

Ensuring equity, reducing harms, and supporting human rights in drug policy: Brief to the Minister of Health and Canadian Delegation to the United Nations Commission on Narcotic Drugs

Prepared for the 65th session of the Commission on Narcotic Drugs by
the Canadian Civil Society Working Group on United Nations Drug
Policy

Introduction and Objectives

This brief is submitted to the Minister of Health and members of the Canadian delegation to the 65th session of the United Nations (UN) Commission on Narcotic Drugs (CND) by the Canadian Civil Society Working Group on UN Drug Policy (see Appendix). The Working Group was originally established in preparation for the UN General Assembly Special Session on the World Drug Problem in 2016. Since then, members have welcomed the opportunity to engage more regularly with Canada regarding matters coming before the CND, and to represent civil society as part of Canadian delegations to the CND.

The objective of the Working Group is to increase Canadian civil society engagement at the CND, and related UN meetings and processes, with a view to promoting international drug policy that:

- is informed by current evidence.
- adheres to international human rights agreements and other human rights norms.

- promotes the inclusion of people who use drugs and civil society stakeholders in all aspects of research, policy development, and program implementation.
- reflects values that embrace ongoing critical evaluation of the impacts of drug policy on individuals, families, and communities.
- supports the achievement of the UN Sustainable Development Goals.

The following recommendations highlight priority areas in which Canada can play a leadership role in advancing evidence-informed, inclusive, and effective drug policy that is grounded in a public health approach and in alignment with complementary UN initiatives, including the promotion of human rights and achievement of the Sustainable Development Goals.

The Working Group appreciates Canada’s continued support for civil society participation at the CND and other UN meetings related to drugs and drug policy, as well as efforts made to increase participation, including on the Canadian delegation. Membership on the Canadian delegation and engagement with the recommendations contained in this brief provide an opportunity to amplify the civil society voice in the international dialogue on drug policy.

1) Ensuring equity for people who use drugs from racialized communities, Indigenous populations, and across genders

Repeatedly, expressly, and by consensus, Canada and other Member States have directed drug control efforts to conform to the standards of international human rights.

[¹] Further, the 2030 Agenda for Sustainable Development lists “Leaving no one behind” as one of the fundamental aims of the Sustainable Development Goals. [²] This

¹ For example, see 1998 UNGASS Declaration, para. 8; CND, 53rd Session, Resolution 53/2, para 2, : http://www.unodc.org/documents/commissions/CND-Res-2000-until-present/CND53_2e.pdf; and 2016 UNGASS Outcome Document, preamble, <https://www.unodc.org/documents/postungass2016/outcome/V1603301-E.pdf>.

² General Assembly Resolution 70/1, Transforming Our World: The 2030 Agenda for Sustainable Development A/RES/70/1 (25 September 2015),

necessarily includes racialized communities, Indigenous populations, and people of all gender identities. Current drug policies have had a disproportionate and discriminatory impact on women, people of diverse gender identities, as well as racialized and Indigenous communities. All UN bodies, including UN human rights committees, have recognized determinants of health such as stigma, sexism, racism, colonialism, intergenerational trauma, homophobia, transphobia, poverty, housing insecurity, pregnancy and parenting, physical and sexual violence as well as repressive laws and policies that disproportionately affect women, people of diverse gender identities,^[3] as well as racialized and Indigenous communities, are not sufficiently accounted for in the design of health strategies directed at people who use drugs.

Despite this, the International Drug Policy Consortium (IDPC) in its report on the 64th session of the CND commented that it is “notable and surprising” that Resolution 64/1 focused on “a sustainable and resilient recovery” from the COVID-19 pandemic did not make “any attempt to approach the world drug situation through the lens of the 2030 Agenda for Sustainable Development,” and that this would have arguably ^[4] required an increased focus on certain issues that were absent from the resolution, such as universal health coverage, gender equality, environmental protection, violence reduction, and building accountable and inclusive institutions”. ^[5] IDPC’s conclusion was that: “All in all, it seems that for the Commission the main response to the

<https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf>.

