Saving Lives, Protecting Health: Strengthening Bill C-37 to expand and expedite access to supervised consumption sites

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INTRODUCTION

Canada's *Controlled Drugs and Substances Act* (CDSA, or "the Act") makes it a criminal offence to possess or traffic certain controlled substances, including various opioids (such as heroin) and cocaine. However, the Act also gives the federal Minister of Health the authority to issue an exemption to "any person or class of persons" from the application of sections of the Act. Without such an exemption, users and operators of a supervised consumption site (SCS, also known as "safer consumption services") face possible criminal prosecution for the possession of controlled substances even while on the premises of such a health facility.

In their rulings in favour of Vancouver's supervised injection site, courts have recognized that such a legal state of affairs forces people struggling with problematic drug use to choose between risking their liberty or risking their health and even their lives — a reality driven home tragically by the ongoing crisis of overdose deaths in Canada. The Supreme Court of Canada ruled that it would be unconstitutional to maintain a blanket criminal prohibition on the possession of controlled substances to the point that it continued to criminalize those seeking or providing services in a setting such as a supervised consumption site. The Court confirmed that extending the criminal law this far would amount to an unconstitutional violation of the rights to life, liberty and security of the person, contrary to section 7 of the *Canadian Charter of Rights and Freedoms*. Therefore, the ministerial power to issue an exemption from criminal liability from the CDSA's provisions in certain circumstances — and hence the proper exercise of that discretion — is essential if the CDSA as a whole is to pass constitutional muster.[1]

It follows, as a matter of logic and principle, that any legal regime for exempting SCS from the CDSA's prohibitions must provide an effective and timely means of securing such an exemption. It should also be a given that such a mechanism must be non-discriminatory (to comply with the equality

guarantee of the *Charter*) and that, to avoid being arbitrary, decisions should be based on evidence. However, Canada's current legislative framework is sadly deficient on each of these fronts.

The Canadian HIV/AIDS Legal Network has therefore welcomed the government's introduction of Bill C-37 in December 2016 that would go some way toward remedying these deficiencies.[2] We also welcomed the accompanying statement by the federal government that it is updating Canada's federal drug strategy to restore harm reduction as a "core pillar" and to ensure the strategy rests on a "strong evidence base," and that the overall lead for Canada's new drug strategy will return to Health Canada, reflecting an approach that understands drug use and drug policy primarily as matters of health rather than criminal justice.[3] Such an approach is sensible from a public health perspective. It is also consistent with — in fact, required by — Canada's legal obligation to take steps to respect, protect and fulfill the human right of everyone to the enjoyment of the highest attainable standard of health "by all appropriate means, including particularly the adoption of legislative measures"[4] — such as Bill C-37.

Bill C-37 would repeal in its entirety the current, deficient legislative framework set out in the *Controlled Drugs and Substances Act* for obtaining a ministerial exemption allowing the operation of supervised consumption services (SCS) without the risk of criminal prosecution. This amendment is long overdue. The current legislative framework, enacted in June 2015,[5] is mean-spirited and discriminatory. It imposes an onerous, unjustified burden on those who seek to provide life-saving, health-protecting services and creates a process that is rife with opportunities for stigma, discrimination and political posturing and calculation, rather than decisions based solely on the evidence of health needs and benefits.[6] It has been widely condemned by people who use drugs and need harm reduction services, by frontline service providers, by health professionals and their associations, and by human rights organizations and experts.[7] Most recently, the UN expert body monitoring Canada's progress on complying with its treaty obligations to protect and fulfill the rights of women also called for its full repeal, given its harmful impact on the health of women who use drugs.[8]

In keeping with the government's stated commitment to harm reduction and to evidence-based policy, **the Legal Network recommends two amendments to strengthen Bill C-37**, with a view to ensuring the legislative framework for securing exemptions from the CDSA is simple, straightforward and expeditious.

