



News Release

For immediate release

UN experts make historic recommendations to Canada: End unjust HIV criminalization, repeal law restricting supervised consumption services, and implement needle and syringe programmes in prison

GENEVA, November 18, 2016 — The United Nations Committee on the Elimination of Discrimination against Women issued its Concluding Observations today following its review of Canada’s compliance with the *Convention on the Elimination of All Forms of Discrimination against Women*. This is the first time the Committee reviewed women’s rights in Canada since 2008.

The UN experts forcefully called into question the country’s status as a world leader in gender equality and confirmed that women in Canada continue to bear a considerable brunt of the previous federal government’s regressive criminal justice policy.

In particular, the Committee expressed deep concern about the overly broad use of the criminal law in cases of HIV non-disclosure in Canada, the unreasonable legal barriers to supervised consumption sites, the excessive use of incarceration as a drug-control measure against women, risks to the security and health of sex workers brought about by criminalizing sex work, and high rates of HIV among women in detention.

“Today’s report confirms what we already know — that the human rights of many women are actually worsening on key fronts,” said Sandra Ka Hon Chu, director of research and advocacy at the Canadian HIV/AIDS Legal Network. “Canadians have been optimistic that Trudeau would reverse a number of the previous government’s draconian, punitive criminal laws and strengthen the legal protections that some of the nation’s most marginalized groups of women sorely need — but we’re still waiting.”

The Committee recommended that Canada limit the application of criminal law provisions to cases of intentional transmission of HIV, as recommended by international public health standards. It noted the need for a review of the application of harsh criminal sanctions, such as aggravated sexual assault, to women for not disclosing their HIV status to sexual partners, even when the transmission is not intentional, when there is no transmission or when the risk of transmission is minimal.

“For the first time, a UN human rights treaty body has directly called attention to the issue of unjust prosecutions of people living with HIV for not disclosing their status in Canada, and recommended that the country review its criminal laws to prevent such prosecutions,” said Nicholas Caivano, policy analyst at the Legal Network.

Importantly, the Committee expressed concern about the significant legislative and administrative barriers women face to access supervised consumption services, especially in light of the ongoing nationwide opioid overdose crisis. In response, the Committee called for a full repeal of the *Respect for Communities Act*. This law imposes barriers to supervised consumption services, which promise to improve health outcomes for women who use drugs. The Committee called on Canada to establish a transparent process for exemptions permitting the operation of supervised consumption services without risk of criminal prosecution of clients or service providers. It also noted that Canada must exempt from arrest drug users who, when facing an overdose, call 911 for assistance.

The Committee called attention to the excessive use of incarceration as a drug-control measure against women and the ensuing female over-population in prison, many of whom are living with HIV. It urged Canada to repeal mandatory minimum sentences for minor, non-violent drug-related offences and expand care, treatment and support services to women in detention living with or vulnerable to HIV, including by implementing prison-based needle and syringe programs, opioid substitution therapy, condoms and other safer sex supplies.

The Committee also called upon Canada to fully decriminalize women engaged in sex work and assess the impact of its laws on the health and security of women in sex work. While this is a welcome call for the removal of criminal laws that directly target sex workers, the recommendation falls short of understanding that decriminalization requires the removal of all criminal laws related to sex work, including those criminalizing clients and third parties. NGOs including the Legal Network and Amnesty International as well as UN agencies such as UNAIDS have endorsed decriminalizing all aspects of sex work as the best way to protect the human rights of sex workers.

“Today’s report confirms that there is much that can be done to improve the human rights of women in Canada,” said Nicholas Caivano. “We can repeal sex work-specific criminal laws and work with sex worker groups to adopt legislation and programs that protect their health and safety. We can scale up harm reduction services, repeal the *Respect for Communities Act* that impedes access to supervised consumption sites, and reduce unwarranted and harmful incarceration by eliminating mandatory minimum sentences for minor drug offences and decriminalizing possession of drugs for personal use. We can end the unjust criminalization of women living with HIV. And we can provide access to key health interventions to women in prison, such as prison-based needle and syringe programs, and expand evidence-based alternatives to incarceration.”

Background

On October 25, 2016, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW Committee) considered the combined eighth and ninth [periodic reports of Canada](#) on its implementation of the provisions of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which it ratified in 1981. The Canadian HIV/AIDS Legal Network attended the review and provided a [brief to the CEDAW Committee](#) on the rights of women living with HIV, women who use drugs, women in sex work, and incarcerated women. Today, the Committee released its recommendations, known as the [Concluding Observations](#), to Canada on how to further its compliance with the Convention.

Contact:

Janet Butler-McPhee

Director of Communications and Advocacy

Canadian HIV/AIDS Legal Network

Telephone: +1 416 595-1666 ext. 227

Email: jbutler@aidslaw.ca