³ Center for American Progress, Unjust: How the broken criminal justice system fails transgender people (Report, Movement Advancement Project, 2016), 8

⁴ Health Poverty Action & International Drug Policy Consortium (2015), Drug policy and the sustainable development goals, [https://www.unodc.org/documents/ungass2016/Contributions/Civil/Health_Poverty_Action/HPA_SDGs_drugs_policy_briefing WEB.pdf](https://www.unodc.org/documents/ungass2016/Contributions/Civil/Health_Poverty_Action/HPA_SDGs_drugs_policy_briefing_WEB.pdf)

⁵ The International Drug Policy Coalition (IDPC)The 2021 Commission on Narcotic Drugs: Report of Proceedings, July 2021, http://files.idpc.net/library/CND_Proceedings_Report_2021.pdf

disruption brought by the pandemic is to double down on the system as it existed beforehand”. [6]

The impact of punitive drug laws is gendered. More men than women are prosecuted and incarcerated for drug offenses in Canada. At the same time, a higher proportion of women in prison are incarcerated for drug offenses than among men in prison. Women also face barriers to treatment and harm reduction services. [7] In 2016, the UN Committee on the Elimination of Discrimination against Women (CEDAW Committee) expressed concern about “the excessive use of incarceration as a drug-control measure against women and the ensuing female over-population in prison,” as well as “the significant legislative and administrative barriers women face to access supervised consumption services,” consequently calling on Canada to “reduce the gap in health service delivery related to women’s drug use, by scaling-up and ensuring access to culturally appropriate harm reduction services” and to repeal “mandatory minimum sentences for minor, non-violent drug-related offenses.” [8]

With respect to Black and Indigenous peoples, the UN Committee on the Elimination of Racial Discrimination (CERD) in 2017 expressed concern at the disproportionately high rate of incarceration of Black and Indigenous peoples and called for “evidence-based alternatives to incarceration for non-violent drug users.” [9] In Canada, Black and Indigenous communities are disproportionately charged, prosecuted, and incarcerated for drug offences. [10] Drug policies affecting Indigenous populations remain largely

⁶ The International Drug Policy Coalition (IDPC) The 2021 Commission on Narcotic Drugs: Report of Proceedings, July 2021, http://fileserver.idpc.net/library/CND_Proceedings_Report_2021.pdf

⁷ United Nations Office on Drugs and Crime (UNODC) (2020), World Drug Report 2020 (United Nations Publication, Sales No. E.20.XI.6), https://wdr.unodc.org/wdr2020/field/WDR20_BOOKLET_1.pdf.

⁸ UN Committee on the Elimination of Discrimination against Women, Concluding observations on the combined on the combined eighth and ninth periodic reports of Canada, UN Doc. CEDAW/C/CAN/CO/8-9, November 18, 2016, paras. 44-45.

⁹ UN Committee on the Elimination of Discrimination against Women, Concluding observations on the combined on the combined eighth and ninth periodic reports of Canada, UN Doc. CEDAW/C/CAN/CO/8-9, November 18, 2016, paras. 44-45.

¹⁰ Commission on Systemic Racism in the Ontario Criminal Justice System, Report of the Commission on Systemic Racism in the Ontario Criminal Justice System, 1995; J. Rankin and S. Contenta, ‘Toronto

based on colonial norms, laws, and customs, leading to disproportionate rates of incarceration and police persecution. While accounting for only 5% of the population in Canada as a whole, as of December 2021, Indigenous prisoners made up 32% of the total federal prison population — an increase of 45.4% since 2010. [11] Furthermore, as of December 2021, close to 50% of federally incarcerated women in Canada are Indigenous, an increase of almost 10% since January 2020, and Indigenous women are more likely than white women to be imprisoned for drug offenses. [12] At the same time, almost 20% of Black federal prisoners are incarcerated for a drug offense [13], and Black women, are more likely than white women to be in prison for that reason. [14]

In 2021, we saw the adoption of Human Rights Council Resolution 47/21^[15], as well as the report of the High Commissioner for Human Rights on the promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers [16]. This report noted, “the discriminatory application of criminal

marijuana arrests reveal ‘startling’ racial divide,’ Toronto Star, July 6, 2017; A. Owusu-Bempah and A. Luscombe, ‘Race, cannabis and the Canadian war on drugs: An examination of cannabis arrest data by race in five cities,’ International Journal of Drug Policy (2020), 102937; D. Fumano, ‘New figures reveal the racial disparity in Vancouver drug charges,’ Vancouver Sun, August 7, 2020., Journal on Race and Justice, “Race and Incarceration: The Representation and Characteristics of Black People in Provincial Correctional Facilities in Ontario”, Canada, p.3 April 8, 202, <https://journals.sagepub.com/doi/full/10.1177/21533687211006461>, Jeremiah Rodriguez, “Striking, shocking and saddening’: Study finds Black men overrepresented in Ontario jails”, CTV News, May 27, 2021

¹¹ Office of the Correctional Investigator “Proportion of Indigenous Women in Federal Custody Nears 50%”: Correctional Investigator Issues Statement, December 17, 2021

¹² Office of the Correctional Investigator “Proportion of Indigenous Women in Federal Custody Nears 50%”: Correctional Investigator Issues Statement, December 17, 2021

¹³ Office of the Correctional Investigator of Canada, Annual Report 2014–2015 of the Office of the Correctional Investigator, 2015

