

# Canadian perspective on ageism and selective lockdown: a response to Savulescu and Cameron

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## ABSTRACT

In a recent article, 'Why lockdown of the elderly is not ageist and why levelling down equality is wrong', Savulescu and Cameron argue that a selective lockdown of older people is not ageist because it would treat people unequally based on morally relevant differences. This response argues that a selective lockdown of older people living in long-term care homes would be unjust because it would allow the expansive liberties of the general public to undermine the basic liberties of older people, and because it would discriminate on the basis of extrinsic disadvantages.

## INTRODUCTION

Blanket lockdowns of entire communities have been used around the world to limit the spread of COVID-19. This public health measure has been effective at limiting the spread of the virus, decreasing COVID-19 mortality and preventing healthcare systems from being overwhelmed.<sup>1</sup> However, lockdowns are detrimental to mental health,<sup>2</sup> physical health,<sup>3</sup> education<sup>4</sup> and the economy.<sup>5</sup>

One proposed solution to the problems posed by blanket lockdown is to selectively lock down older people (hereafter 'selective lockdown'), while allowing the rest of the population to return to normal life.<sup>6</sup> In a recent article, 'Why lockdown of the elderly is not ageist and why levelling down equality is wrong', Savulescu and Cameron argue that this policy would accomplish the goals of lockdown because older people are most likely to be hospitalised and die if they contract COVID-19.<sup>7</sup> They argue that this unequal treatment would not be ageist against older people because it would treat them unequally based on morally relevant differences.

This view is problematic. I will argue that a selective lockdown would constitute injustice against older people because it would (1) allow the expansive liberties of the general public to undermine the basic liberties of

older people, and (2) discriminate based on extrinsic disadvantages. I will limit the scope of my argument to residents of long-term care (LTC) homes because this population would be logistically the easiest to selectively lock down. I will further limit the scope to Canada to incorporate important background conditions in my analysis.

## UNDERMINED LIBERTIES

Rawls' widely accepted view of justice as fairness sheds light on what is wrong with a selective lockdown of LTC homes. One of Rawls' principles of justice is that '[e]ach person has the same inalienable claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all'.<sup>8</sup> On Rawls' view of justice, injustice occurs when the liberties of some citizens become so expansive that they undermine the basic liberties of other citizens. This means that, if the selective lockdown of LTC homes allows the expansive liberties of the young to undermine the basic liberties of older people, it would be unjust.

Allowing the general public to resume a semblance of normal life would increase their liberties. But it would increase the incidence of COVID-19 in communities surrounding LTC homes. Even when an LTC home is in lockdown, the incidence of COVID-19 in a region is an independent risk factor for COVID-19 outbreaks in LTC homes in that region.<sup>9</sup> Healthcare workers have been implicated as a vector for these outbreaks because they often live in the community near the LTC home in which they work.<sup>9</sup>

When an outbreak occurs in an LTC home, the basic liberties of the residents are undermined. Most obviously, many residents become infected with COVID-19 during an outbreak in their LTC home. This causes them direct physical harm and commonly leads to hospitalisation and death. This physical harm undermines their right to health, which the WHO calls 'a fundamental right of every human being'.<sup>10</sup> But even LTC residents who are not infected during an outbreak in their home have their basic liberties undermined in at least three ways.

First, COVID-19 outbreaks in LTC homes decrease the quality of healthcare provided to residents. Outbreaks infect some staff

members and deter others from coming into work. This exacerbates staff shortages and requires new, inexperienced staff to be brought in. The chaos of an outbreak can prevent high-quality training, causing new staff to be less familiar with resident needs and the systems in place to provide them care. Many residents rely on staff for bathing, toileting, eating and moving. When there are staff shortages or poorly trained staff, residents can be deprived of their ability to complete these activities of daily living.

Second, during outbreaks, additional efforts are made to sterilise residents' rooms multiple times each day. This undermines residents' right to privacy and can cause further harm if they lack the cognitive capacity to understand why strangers in hazardous material suits are invading their space.

Third, the restrictions imposed on residents during an outbreak in a facility are even more extreme than lockdown without an outbreak. During an outbreak, effective infection control requires residents to be confined to their bedrooms, further decreasing their liberties.

Relative to a blanket lockdown, the risk of these additional restrictions occurring would *increase* if a selective lockdown of LTC homes is implemented. The liberties older people lose during a COVID-19 outbreak outweigh the liberties that the general public would gain if they were permitted to return to a semblance of normal life; the right to health, the right to healthcare and the freedom to leave one's bedroom surely outweigh the right to attend a social gathering. A selective lockdown would be unjust because it would allow the expansive liberties of the general public to undermine the basic liberties of older people in LTC homes.