RECOMMENDED AMENDMENTS TO BILL C-37

Recommendation 1: Expedited exemptions to operate SCS, issued by or at the request of provincial/territorial or local health authorities

The current ongoing opioid crisis in Canada — including record-breaking rates of overdose deaths — underscores what was already an urgent need to scale-up evidence-based health services that can help prevent disease (including blood-borne infections such as HIV and hepatitis C), as well as injury and death, among people experiencing problematic drug use. As recognized by the government, safer consumption services are one such service that is essential to protecting and promoting public health, as part of a larger, comprehensive response to problematic drug use. An onerous mechanism for obtaining a ministerial exemption from the CDSA to operate such health services without risk of criminal prosecution is antithetical to ensuring timely access to such services — and the consequences of delay imposed by burdensome bureaucratic hurdles are deadly.

Bill C-37 would repeal the current provisions in the CDSA that impose both unwarranted requirements on applicants for an exemption and unjustifiably impede the federal Health Minister's ability to respond to public health needs. It would, therefore, go some way toward removing the fatal flaws in the current regime. However, it should go further, removing the potential for (sometimes partisan) political considerations to undermine or impede timely, evidence-based responses to public health needs, particularly in urgent, crisis situations.

In fact, such a crisis has been unfolding over the past year as the toll of overdose deaths rises dramatically in various provinces — to date, most tragically in British Columbia, ultimately leading both frontline organizations and the provincial government to quite properly disregard the requirements of the current federal CDSA by opening non-exempted "pop-up" supervised consumption sites (largely led by civil society organizations) and what the provincial government has labelled "overdose prevention sites" (supervised consumption sites by another name).[9] Because continued inaction in the face of the growing public health emergency is simply intolerable, these sites are operating despite the legal risk of prosecution of service-users and staff/volunteers for possession of illegal substances. The delays caused by the current onerous CDSA framework for obtaining and issuing an exemption constitute *part* of the problem; replacing the current framework with a simpler set of options for responding to emergency situations is a necessary *part* of the solution.

Specifically, we recommend that the CDSA should provide for the possibility that an exemption allowing the operation of a supervised consumption service without risk of criminal prosecution of service-users, staff or volunteers can be granted by, *in addition to* the federal Minister of Health, a provincial or territorial health minister, a province's chief public health officer or a medical officer of health with statutory authority over the designated area in which a service would be located. There are several reasons why allowing for an exemption to be obtained from any of these officials is warranted.

First, the delivery of health services is primarily a matter within provincial jurisdiction, and in practice is a matter largely determined and implemented by provincial and local decision-makers and providers — including with respect to the funding of health services.

Second, each provincial/territorial health minister, chief public health officer and local medical officer of health is given statutory responsibility and authority, under provincial/territorial law, to protect and promote the health and well-being of the public. This responsibility includes taking steps to identify, prevent and mitigate health hazards in their respectively defined jurisdictions (i.e., province/territory or local health unit/authority/region), including through the delivery of various health services and programs. These officials also have statutory powers to monitor and inspect facilities and services to ensure their quality and safety, and to issue orders to this end. However, the experience of recent years has demonstrated that, until very recently, such officials have been unable or unwilling to move forward with implementing supervised consumption services in the absence of CDSA exemptions secured from the federal government — and for some provincial decision-makers, the cumbersome federal legislative framework delaying such exemptions being issued has provided a convenient excuse for inaction.

Third, decisions about the implementation of health services should be based on evidence of need and potential for benefit in addressing that need, and no other, improper considerations. Unfortunately, the history of supervised injection sites — and of harm reduction services more broadly — in Canada has been too often marked by decision-making that is rooted in stigma and prejudice

against people who use drugs, and by political calculations by political decision-makers (sometimes motivated by said stigma and prejudice, and indeed sometimes even appealing to and encouraging it). This discriminatory, and deadly, dynamic has been particularly evident in impeding efforts to implement supervised consumption services — efforts that now date back more than 20 years in Canada.