¹⁴ Ontario Human Rights Commission (2020), “Racial Disparity in Arrests and Charges: An analysis of arrest and charge data from the Toronto Police Service”, P.19, Racial Disparity in Arrests and Charges (ohrc.on.ca)

¹⁵ UN Human Rights Council, Adoption of Resolution 47/21, July 13, 2021

https://www.google.com/url?q=https://undocs.org/A/HRC/RES/47/21&sa=D&source=docs&ust=1645842300103010&usg=AOvVaw2zFbe7tw82cxK0MQChgv_-

¹⁶ UN Human Rights Council, Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of

law must be tackled at every stage, including by reforming drug-related policies, laws and practices with discriminatory outcomes, in line with international human rights standards.” The UN Declaration on the Rights of Indigenous Peoples (UNDRIP), passed into law by Canada on June 16, 2021, affirms that “Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health.”^[17] The *UNDRIP Act* is Canada’s first substantive step towards ensuring federal laws reflect the standards set out in UNDRIP. ^[18] Further, approaches founded on Indigenous knowledge and culture ensure a more holistic approach to drug use and control.

Notwithstanding general rhetorical affirmations of human rights, attention to specific human rights concerns in the context of drug policy remains contentious at the CND. ^[19]

For drug policy to create greater equity for Indigenous peoples, it must support access to and availability of resources to enable an Indigenous-specific public health approach, guided by Indigenous knowledge. Focused attention and equitable capacity to address the Indigenous determinants of health (colonialism and its ongoing racism, social exclusion, denial of cultural continuity, political and territorial sovereignty, as well as

the High Commissioner and the Secretary-General

<https://www.google.com/url?q=https://undocs.org/A/HRC/47/53&sa=D&source=docs&ust=1645842300103305&usq=AOvVaw26ay97QrA928IHGOTGEQPS>

¹⁷ United Nations General Assembly. (2007). United Nations Declaration on the Rights of Indigenous Peoples. Retrieved from Department of Economic and Social Affairs Indigenous Peoples: <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>.

¹⁸ Federal UNDRIP Bill becomes law, Author(s): Sander Duncanson, Coleman Brinker, Kelly Twa, Maeve O’Neill Sanger, June 22, 2021 <https://www.osler.com/en/resources/regulations/2021/federal-undrip-bill-becomes-law#:~:text=UNDRIP%20is%20a%20non%2Dbinding,officially%20endorsed%20UNDRIP%20in%202016>

¹⁹ [9] Human Rights Council (4 September 2015), Study on the Impact of the World Drug Problem on the Enjoyment of Human Rights: Report of the United Nations High Commissioner for Human Rights, UN Doc. A/HRC/30/65, http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A_HRC_30_65_E.docx

Human Rights Council (14 September 2018), Implementation of the Joint Commitment to Effectively Addressing and Countering the World Drug Problem with Regard to Human Rights: Report of the Office of the United Nations High Commissioner for Human Rights, UN Doc. A/HRC/39/39, https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session39/Documents/A_HRC_39_39.docx

self-determination) are essential to reduce harms from drugs and drug policy. Additionally, cultural connection and access to culturally relevant services are identified as key sources of resilience for Indigenous peoples, including those struggling with issues related to their drug use and those who are vulnerable to or living with HIV.

Canada has argued strongly for international drug policies which reduce stigma towards drug use and people who use drugs, including leading a resolution on *Promoting non-stigmatizing attitudes to ensure the availability, access and delivery of health, care, and social services for drug users* [20] adopted at the 61st session of the CND in 2018.

Last year at the 64th session of the CND, Canada advocated strongly and successfully for the adoption of its resolution on *Facilitating access to comprehensive, scientific evidence-based drug demand reduction services and related measures, including for people impacted by social marginalization*. Despite strong opposition to the very concept of “social marginalization” [21], Canada argued successfully for this language to be included in the resolution”. [22]

We urge Canada to continue to advocate for, promote recognition of, and advance discussions among Member States, including in statements delivered at the CND, of the negative impacts of current drug policies on women, people of diverse gender identities, as well as racialized and Indigenous communities, and

²⁰ CND 61st Session, Resolution 61/11, Promoting non-stigmatizing attitudes to ensure the availability, access and delivery of health, care and social services for drug users https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_61/CND_res2018/CND_Resolution_61_11.pdf .

²¹ CND Blog (13 April 2021), Resolution L.3 (Tuesday Morning Session): Ensuring access to drug treatment, education, after-care, rehabilitation, and social reintegration services, for people within marginalized populations, <http://cndblog.org/2021/04/resolution-l-3-tuesday-morning-session-ensuring-access-to-drug-treatment-education-after-care-rehabilitation-and-social-reintegration-services-for-people-within-marginalized-populations/>

²² Resolution 64/5: *Facilitating access to comprehensive, scientific evidence-based drug demand reduction services and related measures, including for people impacted by social marginalization*, https://www.unodc.org/unodc/en/commissions/CND/Resolutions_Decisions/resolutions-and-decisions-2020-2029.html

to support accessible, gender-sensitive and culturally appropriate treatment, harm reduction, and other health services that are tailored to meet their specific needs.

