CONNECTION, CARE, COMMUNITY:

Strengthening Harm Reduction for GBT2Q People who Use Drugs in Canada

AGENDA FOR ACTION

“Both the LGBTQ+ liberation and drug policy reform movements are rooted in the principles of privacy, personal and bodily autonomy, and the need to tackle stigma, moral panic, police surveillance and repression.” [1]

The need to address problematic substance use among 2SLGBTQ+ people

The use of both legal and criminalized substances plays a significant role in the lives of many people who identify as lesbian, gay, bisexual, trans, queer, Two-Spirit, and/or non-binary (“2SLGBTQ+ people”). This role can be both positive and negative. There is ample evidence that, for various reasons, 2SLGBTQ+ people have higher rates of substance use, including problematic use. Similarly, at the population level, the types and patterns of substance use are different for 2SLGBTQ+ people than for the population as a whole, and many 2SLGBTQ+ people have particular relationships with substances and patterns of use that are intertwined with their social and sexual identities, networks, and behaviours. This has implications for efforts to reduce the harms sometimes associated with substance use, and to prevent and treat problematic use, among 2SLGBTQ+ people.

GBT2Q people: specific populations of concern, including in relation to HIV and other STBBIs

As a specific population, gay, bisexual and other men who have sex with men (GBMSM) and who use drugs are disproportionately affected by HIV, hepatitis C virus (HCV), and other sexually transmitted or bloodborne infections (STBBIs). Effectively responding to HIV and STBBIS (and other harms sometimes associated with substance use) therefore requires working with this key population to address its needs. This is also an opportunity to attend to the needs of not only cisgender GBMSM who use drugs, but also trans, non-binary, and Two-Spirit people who have sex with men — and for whom HIV and STBBIs are similarly a concern. All these populations of concern are referred to collectively here as “GBT2Q people.”

Intersecting identities: varying needs and additional barriers to services

In addition to facing greater risk of harm, both GBT2Q people and people who use drugs also face barriers to healthcare, including harm reduction services and services for preventing and treating problematic substance use. The intersection of these two identities means that GBT2Q people who use drugs often have particular needs and face additional barriers. Furthermore, GBT2Q people who use drugs are not a homogenous population. Differences such as HIV status, gender identity, Indigeneity, race, ethnicity, age, (dis)ability, level of education, socio-economic status, involvement in sex work, current or previous incarceration, and more also often play a role in shaping sexual identity and behaviour and the use of substances. All of these can also affect access to health and other services.

Gaps in the response to problematic substance use among GBT2Q people, including chemsex

Sexualized drug use among GBT2Q people — including the sub-category known as “chemsex” or “party and play” (PnP) — has been the subject of increased community discussion, research, and programming over the past decade, particularly in relation to its association with a greater risk of HIV and other STBBIs. However, “a coordinated response to PnP has yet to materialize.”[2] There are still many *gaps in the research* on what is needed, and what works best, to address problematic substance use among GBT2Q people. There are *few programs* specifically for GBT2Q people who use drugs, including those who participate in chemsex. There are *ongoing barriers to the services that do exist*; one major barrier is stigma, not only at a societal level but also within the 2SLGBTQ+ community and on the part of service providers.

Need for action by policymakers and community

Furthermore, there has been little attention to the need for *action at the level of public policy* as part of protecting and promoting the health and other human rights of 2SLGBTQ+ people who use drugs. For various reasons, including the stigma and prejudice still surrounding both gay sex and drug use — and particularly the combination of the two — there has been reticence in some quarters to take up the health of 2SLGBTQ+ people who use drugs as an important human rights issue.

Currently in Canada, there is an ongoing crisis of drug poisoning deaths from a toxic, unregulated drug supply. Dishearteningly, there is also an ongoing, concerted effort from some quarters to adopt legal, funding, or other policy measures that will impede or even roll back the implementation of harm reduction initiatives, despite the evidence that this will contribute to further deaths and other harms. Given that 2SLGBTQ+ people have a higher prevalence of problematic substance use and already face greater barriers in accessing the insufficient services that do exist, they will be further harmed, and disproportionately so, by such regression. The health and lives of 2SLGBTQ+ people are at stake. Community advocates in both the 2SLGBTQ+ and drug policy spheres can and should play a role in pressing for the actions needed to protect and promote the health and human rights of 2SLGBTQ+ people who use drugs.

This policy brief set outs an **Agenda for Action** on various fronts, including research, education and awareness-raising, the provision of services, 2SLGBTQ+ community spaces, government strategies, and legal reforms. Adequate funding is required for many of these initiatives.