One prime example of this is the non-evidence-based, political opposition by the federal government that ultimately necessitated years-long litigation over Insite, culminating in a decision of the Supreme Court of Canada in September 2011 in favour of that site — and ordering the then federal Health Minister to issue the continued exemption covering the facility.[10] Following the Court's ruling, continued hostility to SCS by the government of the day led to the enactment in 2015 of the ill-named *Respect for Communities Act* (formerly Bill C-2 in the last Parliament), which established the current legislative framework and its extensive hurdles to successfully obtaining a CDSA exemption. More than five years after the Court ruled in favour of Insite, there are still only two sites operating with ministerial exemptions from the CDSA, despite the desperately evident need for more coverage of such services. As has been identified time and again, including by frontline agencies that wish to expand their health services to include SCS, part of the delay arises out of the hostile political environment and the unduly onerous legislative requirements subsequently embodied in the CDSA as a manifestation of that environment. Meanwhile, the current government and Health Minister have repeatedly stated their support for such services, yet they are still currently operating under the unwarranted constraints of the *Respect for Communities Act*.

It is unconscionable that access to life-saving health services for people struggling with problematic drug use — often alongside other multiple health challenges — should be dependent on the ideology of the (federal) government of the day and subject to such political back-and-forth. Under Bill C-37 as introduced, the ability to issue an exemption allowing the operation of a supervised injection site without risk of criminal prosecution would still rest solely with the federal Health Minister, a decision-maker without direct responsibility for health services delivery and at substantial risk of political bias. The authority of the federal Health Minister to issue a CDSA exemption is important and must be preserved. However, given that (1) the exemptions in question are to permit the operation of health services, which is primarily a provincial and local consideration, (2) provincial and local health authorities bear the principal legal responsibility to address those health needs, and (3) history amply demonstrates the importance of ensuring that decisions on exemption applications are based on evidence and are free from improper political considerations, there should be other, equally valid avenues for obtaining the requisite exemption to allow the delivery of such health services without risk of criminal liability.

We therefore propose that Bill C-37 be amended to effect the insertion into the CDSA of some additional subsections in section 56.1 (to enable the federal Minister to issue an exemption based on a substantiated request by a provincial or local health official) and a new section 56.2 (to delegate the authority to issue an exemption to a provincial or local health official to respond to a local public health need).

PROPOSED AMENDMENTS

NEW Section 56.1, subsections (6), (7) and (8): Exemption for supervised injection site in response to <u>request from</u> provincial or local health official

(6) The [federal] Minister [of Health] may grant an exemption under subsection (1) upon receiving a **written request from** the **provincial or territorial minister responsible for health** in the province or territory in which the site would be located, the **lead public health professional** of the government of the province or territory in which the site would be located, or the **medical officer of health** with statutory responsibility for protecting public health in the geographical area in which the site would be located, if the official submitting the request has identified that, in that official's opinion, the requested exemption would be in the public interest to address risk to public health or public safety in the area in which the site would be located, and the request sets out the basis on which the official has formed this opinion. Notwithstanding subsection (2), the Minister may deem such a request a sufficient basis on which to issue an exemption.

(7) Upon receipt of a request pursuant to subsection (6), the Minister must make a **decision within seven days** of the receipt of said request, and shall, in writing, make the decision public and, if the decision is a refusal, include the reasons for it.

(8) In granting an exemption in response to a request from an official pursuant to subsection (6), the Minister may grant the exemption subject to the condition that the requesting official shall file with the Minister, within 14 days of receipt of the exemption, written information confirming the resources that are, or shall be made, available to support the maintenance of the site.

NEW Section 56.2: Exemption for supervised injection site granted by provincial or local health official

(1) For the purpose of allowing certain activities to take place at a supervised consumption site, the **provincial or territorial minister responsible for health** in the province or territory in which the site would be located, the **lead public health professional** of the government of the province or territory in which the site would be located, or the **medical officer of health** with statutory responsibility for protecting public health in the geographical area in which the site would be located, may, on any terms and conditions that said official considers necessary, exempt the following from the application of all or any of the provisions of this Act or the regulations if, in the opinion of said person, **the exemption would be in the public interest to address a risk to public health or public safety in the area in which the site would be located**:

(a) any person or class of persons in relation to a controlled substance or precursor that is obtained in a manner not authorized under this Act; or
(b) any controlled substance or precursor or any class of either of them that is obtained in a manner not authorized under this Act.