We urge Canada to express support for the prohibition of all forms of racial profiling by law enforcement

We also urge Canada to create participatory roles for Indigenous peoples and people who use drugs in the design, implementation, and evaluation of all drug and drug policy interventions.

Having successfully taken the lead with the adoption of Resolution 64/5, we also urge Canada to continue to press for acknowledgement from other Member States about the unique experiences and needs of people who use drugs from racialized communities, Indigenous populations, and across genders, while advocating for the inclusion of the above-mentioned groups in other resolutions.

Finally, we urge Canada to model and promote Member States' harmonization of domestic laws and policies with international human rights standards, especially those protecting racialized and Indigenous communities, as well as people of all gender identities.

2) Expressing support for the full decriminalization of possession of scheduled substances for personal use

Criminal prohibitions are ineffective in deterring drug use. [23] The current system of international scheduling reinforces the “Iron Law of Prohibition,” which dictates that as law enforcement becomes more intense, the potency of prohibited substances increases. Moreover, the observed displacement/replacement effect indicates that the

²³ The Canadian Journal of Addiction: March 2021 - Volume 12 - Issue 1 - p 13-15, https://journals.lww.com/cja/fulltext/2021/03000/policy_brief_csam_in_support_of_the.3.aspx

scheduling of substances is routinely followed by the emergence of new substances often posing greater harms from consumption. This continued reliance on scheduling and law enforcement crackdown fuels harms experienced by people who use drugs, including the steadily increasing rate of overdoses around the world. The UN Office on Drugs and Crime (UNODC) World Drug Reports have consistently identified an increase in both drug manufacturing and consumption year to year, despite the estimated cost of enforcing current drug laws exceeding USD100 billion per year. [24] This demonstrates that the current system of prohibition has failed to reduce, or even stabilize, the consumption of currently scheduled substances. The current system of prohibition has also failed to protect those most vulnerable in our communities from the dangers of an adulterated, unregulated drug supply. [25] Criminalized drug possession is one of the main driving factors behind both individual and systemic stigma and discrimination affecting people who use drugs. This stigma and discrimination perpetuate widespread human rights violations, while also preventing people from seeking and accessing vital services. Criminalization of drug possession disproportionately impacts Indigenous peoples, racialized communities, and women.

In Canada in 2021, the rate of opioid overdose deaths as part of the ongoing overdose crisis continues to increase with an average of 19 people dying per day, representing a 2% increase compared to April to June 2020 (1,680 deaths) and a 66% increase compared to April to June 2019. [26] Most of these deaths were related to high-potency opioids in the unregulated market. Criminalization of drug possession leads directly to both individual and systemic stigma and discrimination that prevents people from seeking harm reduction and treatment services, and to widespread human rights violations. This has disproportionate impacts on certain populations, including

²⁴ Mark Tyndall, (2020), "Safe opioid distribution in response to the COVID-19 pandemic", International Journal of Drug Policy, p.83: <https://doi.org/10.1016/i.drugpo.2020.102880>

²⁵ CND 61st Session, Resolution 61/11, Promoting non-stigmatizing attitudes to ensure the availability, access and delivery of health, care and social services for drug users https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_61/CND_res2018/CND_Resolution_61_11.pdf

²⁶ Opioid- and Stimulant-related Harms in Canada Published: (December 2021) Public Health Agency of Canada, Government of Canada P.1

Indigenous peoples, racialized communities, women, youth, and those with mental health conditions or problematic substance use. Criminalization also prioritizes the allocation of resources to the criminal justice system rather than to the development of health and social services. [27] Consequently, a broad spectrum of formal and informal decriminalization strategies is emerging domestically and internationally.