This brief should be read alongside the companion **Summary Report** of findings that draws on an extensive literature review, interviews with selected key informants, and an environmental scan of programs and initiatives in Canada relevant to substance use by GBT2Q people.

Terminology

These resources from the HIV Legal Network focus on improving the response to problematic substance use among *GBT2Q people*, in part because this is a necessary component of effectively addressing HIV and other STBBIs, which disproportionately affect GBT2Q people. However, in many instances the observations, conclusions, and recommendations are relevant to addressing substance use–related concerns among 2SLGBTQ+ people more broadly. Therefore, while the recommendations for action below often refer to GBT2Q people as the population(s) of focus, in some instances there is deliberate reference to 2SLGBTQ+ people or communities more broadly.

These resources generally avoid using stigmatizing terms such as "addiction" or "substance use disorder," and refer instead to "problematic substance use." This term should not be misinterpreted as suggesting that substance use is inherently problematic. To the contrary, the qualifier "problematic" signals that there is also non-problematic substance use. In fact, most instances of substance use, regardless of the legal status of a substance, do not cause significant harm,[3] although it is also the reality — especially in the context of a toxic illegal drug supply — that a single or occasional use can result in an unintentional overdose/poisoning. The frequency and/or intensity of use can become "problematic" for a person when it begins to cause actual harm or significant risk of harm, either to themselves or to another person. In the case of the person using the substance, this harm can come in the form of negative consequences in one or more domains of their life (e.g. health, work, relationships, legal difficulties) that *they* find disproportionate compared to the benefits of their use and that *they* wish were otherwise. In recognition of the agency and autonomy of people who use drugs, it is in this sense that the term "problematic substance use" is used.

Recommendations for Action

Research

There is insufficient information, particularly country-wide, regarding the health of 2SLGTBQ+ people, including in relation to substance use. Better data is needed to better protect and promote the health of GBT2Q people who use drugs, not only in relation to HIV and other STBBIs but also other concerns.

1. Strengthen existing sources to gather better data

Statistics Canada, academic researchers, and community organizations should collaborate to improve national population-level surveys to gather better data regarding the health of all 2SLGBTQ+ people. This should include data regarding:

- the prevalence and patterns of substance use, including problematic substance use;
- factors that contribute to, and protect against, problematic use;
- outcomes associated with substance use;
- access to harm reduction services and services for treatment of problematic substance use; and
- barriers to, and facilitators of, access to such services.

Such efforts should include specific, dedicated attention to the health of trans people, for whom there is even less data regarding healthcare needs and who face additional barriers in accessing care. Surveys should include specific questions regarding sexualized substance use, given particular health needs associated with such use. National surveys where such improved data could be gathered include the *Canadian Community Health Survey (CCHS), the Canadian Health Survey on Children and Youth (CHSCY), the Canadian Alcohol and Drugs Survey (CADS), the Canadian Student Tobacco, Alcohol and Drug Survey (CSTAD),* and the M*ental Health Survey (MHS)*. [4] Provincial and municipal governments should similarly gather such data in their relevant surveys, as they play key roles in funding and implementing health services, including in relation to substance use, mental health, and sexual health.

2. Support new research

Public and private research funders should support additional research, including community-based research, on how to protect and promote the health of GBT2Q people who use drugs. Such issues fall within the purview of many of the institutes comprising the Canadian Institutes of Health Research (CIHR) and of initiatives such as the Canadian Research Initiative in Substance Misuse (CRISM). Health Canada and the Public Health Agency of Canada (PHAC) also administer funding programs (e.g. Substance Use and Addictions Program, HIV and Hepatitis Community Action Fund) that could be used to enhance the evidence base for promoting the health of GBT2Q people who use drugs. Each of these bodies should consider how they can support, within their portfolios, research into the health of GBT2Q people who use drugs. Provincial health research agencies should similarly identify opportunities for supporting such research, as should private foundations.

3. Priorities for research

There is a need for more research in many areas to improve the health of GBT2Q people who use drugs. Among these, some priorities include:

- *Clinical research* to develop more effective interventions, both pharmacological and psychosocial, for preventing and treating problematic stimulant use. Especially in the context of chemsex, the use of stimulants (such as crystal methamphetamine) is substantially higher among GBMSM than among the population as a whole. Unlike with opioids, there are currently no medications approved for use in managing or treating problematic stimulant use. The available evidence suggests certain psychosocial interventions are more effective than others, but the research base is still limited.

