

Mandatory masking requirements represent an interference with personal autonomy | Justice Centre for Constitutional Freedoms



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The Justice Centre is closely watching the development of orders and regulations which mandate the use of masks in indoor public places and which require private establishments to enforce this directive.

For example, as of June 30, 2020, the Ontario government had resisted calls from some city mayors to [impose a province-wide order](#) requiring masks in all indoor spaces.

Mandatory masking is an interference with personal autonomy. For some people they are far more than a momentary inconvenience during a quick trip to the grocery store. For those who must wear them for hours on end, those with respiratory illnesses and those with conditions such as claustrophobia and PTSD, masks can be debilitating and even a threat to health. Some of the orders instituted regionally in Ontario fail to fully account for the rights of those who cannot wear a mask safely. Such failings would render the requirements unconstitutional as a result of unjustified violations of sections 7 and 15 of the Canadian Charter of Rights and Freedoms, namely the rights to liberty, security of the person, and equality.

In addition, the necessity for exempt persons to disclose private and confidential information to third parties by way of explanation to justify their inability to wear a mask creates privacy concerns which may render the mandatory mask requirements illegal.

As noted by Health Canada, the Center for Disease Control (US) and the World Health Organization, and as noted by the Justice Centre in our report [Unprecedented and Unjustified: A Charter Analysis of Ontario's Response to COVID-19](#) and [No longer demonstrably justified: An Analysis of Alberta's COVID-19 Modelling](#) the data shows that for the vast majority of the population under 65 years old, COVID-19 is not life threatening.

We also note that [Health Canada](#) and the WHO recommend against mandatory mask wearing

in circumstances where social distancing is possible. The WHO [notes](#), “At the present time, the widespread use of masks everywhere is not supported by high-quality scientific evidence, and there are potential benefits and harms to consider.”

The Justice Centre continues to monitor developments regarding orders and regulations that impose the wearing of masks upon citizens.