



## Opinion

# Lockdown-exit plans missing three key elements

It's time for politicians to make room for other parts of civil society—companies, industry associations, unions, churches, charities, and the like—to lead in their particular sectors of life on the road toward relaxed, and eventually lifted, pandemic measures.

BY RAY PENNINGS  
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What seemed like merely a tantalizing possibility mere weeks ago is slowly and carefully becoming a reality in Canada: provinces are moving to gradually ease COVID-19 lockdowns. Political leaders are taking what they believe is a responsible, staged approach. No one wants an echo pandemic, after all.

But for all their care, leaders must also express explicit commitments to three critical elements of lifting lockdowns—fully restoring constitutional freedoms, measuring and facing the full health costs of lockdowns, and releasing responsibilities to civil society.

Without those commitments, any plan to reopen can only be a partial success.

Firstly, lockdowns have impaired our constitutional freedoms with stringent restrictions on our movement, our ability

to earn a living, our freedom to associate, and our religious freedom. The vast majority of us have stopped taking the bus, driving to work, browsing in shops, playing in sports leagues, going to the gym, visiting the library, and even visiting each other. Christians, Jews, Hindus, and Muslims all willingly stayed home at what would have been times of celebration since governments ordered the shutdown of their communal worship spaces.

Courts have long held that when governments violate fundamental Charter rights, they can only do so to the extent their measures are “demonstrably justified in a free and democratic society.” Any such violations must also be proportionate to a specific situation—like saving lives during a pandemic. Still, the guiding principle remains minimal impairment of rights. The default must remain our core freedoms and liberties.

At some point soon, all Canadians need to hear their leaders commit to the full restoration of constitutional rights to their pre-lockdown state. The default of suspicion and policing needs to change to a default of freedom and responsibility.

Secondly, there is no question the pandemic lockdown has helped save some lives and prevented COVID-19 cases from overwhelming hospitals' intensive care units. We have avoided the perils of the “surge” in hospitalizations, and we have built up our reserves of beds, ventilators, and other equipment to deal with peak coronavirus cases.

But have our leaders come to terms with how exactly to measure deaths attributable to the disease indirectly? What about those who've died from heart attacks because they did not receive timely care as we

cleared health-system capacity for COVID-19 infections? What is the long tail of deadly impact related to delayed surgeries and cancer care, mental health and addictions, or domestic abuse exacerbated by self-isolation? Clearly, these are not simple numbers to incorporate, but neither are the daily reports of deaths attributable to COVID-19. Partial data is shaping the public dialogue. While “flattening the curve” is a worthy goal, it can't be our only consideration.

Leaders need to contend with this reality.



Prime Minister Justin Trudeau and other political leaders should create space for civil society to help determine how to move into the next phase of the pandemic. *The Hill Times* photograph by Andrew Meade

Finally, throughout the coronavirus crisis, we have also seen governments take up decision making that normally would lie with parts of civil society. In other words, they have set aside subsidiarity—the notion that the people best suited to make decisions are those closest to a situation. Scholars and Supreme Court decisions recognize subsidiarity as a key structural principle in Canadian constitutionalism. The principle also has the advantage of allowing adaptations to local circumstances in ways that central decision making cannot. The wide differences between the nature of coronavi-

rus spreading in rural Saskatchewan compared to downtown Montreal suggests a one-size-fits-all approach doesn't work.

Thankfully, we've seen the prime minister recognize that different provinces will take different approaches. But political leaders can go further still.

Industry associations have a vested interest in ensuring their industries are safe and that effective standards are in place. Rather than have government lead, why not push down the decision making from government to industry? What if instead of focusing on awkward distinctions between essential and non-essential businesses the approach to reopening relied more on organizational responsibility? What if businesses were allowed to open, provided they had a clearly posted plan that explained the steps they were taking to deal with the pandemic, and that the default was approval rather than regulation?

It's time for politicians to make room for other parts of civil society—companies, industry associations, unions, churches, charities, and the like—to lead in their particular sectors of life on the road toward relaxed, and eventually lifted, pandemic measures.

The fact we're even talking about reopening economies and other parts of life is encouraging and hopeful. Government caution is understandable. But let's not forget the freedoms we enjoyed before this all began. Let's not ignore the full health costs of what we've endured. And let's let all elements of civil society resume their roles.

Anything less will leave us poorer than we were before the pandemic.

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