- *Implementation research* to determine best practices in the design and delivery of harm reduction interventions for GBT2Q people who use drugs, as was recommended by the first survey generating national data regarding the prevalence of chemsex among GBMSM.[5] Such implementation research among GBT2Q people should include harm reduction practices in relation to sexualized drug use, and stimulant use in particular. Research into optimizing benefits of harm reduction interventions among GBT2Q people is needed in relation to not only sexual health initiatives and supplies, but also the full range of interventions to reduce drug use-related harm, including drug checking, distribution of sterile equipment (needles, pipes, etc.), naloxone distribution, supervised consumption, safer supply programs, and peer and other support programs (including in-person and virtual/online interventions).

- There is a need to ensure targeted *research specifically into the needs of specific sub-populations* of GBT2Q people who use drugs, including: trans and non-binary people; Black, Indigenous, and other racialized people; sex workers; people with disabilities; and people experiencing poverty and/or homelessness.

Education and Awareness

Despite the higher prevalence of substance use within them, 2SLGBTQ+ communities are not immune to the misinformation and stigma that surround it, nor are service providers, even if they are from or familiar with these communities.

4. Raise awareness within 2SLGBTQ+ communities

There is a need for information tailored specifically to GBT2Q people, and to 2SLGBTQ+ communities more broadly, about:

- the effects of various substances, their interactions, and their short- and long-term effects (including stimulants, given the much higher prevalence of their use among at least GBMSM);
- harm reduction measures, including in relation to sexualized substance use;
- strategies for preventing substance use from becoming problematic;
- the evidence-informed interventions that exist to support people in reducing or abstaining from substance use if this is their goal;
- where and how to access harm reduction services and services for the treatment of problematic substance use; and
- the harms caused by stigma against people who use drugs and by punitive drug laws and policies.

Such information needs to be evidence-based and non-stigmatizing. It needs to be delivered in formats, venues, and media that will reach GBT2Q people, including both physical and virtual/online spaces (including via social networking apps and websites). Federal, provincial, and municipal governments, as well as private funders, should fund community-based organizations — especially peer-based organizations that employ people who use drugs — to lead the development and dissemination of such information resources, including in ways that will reach specific sub-populations among GBT2Q people who use drugs.

5. Challenge stigma against people who use drugs

The stigma surrounding substance use — and especially against those who engage in chemsex/PnP and those who use certain substances (e.g. crystal meth) or use substances in certain ways (e.g. injection) — is one of the most significant barriers to people seeking health or other services for support. Governments and private foundations should fund initiatives to reduce such stigma among various audiences, including service providers and those training and regulating service providers. They should also fund initiatives challenging stigma against people who use drugs (including sexualized drug use) within GBT2Q communities. Such stigma creates barriers to GBT2Q people seeking and receiving support from friends, organizations, and service providers within their GBT2Q communities, on top of the challenge of finding supports that are also GBT2Q-friendly. GBT2Q people need access to service providers able to competently address the intersections between substance use and sexuality, and even more so in the case of problematic sexualized drug use. All anti-stigma initiatives must be developed and implemented with the meaningful involvement of GBT2Q people who use drugs.

Services

6. Enhance harm reduction outreach and support to GBT2Q people

In many instances, harm reduction organizations and GBT2Q health organizations (including HIV organizations) may need to add, enhance, or tailor their services to address the needs of GBT2Q people who use drugs, including those who participate in chemsex. Ideally, harm reduction supplies are delivered through multiple means, including mail-order distribution, mobile in-person services, automated dispensing machines, and direct delivery (including peer delivery). Harm reduction outreach also needs to include social spaces frequented by GBT2Q people, including sex-on-premises venues. Appropriate supplies and services need to be available in spaces where and when people are using; this should include distribution of harm reduction information and supplies (e.g. kits that include both safer sex and safer drug use supplies) and the provision of services (e.g. drug checking, supervised consumption). Outreach and support also need to be accessible online or by phone (e.g. monitored or accompanied consumption that can facilitate an emergency response, if needed, to someone using alone), and in ways that allow people to preserve their anonymity and confidentiality as they deem necessary.[6]

7. Integrate and coordinate services for sexual health, substance use, and mental health

Where not already the case, service providers should identify opportunities to integrate harm reduction services into sexual health services (e.g. STI clinics), including providing information about how to use substances more safely, access to sterile equipment, and connections to services providing treatment and support for GBT2Q people dealing with problematic substance use. Conversely, providers of mental health and substance use services should identify and integrate the provision of safer sex information and materials (including material directed to GBT2Q people), and connections to sexual health services, especially GBT2Q-friendly services, into their practice.