(2) An official named in subsection (1) may issue the exemption referred to in that subsection for a period of **up to two years**.

(3) An official named in subsection (1) may **renew an exemption granted under that subsection**, if in that official's opinion, it continues to be in the public interest to continue the exemption to address a risk to public health or public safety in the area in which the site is or would be located.

Recommendation 2: Simpler, evidence-based criteria for obtaining an exemption

In September 2011, the Supreme Court ruled that in determining whether to grant exemptions, the federal Health Minister must exercise the discretion granted by the CDSA in accordance with the Charter: the Minister must consider "whether denying an exemption would cause deprivations of life and security of the person that are not in accordance with the principles of fundamental justice."[11] The Court further stated that in making such a decision, the Minister should have regard to evidence, "if any," about several factors, which it listed as follows:

- the impact of such a facility on crime rates;
- local conditions indicating a need for such a supervised injection site;
- regulatory structure in place to support the facility;
- the resources available to support its maintenance; and
- expressions of community support or opposition.[12]

It is important to note what the Court did and did not say in its ruling. The Court said that *if* there is evidence about these factors before the Minister, then such evidence must be taken into consideration. The Court did not say that any evidence regarding any one factor that is before the Minister is necessarily determinative.

Nor did the Court say that the Minister could review and grant an application for an exemption only if all five factors had been addressed with evidence in the application. The Supreme Court's ruling does not mandate that Parliament legislatively require information about these factors in an application to the Minister. However, Bill C-37 *could* be interpreted in this fashion (although we would argue that such an interpretation would be unwarranted and incorrect). Therefore, we recommend some revisions to ensure that Bill C-37 — and specifically the proposed new subsection 56.1(2) — does not replace the current legislative framework with one that, while improved, nonetheless risks statutorily entrenching unnecessary barriers to SCS.

There are two particular concerns raised by the approach in Bill C-37 of simply importing a paragraph from the Supreme Court's decision into the statute as the new legislative framework for SCS exemptions.

First, it would be unwarranted to base determinations on whether to grant an exemption to a proposed SCS on the basis of "the impact of such a facility on crime rates." Such a reference arose unfortunately in the context of the Insite litigation at the Supreme Court because the previous government repeatedly, publicly declared — without evidentiary foundation — that SCS are associated with increased "criminality" and also suggested that service providers operating SCS might have to justify their delivery of these health services by demonstrating that they not only provide health benefits but also would reduce crime. However, SCS are health services, whether stand-alone sites providing solely this service or integrated into other health services reaching people who use drugs. Reducing crime is not their objective.[13] Expecting or requiring that a SCS would reduce crime rates is no more logical or justifiable than that any other health clinic or a hospital would do so. Similarly, if crime rates were to be observed increasing in the vicinity of a hospital, this would not justify closing the hospital. Assessing health services on the basis of crime statistics is not an appropriate standard or consideration.

Second, if there is a constitutional right to not have one's access to health services such as SCS impeded by the state's extension of the criminal law, then it is troubling to contemplate that a Minister's decision about whether to permit the operation of such a health facility could be contingent upon whether a community, or certain elements of a community, support or oppose the

proposal. While working with local communities, governmental authorities and local police can contribute to a better acceptance of the facility, thereby improving its functioning, making their input a legal requirement for getting or even applying for an exemption is unjustified and excessive. There is no equivalent requirement for other health services for people who do not use drugs. "Opinions" that are not necessarily based on any evidence are unjustifiable requirements. The fact that supervised consumption services are meant to serve people who use drugs seems to be the only reason for such exceptional treatment with a more burdensome standard. This is of particular concern because people who use drugs are a stigmatized and often marginalized population, and local opposition to the implementation of drug-related services is likely to be based on misconceptions, fear and unfounded assumptions about drugs, people who use them, and harm reduction programs. We know already from experience with services such as needle and syringe programs or methadone clinics that such services sometimes run into community opposition, often based on misinformation and prejudice — opposition that has sometimes prevented services from being located where they are needed and accessible. Given the ongoing stigmatization and demonization of people who use drugs, and the (already observed) reality that a federal government may be demonstrably hostile to people who use drugs and to harm reduction services such as SCS, it would be unwise to enact legislation suggesting that such community stigma and prejudice could be a legitimate factor in deciding whether to issue an exemption. This could potentially hold the supposed rights of a particularly stigmatized minority population hostage to the prejudices of a majority. (A decision based on such animus would properly be vulnerable upon judicial review of a Minister's refusal, if it could be demonstrated — which could prove challenging. However, such a process would occasion further expense and delay, further burdening would-be service providers seeking to provide urgently-needed health services and contributing to additional disease, injury and death while a challenge works its way through the courts.)

