



Drug Policy: Decriminalization, Harm Reduction, and Safe Supply

“[D]rug control efforts have taken a harsh toll on the health and human rights of [the] poorest and most marginalized people. This human rights failure is the product of political choices . . . including fear, moral panic, lack of pressure of public opinion for reform and denial of facts. The world deserves drug policies that are respectful of human rights and dignity, and more effective at reducing drug-related harm.” – LOUISE ARBOUR, FORMER SUPREME COURT JUSTICE AND UN HIGH COMMISSIONER ON HUMAN RIGHTS

Canada is immersed in a deadly opioid overdose crisis. The crisis — fueled by a contaminated drug supply — has shed tragic light on service gaps for people who use drugs and on the deficiencies in Canada’s prohibitionist approach to drugs. After years of misguided emphasis on law enforcement, and active steps to prevent access to harm reduction, we’ve recently seen positive movement toward a public health approach to drugs. This has included greater access to harm reduction services such as naloxone and supervised consumption services (SCS).

But drug use and dependence are still treated as criminal law issues in Canada and the reality is that the coverage of harm reduction services is far from being adequate. Many people who use drugs have no choice but to rely on a poisoned illegal drug market for supply. More people will die without immediate radical change.

Canada’s current approach perpetuates stigma, discrimination, and violence against people who use drugs. It also puts people at increased risk of preventable overdose, HIV, and hepatitis C (HCV) by creating barriers to much-needed services.

The barriers to SCS are just one example of Canada’s dysfunctional approach to drug policy. While SCS have been recognized as life-saving services, providers must still obtain a specific exemption from the federal Minister of Health. Otherwise, staff and clients could be prosecuted for illegal drug possession. Such an exceptional regime for a health service is unjustifiable, especially in the current crisis.

Decriminalizing drug possession would effectively end the need for such an exemption. It would also reduce the amount of public money spent on prosecuting and imprisoning people who use drugs, and reduce the human rights abuses that arise from the failed “war on drugs.”

PRIORITIES FOR ACTION

Canada must commit to adopting an evidence- and human rights-based approach to drug policy, requiring both decriminalizing activities related to personal use and expanding health and support services.

Decriminalization:

- Introduce legislation and take other steps to decriminalize activities related to personal drug use.
- Repeal all mandatory minimum sentences for drug offences.
- Move toward the legalization and regulation of currently illegal drugs to enable access to safe supply of these substances.

Health and support services, including SCS:

- Fund and scale up a diverse range of SCS across the country, from peer-run, low-threshold services to comprehensive services.
- Replace the current case-by-case approach to SCS with a class exemption that protects clients and staff (including volunteers) from criminal prosecutions.
- Increase funding to support and expand harm reduction services across the country including “safe supply” alternatives to the contaminated illegal drug market. Services should respond to the specific needs of affected communities who use drugs including women, LGBTQ+ people, and Indigenous people.

FACTS AND FIGURES

- In 2016, an estimated 14% of all new HIV infections in Canada were among people who use injection drugs.
- There were 83,483 drug arrests in Canada in 2018. More than 55,000 of these were for personal possession.
- 72% of all drug arrests were for personal possession in Canada between 2014-2018.
- In the past four and a half years, there have been more than 15,300 opioid-related deaths in Canada. In 2019, 77% of accidental apparent opioid-related deaths involved fentanyl or fentanyl analogues. There have been no deaths at supervised consumption sites.
- As of September 2020, 36 SCS are operating with a federal exemption in just four provinces. Further scale-up of services remains slowed by a case-by-case exemption process and is vulnerable to political change.

CASE STUDY

Mobilizing to safeguard and scale up SCS

Frustrated with legislative barriers to securing federal exemptions for SCS, community activists opened “overdose prevention sites” (OPS) without authorization. This led the federal Health Minister to issue in December 2017 a temporary “class exemption” from possible prosecution to any OPS in Ontario approved and funded by the province.

But in June 2018, a new provincial government was elected and proceeded to (1) undertake an unnecessary review of the evidence about SCS, (2) “pause” the imminent opening of three already-approved OPS, and (3) refuse to approve new OPS pending the review.

The HIV Legal Network mobilized an open letter to the Government of Ontario to oppose these moves that was signed by more than 120 organizations, including major

national health professional organizations (physicians, nurses, and public health), HIV organizations, community health centres, mental health organizations, and others, generating national media coverage.

Thanks to the remarkable mobilization and commitment of civil society, in late October 2018, the Ontario Minister of Health announced that funding would remain available but declared an arbitrary cap of only 21 sites offering SCS in the province. The Minister also imposed a problematic new model of “consumption and treatment services” which re-introduced additional hurdles in order to qualify for provincial funding. While the fight for SCS is far from over, it is now indisputable that they are an essential part of the response to the current crisis.

KEY RESOURCES

- B.C. Office of the Provincial Health Officer, *Stopping the Harm. Decriminalization of people who use drugs in B.C.*, April 2019.
- Canadian HIV/AIDS Legal Network, “Letter to Canadian Government: Decriminalize Simple Drug Possession Immediately,” May 2020.
- Canadian HIV/AIDS Legal Network, *Overdue for a change. Scaling up supervised consumption services in Canada*, February 2019.
- CAPUD, *Safe Supply*: Concept Document, February 2019.
- Government of Canada, *Opioid-related Harms in Canada*, June 2020. Available at <https://health-infobase.canada.ca/substance-related-harms/opioids/>.
- D. MacPherson, *More Harm Than Good: Drug Policy in Canada* (Halifax and Winnipeg: Fernwood Publishing, 2016).
- Public Health Agency of Canada, *Summary: Estimates of HIV Incidence, Prevalence and Canada’s Progress on Meeting the 90-90-90 HIV targets, 2016, 2018*.
- S. Boyd, “Drug Arrests in Canada, 2017,” September 15, 2018. Available at <https://drugpolicy.ca/wp-content/uploads/2018/09/Addendum.pdf>.

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