8. Improve access to the full continuum of substance use supports

GBT2Q people who use drugs are diverse and have a range of needs for support in dealing with substance use. Federal and provincial governments should fund services that meet those needs. This includes funding the range of harm reduction outreach activities described above (see Recommendation 6) and measures such as safe supply (see Recommendation 23). It also includes funding a range of services for treatment of problematic substance use. Importantly, there is a need for longer-term psychosocial support in sustaining reduced use or complete abstinence, depending on the person's goal, including coping with factors leading to their problematic use. For some people who engage(d) in chemsex, ongoing psychosocial support may be needed to address longer-term effects on sexual and mental health, including challenges with "sober sex," sexual function and shame.

9. Expand services from GBT2Q service providers, including peers

Governments and private funders should fund community organizations to develop or expand harm reduction and substance use support services that are provided by GBT2Q people — and in particular peer outreach and support, by and from a diversity of GBT2Q people with current or previous experience of substance use, including chemsex. This includes hiring and supporting peers as service providers. Support services need to include opportunities for social connection between GBT2Q people with personal experience of substance use, and be available in multiple forms (e.g. groups, one-on-one) and accessible in multiple ways (e.g. in-person, online, via phone or chat/text, etc.), including in ways that allow users to preserve confidentiality or anonymity.

10. Build the cultural competence of all service providers

Some GBT2Q people have experienced homophobia or transphobia from service providers; many will feel more comfortable seeking support from GBT2Q providers, including for frank discussion about sex and sexuality. But as noted above (Recommendation 5), such a provider will not automatically be equipped to provide appropriate, quality support to someone in relation to their substance use, including sexualized use. In any event, support from qualified 2SLGBTQ+ service providers will not be accessible to many. It is essential that all health services providers be competent to address, within the scope of their practice, the needs of 2SLGBTQ+ people who use drugs.

- Governments and private funders should support initiatives to *sensitize and train mainstream service providers* so that they are better equipped to address the needs of 2SLGBTQ+ people who use drugs, including sexualized drug use — and of diverse populations, including trans and non-binary people, and Black, Indigenous, and racialized people.

- Educational institutions that train health services providers should require some *pre-service training* regarding serving 2SLGBTQ+ people who use drugs, including sexualized drug use, as part of the curriculum.

- Professional associations and regulatory bodies for regulated health professionals should provide *continuing professional education* to improve members' cultural competence in providing services to 2SLGBTQ+ people who use drugs, including those seeking support with problematic substance use.

- Entities such as the Canadian Centre on Substance Use and Addiction (CCSA) should play a role in developing and disseminating *evidence-based resources* to boost the competence of service providers.

All such initiatives must necessarily involve meaningful collaboration with, and be led by, 2SLGBTQ+ organizations and people who use drugs, who must be adequately funded to provide their expertise and deliver such training.

11. Set and enforce standards for 2SLGBTQ+-friendly mental health and substance services

In collaboration with 2SLGBTQ+ organizations, and with the input of 2SLGBTQ+ people who use drugs, provincial governments should develop regulatory standards for mental health and substance use services to ensure a minimum level of competence in providing services to 2SLGBTQ+ people, including ensuring no discrimination on the basis of sexual orientation or gender identity. While such regulatory standards are ultimately matters within provincial jurisdiction, the federal government plays a convening role and a role in setting standards and developing good practice guidance. For example, in 2022 the Canadian Institutes of Health Research, Health Canada, and the Public Health Agency of Canada launched an initiative to develop national standards for mental health and substance use services.[7] Such standards should reflect the needs of 2SLGBTQ+ people who use drugs, including those who participate in chemsex. Governments should also require service providers to abide by such minimum standards as a condition of public funding.

12. Expand housing, income, and mental health supports

2SLGBTQ+ people face additional mental health challenges and needs in a homophobic and transphobic environment. They also disproportionately experience homelessness and poverty, as well as homophobia and transphobia in accessing inadequate housing and shelter services. Homelessness and poverty can contribute to substance use becoming problematic and also complicate efforts to treat it; therefore, these factors need to be considered in implementing harm reduction programs to reach the diversity of 2SLGBTQ+ people who use drugs. Part of the response must be *adequate public funding generally for housing and income support programs* and for mental health services, so as to address these upstream social determinants of health, which are of particular importance to 2SLGBTQ+ people. In addition, there is a need for *targeted funding specifically for housing options that are safe and inclusive* of 2SLGBTQ+ people (including youth), people who sell sex, and people who use drugs, including options that are not dependent on abstinence from substance use and that, ideally, integrate harm reduction services. Federal, provincial, and municipal governments all have a role to play in funding such services and programs. In addition, they should develop standards for shelters and other housing providers that stipulate that they cannot deny services to people on the basis of sexual orientation or gender identity or based on their past or current substance use. Abiding by such a standard of non-discrimination should be a condition of public funding.

