COLLATERAL DAMAGE: CIVIL LIBERTIES
COLLATERAL DAMAGE FROM COVID-19 MEASURES

- Lockdowns and increased chance of infection in over-crowded homes and settings
- Unemployment
- Delay or denial of needed health care
- Unable to support dying relatives or those living in long term care
- Loneliness and isolation
- Increased domestic violence
- Disruption of global food supply
CIVIL LIBERTIES VS. PUBLIC HEALTH
THREE POINTS

• i. Civil rights and public health approaches are not in fact oppositional;

• ii. Public health needs a healthy respect for civil liberties — that in fact good public health policy requires it; and

• iii. Public health officials need to understand that the evidentiary burden falls on them to show that they could not achieve their public health objectives without overriding civil liberties, not the other way around.
FREEDOM OF EXPRESSION
FREEDOM OF ASSEMBLY
FREEDOM OF RELIGION

Calgary man in coma after contracting COVID-19 from prayer service

Jay Chowdhury is a model citizen, Alberta Jason Kenney tweeted, wishing him a quick recovery.

Ontario churches, mosques and synagogues open for drive-in worship this weekend amid COVID-19

Some Ontario church leaders have asked Premier Doug Ford to let them fully reopen.

Church-Related Coronavirus Outbreaks Reported As Trump Pushes For Reopening
MOBILITY RIGHTS
PROPORTIONALITY VS. PRECAUTIONARY PRINCIPLE
ANTHONY FAUCI,
DIRECTOR OF THE U.S. NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES,

“If it looks like you're overreacting, you're probably doing the right thing.”
1. 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.
1. Is the government’s objective in infringing the right is pressing and substantial?

2. Is the infringement is rationally connected with (1)?

3. Is the right minimally impaired?

4. Is the value of the objective, and the actual costs and benefits associated with pursuing it, are proportionate to the costs of the infringement?
WHERE COURTS DEFER

• Generally greater deference to high level government decisions involving tradeoffs between many people

• Generally, greater deference to government actions designed to protect the vulnerable

• Some references by the Supreme Court of deferring in matters of national emergency
THE EVOLUTION OF THE PRECAUTIONARY PRINCIPLE
Probability Neglect
Precautionary measures should be:

- proportional to the chosen level of protection,
- non-discriminatory,
- consistent with similar measures already taken,
- based on an examination of the potential benefits and costs of action or lack of action (including, where appropriate and feasible, an economic cost/benefit analysis),
- subject to review, in the light of new scientific data, and
- capable of assigning responsibility for producing the scientific evidence necessary for a more comprehensive risk assessment.