One might object that the connection between community transmission rates and the risk of outbreaks in LTC homes could be eliminated by placing LTC home staff under lockdown too. Such a strategy would require staff to leave their families and have food and other essentials delivered to them.

This proposal is not practically achievable. Even without being asked to leave one's family, working as a patient care attendant in an LTC home is not a highly sought occupation. In Canada, there has been a staffing crisis in LTC for decades.<sup>11</sup> Due to the shortage of workers and low pay, employees in LTC homes in Canada commonly work in multiple LTC homes.<sup>12</sup> COVID-19 outbreaks exacerbate the staffing crisis because employees who become infected are forced to stay home, while others choose to stay home out of fear of infection. If workers in LTC homes are forced to leave their families to continue to work, it is likely that many

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would simply quit their jobs. The lockdown of employees in LTC homes is not a viable solution.

### EXTRINSIC DISADVANTAGES

A second reason a selective lockdown of LTC homes is unjust is that it would perpetuate extrinsic (i.e., factors in the social and physical environment) disadvantages. Like older people, certain ethnic minorities are at increased risk of hospitalisation and death from COVID-19. Despite this similarity, Savulescu and Cameron argue that a selective lockdown of vulnerable ethnic minorities would be a form of injustice.<sup>7</sup> They say that older people are vulnerable because of 'the inevitable association between age and deterioration of physical health'.<sup>7</sup> In contrast, they say that ethnic minorities are vulnerable because of social disadvantages: 'relevant risk factors for which ethnicity may serve as a proxy, such as obesity and poor respiratory health, are more prevalent in particular ethnic groups because of social disadvantage'.<sup>7</sup> They claim that discriminating based on social disadvantages would perpetuate these disadvantages and place an 'unjust burden' on ethnic minorities.<sup>7</sup>

However, the distinction between the source of ethnic minorities' vulnerability to COVID-19 and the source of older people's vulnerability to COVID-19 is misrepresentative. Extrinsic factors, analogous to the social disadvantages experienced by ethnic minorities, contribute to LTC home residents' vulnerability to COVID-19.

First, the physical environment of an LTC home contributes to the risk of death from COVID-19. If infected, older people living in LTC homes are at a much higher risk of hospitalisation and death from COVID-19 than age-controlled people living outside of LTC homes.<sup>13</sup> Admittedly, individuals living in LTC homes tend to have accumulated more comorbidities than people who can live independently. However, compared with government-funded LTC homes, COVID-19 outbreaks are more lethal in for-profit LTC homes.<sup>9</sup> There is no reason to believe that residents in for-profit LTC homes are living with more comorbidities than residents in government-funded LTC homes. For-profit LTC homes are, on average, built with older design standards. They have fewer single occupancy rooms, more shared washrooms and smaller room sizes.<sup>9</sup> When an outbreak occurs in a for-profit LTC home, the physical layout of the building makes it harder to control. In this way, the extrinsic disadvantage of living in an LTC home contributes to a resident's vulnerability to COVID-19.

Second, policy decisions have contributed to older people's vulnerability to COVID-19. Prior to the pandemic, concerns about overcrowding in LTC homes were ignored by the government.<sup>14</sup> Early in the pandemic, pandemic preparedness policies focused on hospitals.<sup>15</sup> As COVID-19 outbreaks accumulated in LTC homes, governments were slow to reallocate resources to LTC homes,<sup>15</sup> despite the fact that hospitals were operating well under capacity. In some outbreaks, LTC residents infected with COVID-19 were not removed from bedrooms they shared with uninfected residents.<sup>14</sup> In other outbreaks, conditions became so dire that LTC home staff refused to go to work.<sup>16</sup> Living in an LTC home was disadvantageous because it excluded residents from the opportunity to receive high-quality medical care.

Extrinsic disadvantages, caused by their physical environment and discriminatory policies, contribute to LTC home residents' vulnerability to COVID-19. If discriminating on the basis of extrinsic disadvantages is unjust, then a selective lockdown of LTC homes is unjust.

### CONCLUSION

The adverse effects caused by blanket lockdown are a serious problem. While a selective lockdown of older people living in LTC homes may help alleviate some of these adverse effects of blanket lockdown, it would be detrimental to the most vulnerable members of society. It would constitute injustice against older people in LTC homes because it would (1) allow the expansive liberties of the general public to undermine the basic liberties of older people, and (2) discriminate on the basis of extrinsic disadvantages. When searching for solutions to the problems posed by lockdown, issues of justice warrant careful consideration.

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