2SLGBTQ+ community organizations and spaces

13. Creating stigma-free services and spaces within 2SLGBTQ+ communities

Community organizations, individual service providers and businesses working in and with 2SLGBTQ+ communities need to take steps to create an environment and services free of stigma and discrimination against people who use drugs. This includes educating their staff and volunteers, as is done in an effort to address other forms of discrimination. (This complements Recommendation 5 above that funders should fund anti-stigma efforts within 2SLGBTQ+ communities.)

14. Increasing access to harm reduction within physical venues

Businesses and other establishments in or serving 2SLGBTQ+ communities — including bars and sex-on-premises venues (i.e. bathhouses, saunas, cinemas) — should commit themselves to protecting and promoting the health of those communities, which include people who use drugs. Working with frontline organizations, these establishments should take steps to provide access to harm reduction information, services, and tools (e.g. safer sex packs, safer injection/inhalation packs, drug checking), as befits their premises and its activities, keeping in mind the need to avoid acting based on stigmatizing and discriminatory assumptions about substance use and people who use substances. (This complements Recommendation 6 above for harm reduction organizations to extend their outreach to such spaces.)

15. Social networking websites and apps

Social networking/hook-up apps and websites should support, not stigmatize, GBT2Q people who use drugs. Yet most currently maintain policies or practices that discriminate against people who use drugs, with many even threatening users with penalties for referring to their substance use. Such approaches do little other than reinforce stigma against GBT2Q people who use drugs. Instead, the companies operating such websites and apps should actively take steps to challenge anti-drug-user stigma on their platforms (as they purport to do with certain other kinds of objectionable, discriminatory behaviour, such as racism). They should also provide users with information about reducing harm when using drugs (including in the context of sexualized drug use) and links to online sources that users can consult to find harm reduction supplies and supports for dealing with problematic substance use. They should collaborate with GBT2Q organizations in providing such information.

16. Advocate for harm reduction and drug policy reform

Individually, many 2SLGBTQ+ people have made significant contributions to harm reduction and drug policy reform, but relatively few 2SLGBTQ+ advocacy organizations have been actively engaged. Access to harm reduction and treatment services, and drug policy more broadly, are concerns that disproportionately affect the wellbeing of 2SLGBTQ+ people. These issues also raise many of the same human rights concerns as punitive laws targeting people based on sexual orientation or gender identity. But stigma surrounding drug use impedes recognition of these considerations and of the need for greater collaboration between organizations and movements focused on drug policy reform and on the rights of 2SLGBTQ+ people. In recent years, there has been limited, but growing, recognition within drug policy reform advocacy of 2SLGBTQ+ communities as having specific concerns. Organizations within the 2SLGBTQ+ community should explicitly commit themselves to:

- challenging stigma against people who use drugs, including within 2SLGBTQ+ communities and spaces;
- supporting greater access to harm reduction and substance use support services, through measures to ensure that services are accessible to 2SLGBTQ+ people without discrimination as well as supporting services specifically tailored to the needs of diverse members of 2SLGBTQ+ communities; and
- challenging punitive drug laws that criminalize drugs and otherwise target and harm people who use drugs.

Government strategies and funding

17. HIV and STBBI strategies

Canadian jurisdictions agreed in 2018 on a *Pan-Canadian STBBI Framework for Action* (until 2030). Within that framework, the federal government then adopted in 2019 *Accelerating our response*, its five-year action plan (until 2024) on HIV and other STBBIs; in 2024, it updated and extended its *Action Plan* (for 2024 to 2030). The updated federal action plan does not explicitly identify the health needs of GBMSM and trans, non-binary, or Two-Spirit people who use drugs, including in a sexualized context, even though these are key populations at heightened risk of HIV and other STBBIs. However, as a result of community advocacy, the Action Plan does expressly recognize that people may belong to multiple populations affected by HIV and other STBBIs, and it includes a general commitment to “strengthen public policy and guidance to support harm reduction and health promotion efforts in the context of sexualized drug use.” In its implementation, the federal action plan should include specific action commitments to reduce that risk (e.g. proactively scaling up access to pre-exposure prophylaxis, and to harm reduction information and services tailored to GBT2Q people who use drugs). Provincial governments should also concretely address these needs in their strategies on HIV and other STBBIs (as should municipal governments in their relevant initiatives).

