" – UN experts say" (26 March 2020), available from https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25746&LangID=E

26. See Valiani, Sabira, Luke Terrett, Colin Gebhardt, Oksana Prokopchuk-Gauk, Melody Isinger "Development of a framework for critical care resource allocation for the COVID-19 pandemic in Saskatchewan," CMAJ (September 2020), 192 (37) E1067-E1073.

27. See ARCH Disability Law Centre, "ARCH Submissions Detailing its Position on the Inclusion of the Clinical Frailty Scale in Ontario's Triage Protocol" (1 September 2020), available from https://archdisabilitylaw.ca/resource/arch-submissions-detailing-its-position-on-the-inclusion-of-the-clinical-frailty-scale-in-ontarios-triage-protocol/ and Ontario Human Rights Commission "Letter to the Minister of Health on Bioethics Table recommendations and proposed framework for a COVID-19 triage protocol" (30 October 2020), available from http://www.ohrc.on.ca/en/news_centre/letter-minister-health-bioethics-table-recommendations-and-proposed-framework-covid-19-triage

28. See "Statement by the UN expert on the right to health on the protection of people who use drugs during the COVID-19 pandemic" (16 April 2020), available from https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25797

29. Public Health Agency of Canada. "Modelling opioid overdose deaths during the COVID-19 outbreak" (3 December 2020), available from https://www.canada.ca/en/health-canada/services/substance-use/problematic-prescription-drug-use/opioids/data-surveillance-research/modelling-opioid-overdose-deaths-covid-19.html

30. Ibid.

31. Manitoba Harm Reduction Network, "Open Letter - Urgent Action Required to Ensure the Equitable Application of Public Health Protections for People Who Use Drugs and are impacted by Structural Inequalities in Manitoba," (23 April 2020), available from https://mhrn.ca/covid19-open-letter

32. Manitoba Human Rights Commission, "Letter to the Minister of Education Re: COVID-19 and respecting the rights of students with disabilities," (15 September 2020), available from http://www.manitobahumanrights.ca/v1/news-events/pubs/media-releases/correspondencecovid.pdf

33. Human Rights Watch, "Whoever Finds the Vaccine Must Share It" Strengthening Human Rights and Transparency Around Covid-19 Vaccines, (29 October 2020), available from https://www.hrw.org/report/2020/10/29/whoever-finds-vaccine-must-share-it/strengthening-human-rights-and-transparency

34. Statement by UN Human Rights Experts Universal access to vaccines is essential for prevention and containment of COVID-19 around the world, (9 November 2020), available from https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26484&LangID=E

35. Manitoba Government News Release, "Province Outlines Initial COVID-19 Vaccination Plans to Protect Manitobans," (9 December 2020) available from https://news.gov.mb.ca/news/?archive=&item=50009

36. Shared Health, "Racial/Ethnic/Indigenous Identity: Collection of Identifiers" (1 May 2020), available from https://sharedhealthmb.ca/files/covid-19-rei-script.pdf

37. Ibid.

38. BC Office of the Human Rights Commissioner. Disaggregated demographic data collection in British Columbia: The grandmother perspective (September 2020), available from https://bchumanrights.ca/wp-content/uploads/BCOHRC_Sept2020_Disaggregated-Data-Report_FINAL.pdf

39. Ibid.

Need more information?

For further information on this guideline or *The Human Rights Code*, please contact us at hrc@gov.mb.ca

Winnipeg

7th Floor-175 Hargrave Street
Winnipeg, MB R3C 3R8
Phone: 204.945.3007
Fax: 204.945.1292

Brandon

Room 341-340 Ninth Street
Brandon, MB R7A 6C2
Phone: 204.726.6261
Fax: 204.726.6035

Toll Free: 1.888.884.8681
www.manitobahumanrights.ca

This publication is available in alternate formats.

Le présent guide est également disponible en français.