

Carr Center Covid-19 Discussion Series

# Upholding Non-Discrimination Principles in the Covid-19 Outbreak

Carr Center faculty and fellows discuss how we can employ principles of non-discrimination to address the pandemic's disproportionate impact on our most vulnerable communities.



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## How can we focus on the most vulnerable and uphold the human rights principle of non-discrimination?

**BHABHA** - Pandemics reveal a paradoxical impact. On the one hand they do not discriminate between rich and poor nations or individuals, like other global processes, as infection patterns of COVID 19 so far have shown. The worst impacted countries are by no means the poorest, and some of the richest and most privileged people have been affected. On the other hand, the ability to choose preventive strategies (self quarantine), to access services (quality health care), and to buy mitigation options (social distancing, healthy food and lifestyle choices) are dramatically skewed in favor of the more privileged members of our global community. At the base of the pyramid, people who are homeless, incarcerated, confined to overcrowded refugee camps, dependent on the informal economy for income, are most at risk going forward. They have the least ability to self quarantine, they have least control over the services they can access, and they have least flexibility in terms of mitigation options. Political and social intervention should therefore be targeted first to these sections of the population.

**LEONARD & HODGE** – Pandemics hit all people, but not necessarily the same way. A global health crisis exposes communities that are unable to respond quickly, leaving them even more open to a compounded health crisis. For example, people currently incarcerated and/or going through their reentry journey (the period following release when a person attempts to rebuild their lives after being separated from society) are facing a slower response to protections and/or they have limited control over their own health-life outcomes. This will likely result in a death sentence for thousands of people currently incarcerated because diseases like COVID-19 can spread quickly in confined physical spaces like prisons. The ability to have access to personal freedoms, a support network, and financial resources increases the likelihood that one is empowered to preserve their own human rights to the best of their ability. Vulnerable communities however often are not positioned to ensure their human rights are preserved in times of a crisis—they are often a historical afterthought.

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**CORDISCO-TSAI** – Pandemics disproportionately devastate those who are most vulnerable – physically, materially, and emotionally. To understand the cross-cutting impacts, we must listen to those who are most vulnerable about how their basic safety, security, and health are affected. In my work with survivors of human trafficking in the Philippines, I hear and witness first-hand the severe consequences of the COVID-19 pandemic. Overwhelmingly, the community expresses concerns about loss of income and inability to meet basic needs. Many survivors are considerably more worried about feeding themselves and their families than about contracting COVID-19. Displaced from employment, survivors have begun running out of food. Many live in high-density areas as informal dwellers. In such settlements, social distancing can be almost impossible to achieve in practice, despite a person’s best intentions. Lack of access to essentials like water and soap also jeopardize safety. Vulnerable populations will be disproportionately impacted by overwhelmed health care systems. Pandemics exacerbate mental health concerns in communities that may already have insufficient access to pertinent services. Among survivors of human trafficking, we are witnessing more frequent reports of suicidal ideation, heightened anxiety related to income disruptions and food insecurity, and difficulties escaping family violence in quarantine. We know that rates of sexual, physical, and emotional gender-based violence and intimate partner violence increase during emergencies. Individuals adhering to community quarantines may be isolated inside their homes with abusers, with their vulnerability further exacerbated due to overwhelmed emergency response systems. Desperation arising from seemingly impossible circumstances deepens vulnerability to human trafficking, re-trafficking, and other forms of exploitation. Pandemics do not only compromise the physical health of the most vulnerable, but can devastate their safety at all fundamental levels.

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## How can we apply the human rights principle of non-discrimination?

**BHABHA** – Non-discrimination principles require policy makers and public officials to concentrate on particularly vulnerable sections of the community rather than leaving it purely to individuals or to the market to come up with solutions. Some sections of the population are particularly dependent on state protection and care—among healthy populations, children are one such group. The closure of schools has to be accompanied by vigorous interventions that address children’s need for protection: parents forced to work will be compelled to leave their children unattended in the absence of alternatives, families dependent on school meals will have children exposed to undernutrition or malnutrition if no comprehensive and easily accessible feeding alternatives are put in place, and children in vulnerable families—through poverty, lack of legal status, histories of domestic violence—will be at heightened risk of abuse, neglect or other threats to their protection. If school is closed, other safe facilities must be established to protect these children. Shelters for survivors of domestic abuse need more not less space, if violent abusers are at home with their families (with economic and other stressors exacerbating risk of violence) so that women and children can access the safe spaces outside the home that they may need more than ever.