18. Drugs strategies

The federal *Canadian Drugs and Substances Strategy* should explicitly acknowledge 2SLGBTQ+ people as a population with specific needs related to harm reduction and to the prevention and treatment of problematic substance use (including sexualized drug use). The strategy should also identify the need to ensure that all services related to substance use are accessible free of stigma and discrimination, including on the basis of sexual orientation and gender identity, as well as the need for services specifically tailored to 2SLGBTQ+ people (including in relation to sexualized drug use).[8] Provincial strategies on substance use should do the same, as should municipal strategies where these may exist.

19. 2SLGBTQ+ strategies

In its *2SLGBTQ+ Action Plan* and in calls for funding proposals under the Action Plan, the federal government should explicitly recognize 2SLGBTQ+ people who use drugs as a population facing particular intersecting stigmas and challenges. Funding should be available for community organizations that are addressing the needs of 2SLGBTQ+ people who use drugs, building the capacity of community organizations and of service-providers to address those needs, and advocating for the human rights of 2SLGBTQ+ people who use drugs. The 2SLGBTQ+ Secretariat, which leads on the implementation of the federal Action Plan, should engage specifically with such organizations and support implementation of the recommendations presented in this brief to address the health and wellbeing of GBT2Q people who use drugs. Beyond the existing

2SLGBTQ+ Action Plan, the federal government should create a dedicated funding program focused on protecting and promoting the health of 2SLGBTQ+ communities, which should include support for community-based organizations working with and for GBT2Q people who use drugs.

20. Housing, homelessness, and poverty reduction strategies

The available data indicate a higher prevalence of poverty and homelessness among 2SLGTBQ+ people overall (and of specific sub-populations in particular) and, for some, these factors are linked with problematic substance use. Housing is harm reduction; housing is health. Addressing problematic substance use among 2SLGBTQ+ people requires that federal, provincial, and municipal governments ensure the inclusion of 2SLGBTQ+ voices and community-specific measures within their respective housing, homelessness, and poverty reduction strategies, in addition to strategies to address substance use.[9]

21. Accessibility of funding for research and for services

Funding programs need to be structured to provide longer-term funding so that community-based research can be more easily undertaken and so that services can be provided with greater stability and achieve greater impact. They also need to include a mix of different levels and streams of funding, including simple, low-barrier, streamlined application processes for smaller-scale, grassroots initiatives to address local community needs among GBT2Q people who use drugs.

Legal and policy reforms

The legal environment in which GBT2Q people use drugs shapes the harms, and risks of harm, they experience. It also affects their access to the information, services and tools needed to reduce harm or to prevent or treat problematic substance use.

22. Decriminalization of people who use drugs

There is a solid evidence base supporting the benefits of decriminalization of drug possession.[10] Such decriminalization has also been recommended by public health experts in Canada,[11] the federal government's own expert task force,[12] and all UN agencies,[13] and has already been implemented in various forms in dozens of countries.[14]

- The federal government should **fully decriminalize drugs**, as urged by a broad coalition of Canadian civil society organizations in their joint platform released in 2021, *Decriminalization Done Right: A Rights-Based Path for Drug Policy*. This should include the full repeal of the provisions of the *Controlled Drugs and Substances Act* (CDSA) that criminalize simple possession, as well as enacting amendments to decriminalize "necessity trafficking" (i.e. the sharing and selling of drugs for subsistence, to support personal drug use costs, and to provide a safe supply). Decriminalization should also include a simple, accessible mechanism for **expunging previous convictions** for simple possession.

- Both federal and provincial governments should also remove and cease applying **other punitive measures** related to simple drug possession or necessity trafficking, including coerced or involuntary treatment or other health interventions.

23. Scale up safer supply programs

There is an urgent need to respond effectively to the ongoing epidemic of poisoning and other harms from a toxic, unregulated illegal drug market. This must include not only expanding existing opioid agonist treatment (OAT) efforts but also facilitating the scale-up of other programs that provide a safer supply of pharmaceutical-grade alternatives to currently criminalized drugs, including cocaine, heroin, methamphetamine, and MDMA.[15] Such programs are based on evidence of benefits[16] and recommended by Health Canada's expert task force. Safer supply must include both medical models (i.e. prescription and dispensing by medical providers) and lower-threshold, more accessible peer-led models (such as the not-for-profit "compassion club" model being implemented by the Drug User Liberation Front distributing quality-assured methamphetamine, cocaine, and heroin). To this end, the federal government should make further use of existing provisions of the CDSA to issue exemptions from criminal prosecution for such models (and as recommended by Health Canada's own expert task force, should ultimately replace an approach that consists predominantly of criminalization with a more sophisticated, public health–oriented approach of legalizing and regulating substances).[17] With respect to medical models of safer supply, provincial bodies regulating healthcare professionals should work with prescribers and recipients to develop guidance for prescribers. Providing such assurance that prescribing in accordance with the guidance meets professional standards of practice would help facilitate efforts to scale-up prescribed safer supply.