Internationally, the decriminalization of drug possession for personal use has been called for expressly by 12 UN agencies (including the World Health Organization, UNAIDS, and the Office of the UN High Commissioner for Human Rights) in their 2017 Joint Statement on Ending Discrimination in Healthcare Settings [28] and by all 31 UN agencies in a common position on drug policy released in early 2019. [29]

In Canada, civil society and professional organizations have been calling for decriminalization for many years. In 2021, the Federal Expert Task Force [30] on Substance Use recommended decriminalization. Later that year, 112 human rights and public health organizations released a national drug decriminalization platform [31] for

²⁷ Saba Aziz, Global News, “There are growing calls for drug decriminalization. Could it solve Canada’s opioid crisis?”, November 9, 2021
<https://globalnews.ca/news/8359890/drug-decriminalization-opioid-crisis/>

²⁸ World Health Organization (2017), Joint United Nations statement on ending discrimination in health care settings, <https://www.who.int/news/item/27-06-2017-joint-united-nations-statement-on-ending-discrimination-in-health-care-settings>

²⁹ UN Chief Executives Board, Summary of Deliberations: Segment 2: common United Nations system position on drug policy, UN System, 2nd regular session of 2018, UN Doc CEB/2018/2, January 18, 2019; United Nations Chief Executives Board, United Nations system common position supporting the implementation of the international drug control policy through effective inter-agency collaboration, UNCEB, 2nd Session, Annex 1, UN Doc. CEB/2018/2, January 18, 2019.

³⁰ Government of Canada, Health Canada, “Report 1: Recommendations on alternatives to criminal penalties for simple possession of controlled substances”
<https://www.google.com/url?q=https://www.canada.ca/en/health-canada/corporate/about-health-canada/public-engagement/external-advisory-bodies/expert-task-force-substance-use/reports/report-1-2021.html&sa=D&source=docs&ust=1645842300107471&usg=AOvVaw1-M1pGYOSKPyGsWAYHIBrp>

³¹ Canadian Drug Policy Coalition, “Leading human rights and public health organizations release national drug decriminalization platform for Canada”
<https://www.google.com/url?q=https://drugpolicy.ca/leading-human-rights-and-public-health-organizations-release-national-drug-decriminalization-platform-for-canada/&sa=D&source=docs&ust=1645842300108264&usg=AOvVaw1IFQu2Ilg9J6EITR-Z2IILI>

Canada, calling for the decriminalization of possession of all drugs for personal use and the sharing or selling of drugs for subsistence, to support personal drug use costs, or to provide a safer supply, and the removal of all sanctions for such activities. Provincial and municipal authorities are increasingly joining these calls, demonstrating growing domestic acceptance that criminalization as a strategy is simply not working. In May 2021, Vancouver ^[32] submitted the first municipal request for an exemption from the *Controlled Drugs and Substances Act* to decriminalize personal possession of illegal substances, followed by the first provincial request in November 2021 by British Columbia. ^[33] In December 2021, the City of Toronto's Board of Health directed the Medical Officer of Health to submit a request for an exemption from the *Controlled Drugs and Substances Act*, thereby starting a process to decriminalize the personal possession of illegal substances within the City of Toronto's boundaries^[34] ; A preliminary request was submitted in January 2022. ^[35] The cities of Kingston, Montreal, and Ottawa have also endorsed decriminalization. ^[36] Notably, drug decriminalization

³² City of Vancouver "Request for an exemption from the Controlled Drugs and Substances Act (CDSA) pursuant to section 56(1) that would decriminalize personal possession of illicit substances within the City of Vancouver Final Submission to Health Canada", May 28, 2021 <https://www.google.com/url?q=https://vancouver.ca/files/cov/request-for-exemption-from-controlled-drugs-and-substances-act.pdf&sa=D&source=docs&ust=1645842300110659&usg=AOvVaw06iLbhEjH8i4fbAybWmzWP>

³³ BC Ministry of Mental Health and Addictions Press Release, "B.C. applies for decriminalization in next step to reduce toxic drug deaths", Nov. 1, 2021, <https://news.gov.bc.ca/releases/2021MMHA0059-002084>

³⁴ Toronto Drug Strategy, Alternative Model to Drug Criminalization in Toronto <https://www.google.com/url?q=https://www.toronto.ca/community-people/health-wellness-care/health-programs-advice/alcohol-and-other-drugs/toronto-drug-strategy-2/?accordion%3Dalternative-model-to-drug-criminalization-in-toronto&sa=D&source=docs&ust=1645842300109711&usg=AOvVaw0c-ysbV-VK7SW55-GkvreO>

³⁵ Request for exemption to the Controlled Drugs and Substances Act to allow for the possession of drugs for personal use in Toronto, January 4, 2022 <https://www.google.com/url?q=https://www.toronto.ca/wp-content/uploads/2022/01/943b-TPH-Exemption-Request-Jan-4-2022-FNLAODA.pdf&sa=D&source=docs&ust=1645842300111297&usg=AOvVaw0xtyWn0hkirjXCxcVtdouF>

³⁶ Board authorizes city's chief medical officer to request exemption from Health Canada
Kirthana Sasitharan · CBC News · Posted: Dec 07, 2021 5:00 AM ET | Last Updated: December 7, 2021

has gained support from the Ontario Association of Chiefs of Police, [37] the Canadian Association of Chiefs of Police,[38,39,20] and the Centre for Addiction and Mental Health. [40]

Effective decriminalization will require a range of evidence-based and tailored policies and practices. Importantly, administrative sanctions such as fines, mandatory referrals to treatment, or the confiscation of drugs must not be introduced as an alternative to criminal sanctions, as this would authorize law enforcement to continue to monitor and police people who use drugs — a practice that will have a disproportionate impact on Indigenous, Black, and other marginalized communities.