**LEONARD & HODGE** – The principle of non-discrimination for the community we represent—people who were formerly incarcerated—is paramount to their ability to endure. During the last U.S. recession, unemployment among people living with records was 60%. We anticipate that the economic fallout from this public health crisis may result in that same form of unemployment, or much higher. When there are so many competing for resources and opportunities, like employment, the decision-maker is in a position to set strict parameters and is often overwhelmed by the volume of applicants. We know that when this happens people with records face broad discrimination which then impacts all other areas of their life—finances and health most directly. We continue the human rights conversation in an effort to reduce the practice of overlooking otherwise qualified candidates who have moved away from their past involvement in the U.S. criminal justice system.

**CORDISCO-TSAI** – Some have been saying that COVID-19 does not discriminate, but this is not accurate. While COVID-19 can affect anyone, pandemics disproportionately devastate marginalized communities. We must adopt an intersectional lens when analyzing the impacts of COVID-19, understanding that different aspects of people’s identities (such as race, gender, socioeconomic status, age, disability, migration status) intersect to shape people’s experiences of this pandemic. For example, we are seeing the particularly damaging effects of this crisis on women and girls through experiences such as increased intimate partner violence, and women’s disproportionate representation in service industries and as frontline caregivers. Our responses must utilize an intersectional framework, understanding how people’s intersecting identities impact the resources, relief, and care they can access. We need to ensure that our pandemic responses and relief efforts do not further deepen inequity and

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marginalization. In my work, we are seeing that the most vulnerable are unable to access relief goods and services. Government emergency relief is being distributed to persons who are registered voters, and/or formally registered residents of local communities. Transient residents, people living in informal settlements, and those who are not registered voters are not being deemed eligible for aid, meaning in practice that the most vulnerable are not provided relief. The most marginalized community members cannot be denied the relief and services needed to ensure their fundamental rights and meet their basic needs during this crisis.

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## What are possible best practices or approaches in such crisis situations?

**BHABHA** – The basic human rights imperative of non-discrimination is of critical importance in this situation. Calls for blanket closure of borders are violations of international legal obligations and deeply discriminatory. People with a well founded fear of persecution cannot be turned away for public health reasons unless the measures taken are proportionate to the risk. In the absence of any assessment of whether asylum seekers—for example, from Syria or Central America—have heightened risk of COVID 19 transmission than any other member of the public, returning them to situations which pose threats to their life or freedom is a violation of government obligations, and an act of clear discrimination. Undocumented populations are wary of state services in normal circumstances; in the current situation, they are likely to avoid health care testing or requests for assistance for fear of immigration enforcement altogether. Unless a clear moratorium on arrest, deportation and removal for non-violent undocumented populations is established, these populations will be exposed to severe risk of infection and their surrounding communities will also be at heightened risk.

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**LEONARD & HODGE** – People impacted by the criminal justice system have unique challenges and concerns. For example, we know people who are currently incarcerated are making goods for this crisis as is the case in New York and incarcerated people making hand sanitizer, while themselves everyday being forced to remain in conditions where an outbreak is almost certain. We also hear stories where people are facing layoffs but because they are on work-release they could be sent back to prison after losing their jobs. We also know that home visits are still happening and this increases the risk of exposure to COVID-19. Additionally, courts are completely closed, so this means many people's cases are postponed with limited guidance on how this will impact their records. And finally, we know that those who are home are facing the anxiety of having to rebuild their lives all over again and face never-ending discrimination for having an arrest and/or conviction record. The more these stories are heard and shared to drive action the better. It is a very difficult time because the news cycle is dense and so many people are afraid. I would say now is the time to lean into our shared humanity, share the stories of those needing help and when you are in a position to help, do so.

**CORDISCO-TSAI** – It is vital that we listen to the lived experiences of those who are most vulnerable about how they are being impacted and how their rights can be protected in crisis situations. People who are most vulnerable must be engaged as active partners in identifying the best approaches. In my work with survivors of human trafficking, we have systematically engaged with survivors impacted by COVID-19 – first listening and understanding their concerns, priorities, and suggestions. Together, we are choosing to focus on efforts to promote the safety of the whole person experiencing crisis. While flattening the curve is absolutely essential, safety goes beyond social/physical distancing and providing medical care for COVID-19-related symptoms. In addition to addressing physical health concerns, alleviating rising food insecurity and providing emergency financial relief are absolutely critical. It is essential that the most vulnerable have sufficient food, water, and are able to meet their basic needs during this crisis in the midst of significant income disruptions. Protecting the health of the whole person must also involve attending to mental health needs that arise and may be exacerbated by the current crisis. Given the devastating, multi-layered damage this pandemic is inflicting upon vulnerable populations, prioritizing crisis intervention is essential to safety. Crisis intervention refers to immediate, short-term counseling and support to people experiencing significant emotional, mental, and physical distress. For survivors of human trafficking specifically, current pressing priorities for crisis intervention include suicide prevention, protection from partner and family violence while in quarantine, and preventing re-trafficking and exploitation.

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