24. Decriminalize the sale of poppers

The use of "poppers" (alkyl nitrites) has long been a feature of sexualized substance use among GBMSM, much more so than in the population as a whole. While it is not illegal to *possess* poppers, for more than a decade, Health Canada has pursued a crackdown on the *sale* of poppers. The federal government should end this harmful and counter-productive policy. Available evidence indicates this it has not led to reduced use of poppers among GBMSM in Canada but does impede policy approaches that would enable access to a safer, regulated supply.[18]

25. Scale up harm reduction services

Until such time as there is full decriminalization as recommended above, the federal Health Minister and Health Canada should use the full flexibility afforded under the CDSA to grant exemptions needed to facilitate the impimentation of various harm reduction services without risk of criminal liability.

- Most significantly, they should streamline the approach to exemptions supporting the operation of **supervised consumption services** (SCS), also known in some contexts as "overdose prevention sites" (OPS) or "consumption and treatment services" (CTS). This should take the form of a single, proactive "class" exemption that protects all clients and staff (including volunteers) from prosecution when accessing or providing SCS that meet a few minimum conditions (to ensure safety and the quality of services).[19] Provincial and municipal governments should not create additional legal hurdles to the operation of such services (e.g. exceptional preconditions for receiving provincial funding or municipal by-laws prohibiting or unreasonably restricting the delivery of such health services).

- CDSA exemptions also need to be flexible enough to allow service providers to adequately address the harm reduction needs of various populations of 2SLGBTQ+ people who use drugs without risk of criminal prosecution. For example, **exemptions should be broad in scope and "portable"** — i.e. not necessarily limited to a single fixed site, but instead covering activities such as drug checking and supervised consumption at multiple locations (e.g. designated spaces in multiple sex-on-premises venues) as well as mobile services (e.g. such as an outreach van or even direct service in a private residence).

- As a matter of basic human rights, including for incarcerated GBT2Q people, **harm reduction services in prison** need to be as comprehensive as those available outside. This must include access to safer drug use information and equipment (including needle and syringe programs), as well as safer sex information and materials, in all federal and provincial prisons.

26. Increase access to emergency assistance without fear of police or prosecution

- The federal *Good Samaritan Drug Overdose Act* provides immunity against criminal prosecution to anyone who experiences or witnesses an overdose/drug poisoning and calls 911 or the local emergency number for help, as well as to anyone who is on the scene when emergency services arrive. However, it only protects against charges of simple possession of a controlled substance (or violating various kinds of conditions related to an earlier simple possession charge). To provide more robust protection and further reduce concerns about calling for assistance, the federal government should **amend the law to provide immunity against a broader range of charges**, such as trafficking and any but the most serious of criminal offences.

- Even with the (limited) protections of the law, police conduct toward those present at an overdose scene — and even the prospect of a police presence — will still be an understandable deterrent for some to seek assistance in an emergency. A medical emergency requires a response from emergency health services, not a police presence. All police forces should adopt, and publicize, a **policy of not responding to overdose calls** unless there is a specific request for a police response.

27. Decriminalize sex work

Significant numbers of 2SLGBTQ+ people have experience of sex work, and available data indicate that the criminalization of sex work impedes access to health services, including harm reduction services for those who use drugs. As sex workers have repeatedly urged, the federal government should decriminalize sex workers, their clients, third parties with whom they work, and their workspaces, including by repealing the *Protection of Communities and Exploited Persons Act (PCEPA)* enacted in 2014.[20]

28. Strengthen protection against discrimination

Stigma and discrimination against people who use drugs are widespread and are major barriers to seeking health services, including in relation to substance use that has become or risks becoming problematic. Existing anti-discrimination law in Canada only protects people who use drugs against discrimination in the case where their substance use can be characterized as a "disability" (e.g. physical dependence or a substance use disorder), in which case a "reasonable accommodation" (e.g. by an employer, landlord, or service provider) may be required. Federal and provincial governments should amend human rights statutes to add that, absent a reasonable justification in the circumstances of the case, in the areas prescribed by anti-discrimination legislation it is prohibited to discriminate against someone on the ground that the person uses or has used drugs or is perceived to use or have used drugs.[21] Similarly, sex work experience should be added to these statutes as another ground on which discrimination is prohibited.

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[1] Canadian HIV/AIDS Legal Network, Brief to the House of Commons Standing Committee on Health: 2SLGBTQ+ Health in Canada, May 2019.