Canada is well-positioned to provide effective advocacy for decriminalization at the UN, and to contribute to and play a leadership role in enhancing the international knowledge base on models and outcomes.

We urge Canada to express support for the full decriminalization of possession of scheduled substances for personal use, including in statements delivered at the CND.

We also urge Canada to implement, promote, and advance discussions among other Member States on support and implementation of the full decriminalization of drug possession for personal use, as a key component of a public health and human rights based approach to drugs.

³⁷ Substance Advisory Committee (OACP SAC) December 2020, <https://www.oacp.ca/en/news/oacp-statement-decriminalization-for-simple-possession-of-illicit-drugs.aspx> , CBC News, October 15, 2021 “Why the head of Ontario's police chiefs says we can't 'charge our way out' of the opioid crisis” <https://www.cbc.ca/news/canada/windsor/chatham-kent-police-chief-drug-decriminalization-1.6211302>

³⁸ Special Purpose Committee on the Decriminalization of Illicit Drugs July 2020 https://www.cacp.ca/index.html?asst_id=2189

³⁹ The Agenda with Steve Paiken, TVO, October 21, 2021 “Why Police Chiefs Want to Decriminalize All Drugs”, <https://www.tvo.org/video/why-police-chiefs-want-to-decriminalize-all-drugs>

⁴⁰ CBC, September 30, 2021“ Drug decriminalization movement gaining momentum in Canada as overdose deaths surge”, <https://www.cbc.ca/news/health/drug-decriminalization-camh-1.6192785>

Finally, we urge Canada to actively promote support for research and evaluation of decriminalization models and outcomes.

3) Ensuring access to safer supply, as well as harm reduction, treatment, and other health services for people who use drugs

As noted earlier but worth reiterating, the current system of international scheduling reinforces the “Iron Law of Prohibition,” which dictates that as law enforcement becomes more intense, the potency of prohibited substances increases. Moreover, the observed displacement/replacement effect indicates that the scheduling of substances is routinely followed by the emergence of new substances often posing greater harms from consumption. The continued reliance on scheduling and law enforcement crackdowns fuels harms experienced by people who use drugs, including the steadily increasing rate of overdoses around the world. Such approaches would benefit from undertaking risk assessments and considering the optimal sequencing of interventions before scheduling new substances.

Although we are adapting to living with the global COVID-19 pandemic, it has and continues to increase the already significant risks facing people who use drugs, who are at higher risk of both contracting and dying from the disease. Additionally, people who use drugs face greater barriers to accessing treatment for COVID-19 in both public and private healthcare systems, which the pandemic has stretched to their limits.

Global drug markets have been disrupted by the pandemic and resulting restrictions on transnational movement, which has increased the volatility and toxicity of the unregulated drug supply, due to the limited availability of essential chemicals in the manufacturing processes of many currently scheduled substances. This has worsened the hardship and dangers faced by people who use drugs. Disruptions also appear to have created serious price fluctuations in the unregulated market, resulting in increased financial hardship for people who use drugs. Some have also been forced to engage in dangerous behaviour to obtain drugs that are now more costly.

Lockdown and physical distancing measures implemented by many Member States have decreased the ability of people who use drugs to access harm reduction and treatment services, as well as disrupted the work of organizations seeking to facilitate harm reduction measures such as overdose prevention sites and supervised consumption services. When these harm reduction measures are either suspended entirely, or run at a reduced capacity, limited access means people who are already isolated from peers, social services, and the community, which lockdowns and physical distancing necessarily require, end up having no other choice but using alone, thereby increasing their risk of fatal overdose. In Ontario, there were 2,426 opioid related deaths in 2020 [41], a 60.0% increase from 1,517 death from the year prior. [42] British Columbia surpassed the total number of overdose-related deaths of 2020, recording 2,224 fatalities in 2021, compared to 1,767 by the end of 2020. [43] representing a 26% increase, or the equivalent of six British Columbians dying every day due to toxic drugs. Importantly, there was a significant increase during the pandemic in opioid-related deaths in neighbourhoods with higher ethno-cultural diversity in Ontario. [44] In British

⁴¹ <https://www.google.com/url?q=https://www.publichealthontario.ca/en/data-and-analysis/substance-use/interactive-opioid-tool%23/trends&sa=D&source=docs&ust=1645842363023660&usg=AOvVaw1VA7ksKrPxxgXrOWgoyMIA...CBC, September 30, 2021> “Drug decriminalization movement gaining momentum in Canada as overdose deaths surge”, <https://www.cbc.ca/news/health/drug-decriminalization-camh-1.6192785>

