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**Follow-up to the implementation at the national,
regional and international levels of all
commitments, as reflected in the Ministerial
Declaration of 2019, to address and counter the
world drug problem**

Statement submitted by the Canadian HIV/AIDS Legal Network, a non-governmental organization in special consultative status with the Economic and Social Council**

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31.

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** Issued without formal editing.



Ensuring Equity, Reducing Harms, and Supporting Human Rights in Drug Policy

Introduction and Objectives

This brief is submitted by the Canadian HIV/AIDS Legal Network¹ (Special Consultative Status) on behalf of the Canadian Civil Society Working Group on United Nations Drug Policy.

The following recommendations highlight priority areas in which Member States can play a leadership role in advancing evidence-informed, inclusive, and effective drug policy that is grounded in public health and human rights and aligns with complementary United Nations initiatives.

Recommendations

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

Repeatedly and by consensus, Canada and other Member States have directed drug control efforts to conform to the standards of international human rights.² Further, the 2030 Agenda for Sustainable Development lists “Leaving no one behind” as one of the fundamental aims of the Sustainable Development Goals.³ All United Nations bodies, including United Nations human rights committees, have recognized determinants of health that disproportionately affect women, people of diverse gender identities, and racialized and Indigenous communities. Yet, these are not sufficiently accounted for in the design of health strategies for people who use drugs.

The impact of punitive drug laws is gendered. In Canada, a higher proportion of women in prison are incarcerated for drug offences than among men in prison. Women also face barriers to treatment and harm reduction services.⁴ In 2016, the United Nations Committee on the Elimination of Discrimination against Women called 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.”⁵

In Canada, Black and Indigenous communities are disproportionately charged, prosecuted, and incarcerated for drug offences.⁶ Drug policies affecting Indigenous populations remain largely based on colonial norms, laws, and customs. For drug policy to create greater equity for Indigenous peoples, it must support access to and

¹ The Canadian HIV/AIDS Legal Network has changed its working name to HIV Legal Network.

² 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>.

³ General Assembly Resolution 70/1, *Transforming Our World: The 2030 Agenda for Sustainable Development*, United Nations Doc. A/RES/70/1 (25 September 2015), <https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf>.

⁴ UN 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.

⁵ UN Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined on the combined eighth and ninth periodic reports of Canada*, United Nations Doc. CEDAW/C/CAN/CO/8-9 (18 November 2016), paras. 44–45.

⁶ J. Rankin and S. Contenta, ‘Toronto marijuana arrests reveal ‘startling’ racial divide,’ *Toronto Star*, (6 July 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*, (7 August 2020).

availability of resources to enable an Indigenous-specific approach, that is culturally appropriate and guided by Indigenous knowledge.

The United Nations Declaration on the Rights of Indigenous Peoples affirms that “Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health.”⁷ Additionally, in 2017, the United Nations Committee on the Elimination of Racial Discrimination expressed concern at the disproportionately high rate of incarceration of Black and Indigenous peoples in Canada and called for “evidence-based alternatives to incarceration for non-violent drug users.”⁸ In 2021, the High Commissioner for Human Rights released a report on the human rights and fundamental freedoms of Africans and of people of African descent which noted, “the discriminatory application of criminal 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.”⁹

We urge Member States to promote recognition and advance discussions, including in statements delivered at the CND, of the negative impacts of current drug policies on women, people of diverse gender identities, and racialized and Indigenous communities, and to support accessible, gender-sensitive and culturally appropriate treatment, harm reduction, and other health services that are tailored to meet their specific needs.

We also urge Member States to express support for the decolonization of drug policy, the prohibition of all forms of racial profiling by law enforcement, and the creation of participatory roles for Indigenous peoples in treatment and prevention measures.

Finally, we urge Member States to acknowledge the unique experiences and needs of people who use drugs from racialized communities, including Indigenous populations, and across gender in all resolutions.

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

Criminal prohibitions are ineffective in deterring drug use.¹⁰ 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, failing to protect those most vulnerable in our communities from the dangers of an adulterated, unregulated drug supply.¹¹ Criminalized drug possession is a driving factor behind individual and systemic stigma and discrimination affecting people who use drugs, which prevents people from seeking and accessing vital services. This has disproportionate impacts on Indigenous peoples, racialized communities, women, youth, and those with mental health conditions or problematic substance use.

In Canada in 2021, the rate of opioid overdose deaths continues to increase with an average of 19 people dying per day, representing a 66% increase compared to April

⁷ UN General Assembly. (2007). United Nations Declaration on the Rights of Indigenous Peoples, <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>.

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, United Nations Doc. CEDAW/C/CAN/CO/8-9 (18 November 2016), paras. 44–45.

⁹ UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights*, United Nations Doc. A/HRC/47/53 (1 June 2021) <https://undocs.org/A/HRC/47/53>.

¹⁰ 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

¹¹ 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.

to June 2019.¹² Most of these deaths were related to high-potency opioids in the unregulated market.

Consequently, a broad spectrum of formal and informal decriminalization strategies is emerging in Canada and abroad. In Canada, in 2021, the Federal Expert Task Force on Substance Use recommended decriminalization.¹³ Later that year, 112 human rights and public health organizations released a national drug decriminalization platform for Canada.¹⁴ Three Canadian jurisdictions, Vancouver, Toronto, and British Columbia, have submitted requests for an exemption from the *Controlled Drugs and Substances Act* to decriminalize personal possession of illegal substances.¹⁵ Internationally, the decriminalization of drug possession for personal use has been called for by all 31 United Nations agencies in a common position on drug policy released in 2019.¹⁶

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.

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

Finally, we urge Member States to implement, promote, and advance discussions 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.

¹² Opioid- and Stimulant-related Harms in Canada Published: (December 2021) Public Health Agency of Canada, Government of Canada P.1.

¹³ Health Canada Expert Task Force on Substance Use, “Report 1: Recommendations on alternatives to criminal penalties for simple possession of controlled substances,” (6 May 2021) <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>.

¹⁴ Canadian Drug Policy Coalition, “Leading human rights and public health organizations release national drug decriminalization platform for Canada,” (9 December 2021) <https://drugpolicy.ca/leading-human-rights-and-public-health-organizations-release-national-drug-decriminalization-platform-for-canada/>.

¹⁵ 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,” (28 May 2021) <https://vancouver.ca/files/cov/request-for-exemption-from-controlled-drugs-and-substances-act.pdf>; City of Toronto, “Submission to Health Canada: Request for exemption to the *Controlled Drugs and Substances Act* to allow for the possession of drugs for personal use in Toronto,” (4 January 2022) <https://www.toronto.ca/wp-content/uploads/2022/01/943b-TPH-Exemption-Request-Jan-4-2022-FNLAODA.pdf>; BC Ministry of Mental Health and Addictions, “B.C. applies for decriminalization in next step to reduce toxic drug deaths,” (1 November 2021) <https://news.gov.bc.ca/releases/2021MMHA0059-002084>.

¹⁶ UN Chief Executives Board, Summary of Deliberations: Segment 2: Common United Nations system position on drug policy, United Nations System, 2nd regular session of 2018, United Nations Doc CEB/2018/2, (18 January 2019).