[2] D. Griffiths, "Gay men, substance use and harm reduction: it's time to act." CATIE blog, February 4, 2019.

[3] Global Commission on Drug Policy, *The World Drug Perception Problem: Countering Prejudices About People Who Use Drugs*, 2017.

[4] Other surveys that provide relevant data for addressing social determinants related to problematic substance use are the *Canadian Housing Survey* and the *Canadian Income Survey*. The housing survey now includes questions related to sexual orientation and gender identity. However, the income survey does not currently gather data regarding sexual orientation or gender identity; it does gather some information regarding "unmet health needs" but nothing specific to substance use and little recognition of barriers such as stigma and discrimination. In addition to the various national population level surveys, the Canadian Institute of Health Information (CIHI) has recently developed six common indicators to measure progress across the country in improving access to mental health and addictions service, one of the priority areas in the 10-year funding agreement in 2017 between the

federal, provincial and territorial governments: *A Common Statement of Principles on Shared Health Priorities* (2017). In 2022, CIHI began national (online) surveys to gather data for two of these indicators (i.e. early intervention for mental health and substance use, navigation of mental health and substance use services), for which there were no existing measures. Those surveys include questions gathering data about gender identity and sexual orientation, as well as certain other demographic information (e.g. Indigeneity, race, etc.). However, with respect to the other, pre-existing indicators, the data sources used do not include such data (and are usually limited to age and sex).

[5] Brogan N et al, Canadian results from the European Men-who-have-sex-with-men Internet survey (EMIS-2017), *Canada Communicable Disease Report* 2019; 45(11): 271-282.

[6] For example, the National Overdose Response Service (NORS, www.nors.ca) is a virtual safer consumption phoneline available toll-free across Canada to allow phone accompaniment of someone using alone. Mobile phone apps such as Lifeguard's Connect ((https://lifeguarddh.com) and Brave (www.brave.coop) also aim to enable an emergency response if the app user becomes unresponsive. Note that these apps function differently (including with differing degrees of protection for user privacy) and the Lifeguard app is not available in most of the country.

[7] Health Canada, News Release: Government of Canada Begins Work with Partners on National Standards for Mental Health and Substance Use Services, March 14, 2022.

[8] See House of Commons Standing Committee on Heath, *The Health of LGBTQIA2 Communities in Canada* (Recommendation 12), June 2019.

[9] *Ibid.*

[10] Jesseman R, Payer D., *Decriminalization: Options and Evidence*. Ottawa: Canadian Centre on Substance Use and Addiction, 2018.

[11] E.g., Canadian Public Health Association, *Decriminalization of Personal use of Psychoactive Substances*, 2017.

[12] See both reports by Health Canada Expert Task Force on Substance Use: *Report 1: Recommendations on alternatives to criminal penalties for simple possession of controlled substances* (May 2021) and *Report 2: Recommendations on the federal government's drug policy as articulated in a draft Canadian Drugs and Substances Strategy (CDSS*), both online via www.canada.ca/en/health-canada/corporate/about-health-canada/public-engagement/external-advisory-bodies/expert-task-force-substance-use/reports.html.

[13] UN Chief Executives Board, "United Nations system common position supporting the implementation of the international drug control policy through effective inter-agency collaboration," UN Doc. CEB/2018/2 (Annex 1), 18 January 2019.

[14] Talking Drugs et al., "Interactive Map: Drug Decriminalisation Across the World," www.talkingdrugs.org/decrim.

[15] Canadian Association of People who Use Drugs, *Safe Supply: Concept Document*, February 2019.

[16] National Safer Supply Community of Practice, *Prescribed Safer Supply Programs: Emerging Evidence*, 2023.

[17] See the discussion in both reports of Health Canada's Expert Task Force on Substance Use, issued in May and June 2021, *supra* note 12.

[18] Community-Based Research Centre et al., "Response to Health Canada's Policy on Poppers," June 2021; Knight R et al., Assessing options for poppers policy in Canada: A call to action for evidence-based policy reform, *Int J Drug Policy* 2023; 115: 104017.

[19] See fuller discussion in: Canadian HIV/AIDS Legal Network, *Overdue for a Change: Scaling up Supervised Consumption Services in Canada*, 2019.

[20] Canadian Association for Sex Work Law Reform, *Safety, Dignity, Equality: Recommendations for Sex Work Law Reform in Canada*, 2017.

[21] For further discussion, including model statutory provisions, see: Canadian HIV/AIDS Legal Network, *Legislating for Health and Human Rights: Model Law on Drug Use and HIV/AIDS – Module 7: Stigma and Discrimination*,(Toronto, 2006).

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