⁴² The Ontario Drug Policy Research Network, The Office of the Chief Coroner for Ontario / Ontario Forensic Pathology Service, Public Health Ontario, “Changing Circumstances Surrounding Opioid-Related Deaths in Ontario during the COVID-19 Pandemic, Gomes T, Murray R, Kolla G, Leece P, Bansal S, Besharah J, Cahill T, Campbell T, Fritz A, Munro C, Toner L, Watford J https://www.publichealthontario.ca/-/media/Documents/C/2021/changing-circumstances-surrounding-opioid-related-deaths.pdf?sc_lang=en.P.5

⁴³ RCI, December 9, 2021 “2021 now deadliest year for illicit-drug overdoses in B.C., after record 201 deaths in October, coroner says” <https://ici.radio-canada.ca/rci/en/news/1846240/2021-now-deadliest-year-for-illicit-drug-overdoses-in-b-c-after-record-201-deaths-in-october-coroner-says>, British Columbia Office of Public Safety and the Solicitor General, BC Coroners Service, “More than 2,200 British Columbians lost to illicit drugs in 2021”, Feb. 9, 2022 <https://news.gov.bc.ca/releases/2022PSSG0010-000188>

⁴⁴ Preliminary Patterns in Circumstances Surrounding Opioid-Related Deaths in Ontario during the COVID-19 Pandemic, P.7, A report prepared by: The Ontario Drug Policy Research Network, The Office of the Chief Coroner for Ontario/Ontario Forensic Pathology Service, Public Health Ontario, Centre on Drug Policy Evaluation, https://www.publichealthontario.ca/-/media/documents/o/2020/opioid-mortality-covid-surveillance-report.pdf?sc_lang=en

Columbia, Indigenous peoples have also borne a disproportionate burden of overdose deaths. [45]

People who use drugs face higher risks of comorbidities that can lead to severe negative health outcomes if they become infected with COVID-19, such as death from other respiratory illnesses. Despite this, people who use drugs, especially those who live with HIV, hepatitis C, and/or other blood-borne infections, must overcome more barriers to accessing treatment and healthcare services — a problem that has been exacerbated by the additional strain placed on public healthcare by the pandemic.

Canada and other Member States have implemented some positive measures to alleviate the negative impacts of the COVID-19 pandemic. These include the greater availability of take-home doses for opioid agonist therapy, fast-tracking of exemption processes for overdose prevention sites, and the wider availability of “urgent public health need” sites. Given the lifesaving impact these initiatives have had, it should be ensured that they are retained even after containment of the COVID-19 virus. Retention of these and other initiatives is recommended in the UNODC’s World Drug Report 2021 where they recommend other possible responses including maintaining COVID-19 adaptations to the delivery of drug-related services in order to increase accessibility and coverage of services, continuously updating scientific standards to keep abreast of the acceleration of Internet-based services, and prioritizing people who use drugs and with drug use disorders for COVID-19 screening and vaccination because of their health vulnerability. [46] There is also a need to identify and reduce remaining barriers to implementation.

⁴⁵ First Nations Health Authority (FNHA), “First Nations Toxic Drug Deaths Doubled During the Pandemic in 2020”, May 27, 2021, <https://www.fnha.ca/about/news-and-events/news/first-nations-toxic-drug-deaths-doubled-during-the-pandemic-in-2020>, British Columbia Office of Public Safety and the Solicitor General, BC Coroners Service, “More than 2,200 British Columbians lost to illicit drugs in 2021”, Feb. 9, 2022 <https://news.gov.bc.ca/releases/2022PSSG0010-000188>, Statement by Dr. Nel Wieman, deputy chief medical officer, First Nations Health Authority –Feb 10/2022 in response to BC Coroners Service report “In every year since this public health emergency was declared, B.C. First Nations people have been over-represented in toxic drug-poisoning events and deaths.”

⁴⁶ World Drug Report 2021, Booklet # 1 p.4 https://www.unodc.org/unodc/en/data-and-analysis/wdr-2021_booklet-1.html

Canada has, in recent years, promoted a public health approach to drug policy, and safer supply forms an integral part of any public health approach, as part of the wider evidence-based movement towards the regulation of currently prohibited drugs. [47] This is because safer supply guarantees substances for people who use drugs that are of known quality and quantity – and hence contributes to the realization of the human right to the highest attainable standard of health, among other rights. [48] Having been trialled in Canada at the provincial level with support from the federal government, safer supply is effective both at saving lives and at reducing illegal drug use. Participants in these programs are more likely to benefit from safer supply options as opposed to traditional treatments, when measured by the metrics of client retention, lowering participants' use of illegal drugs, and improving overall quality of life. [49] For example, heroin maintenance trials in Vancouver involving more than 200 participants had retention rates of over 80% after a year on treatment, and those remaining on treatment had drastic reductions in their illegal opioid use. In comparison, in British Columbia retention rates of new clients on methadone are under 35% a year. [50]

North America has some of the highest rates of opioid and stimulant use in the world, with a growing number of accidental opioid- and stimulant-related overdose deaths. In the face of the current overdose crisis in North America, safer supply has proven to be a lifesaving initiative; London (Ontario) Intercommunity Health Centre's safer supply

⁴⁷ Global Commission on Drug Policy (2018). Regulation: The Responsible Control of Drugs Regulation_Report_WEB- FINAL.pdf. See also: Canadian Association of People who Use Drugs (2019). Safe Supply Concept Document. <https://vancouver.ca/files/cov/capud-safe-supply-concept-document.pdf>.

⁴⁸ Joanne Csete & Richard Elliott (2020). 'Consumer protection in drug policy: The human rights case for safe supply as an element of harm reduction ,' International Journal of Drug Policy, 102976, DOI: <https://doi.org/10.1016/j.drugpo.2020.102976>

⁴⁹ Canadian Association of People who Use Drugs (2019), Safe Supply Concept Document. <https://vancouver.ca/files/cov/capud-safe-supply-concept-document.pdf>.

⁵⁰ 'Sustained Release Oral Morphine, Injectable Hydromorphone, and Prescription Diacetylmorphine for Opioid Use Disorder: Clinical and Cost-effectiveness, and Guidelines' (Ottawa: CADTH, April 2017). (CADTH rapid response report: summary of abstracts).

program has proven highly successful and effective in reducing the risks and harms facing people who use drugs who are involved in the program. [51] The supply of drugs in known quantity and quality such as prescription heroin programs and heroin agonist treatment, implemented in a treatment context in Vancouver, decreased overdose deaths by 50% from April 2016 to December 2017. [52] The success of safer supply initiatives in Canada has been fostered and supported by provincial and federal governments, as well as the tireless work of civil society organizations. Moreover, civil society organizations in Canada continue to advocate for safer supply initiatives outside the medicalized approach employed to date. [53]

As noted above, Canada has advocated strongly for international drug policies which reduce stigma towards drug use and people who use drugs. Prohibition has functioned as a tool of stigma, painting marginalized communities as immoral for their choice to consume drugs. Conversely, safer supply changes this narrative by respecting the agency of people who use drugs and removing connotations of “immorality” which surround drug use. The provision of a safer supply is a necessary step towards ending stigmatization of and discrimination against people who use drugs.

We urge Canada to acknowledge the shortcomings and risks of a reliance on scheduling and law enforcement interventions to address the unregulated drug supply and associated harms.

We also urge Canada to reiterate its previously stated commitment to safer supply in statements at the CND, and to support accessible, gender-sensitive,

⁵¹ CATIE, “Safe supply: What is it and what is happening in Canada?” – What do we know about safe supply programs in Canada so far?, February 9, 2021, <https://www.catie.ca/prevention-in-focus/safe-supply-what-is-it-and-what-is-happening-in-canada>

⁵²Tyndall, ‘Safe opioid distribution.’

⁵³ Joanne Csete & Richard Elliott (2020). ‘Consumer protection in drug policy: The human rights case for safe supply as an element of harm reduction ,’ International Journal of Drug Policy, 102976, DOI: <https://doi.org/10.1016/j.drugpo.2020.102976> | Canadian Association of People Who Use Drugs (CAPUD) Safe Supply Document <https://vancouver.ca/files/cov/capud-safe-supply-concept-document.pdf>

and culturally appropriate treatment, harm reduction, and other health services that are tailored to meet their specific needs.

Finally, we urge Canada to implement, promote, and advance discussions among other Member States of the importance of retaining existing positive measures now in place to alleviate the negative impacts of the COVID-19 pandemic experienced by people who use drugs, women, people of diverse gender identities, as well as racialized and Indigenous communities, while strongly encouraging the adoption of future responses outlined in the UNODC's World Drug Report 2021.

Appendix 1: Supporting Members of the Canadian Civil Society Working Group on UN Drug Policy

Organization	Representatives
Canadian Centre on Substance Use and Addiction	Denna Berg
Centre on Drug Policy Evaluation	Nazlee Maghsoudi
Community Addiction Peer Support Association	Randy Harwood Gord Garner
Health Officers Council of British Columbia	Betsy MacKenzie
HIV Legal Network	Sandra Ka Hon Chu India Annamanthadoo