Finally, the question of resources for SCS must be addressed sensibly. We also note that, based on the experience to date under the current CDSA regime for SCS exemptions, would-be service providers in some settings continue to face a Catch-22 situation. Currently, the CDSA (s. 56.1(3)(q)) states that before the Minister may even legally consider an application for an exemption, the applicant must submit "a financing plan that demonstrates the feasibility and sustainability of operating the site." Yet service providers are largely dependent on provincial and/or municipal governments for funding of health services — and in some instances, those levels of government have been unwilling to commit funds for SCS unless and until a federal ministerial exemption is obtained. Bill C-37, as introduced, still states, in the proposed new subsection 56.1(2), that an application "shall include … information, if any, on the resources available to support the maintenance of the site." If the purpose of Bill C-37 is to simplify the process for obtaining an exemption for an SCS, then this practical reality, already encountered by some would-be SCS providers, should be taken into account in recrafting the legislative framework — specifically, to create greater, explicit flexibility in the process when considering and granting an exemption. This could allow, for example, a Minister to grant an exemption for a soundly conceived SCS even if the would-be service provider must then still secure the necessary funding; indeed, having this exemption in hand would, in some instances, facilitate securing funding.

In light of the above considerations, we recommend that the proposed new CDSA section 56.1 in Bill C-37 be amended as follows:

PROPOSED AMENDMENT
AMENDED Section 56.1(2) and NEW Section 56.1(2.1): Application for an exemption

(2) An application for exemption under subsection (1) shall include evidence, submitted in the form and manner determined by the Minister, of the intended health benefits of the site and evidence of the local conditions indicating a need for the site.

(2.1) In making a decision under subsection (1), the Minister may consider the regulatory structure in place to support the site and the resources that are available, or that may become available upon granting of the exemption, to support the maintenance of the site.

CONCLUSION

One stated purpose of Bill C-37 is "to simplify the process of applying for an exemption that would allow certain activities to take place at a supervised consumption site, as well as the process of applying for subsequent exemptions."[14] Bill C-37, and its full repeal of the current, damaging legislative framework for ministerial exemptions for SCS, is a welcome step forward in this regard. However, we recommend that the bill be further improved with the reforms we have proposed above, namely:

- **Pathways to an exemption:**
    - In order to enable the rapid granting of an exemption to respond to local health needs (including an emergency situation), the Act should authorize the federal Health Minister to rapidly grant an exemption simply upon the basis of a duly-motivated request by a provincial/territorial health minister, a chief public health officer of a province/territory, or a local medical officer of health (and the ability of the federal Minister to attach a condition to such an exemption that the requesting provincial/territorial or local health official confirm the intention and ability to secure resources to support the site).
    - In addition, as an alternative pathway, the Act should delegate authority to any one of these provincial/territorial or local health officials, who are legally responsible for taking measures to address public health needs in their jurisdiction, to issue an exemption permitting the operation of a supervised consumption site in their area of jurisdiction without risk of criminal prosecution.

- **Information required in an application:** In order to ensure that decisions regarding an application for an exemption are based on relevant evidence, the Act should require some evidence of the local need for a site and of its intended health benefits. The Act should not incorporate considerations about "impact on crime rates" (as this is not a suitable measure for assessing the need for and benefit of health services) or "community support or opposition" (as this simply enables misinformation, stigma and prejudice to taint what should be an evidence-based decision). The Minister should be allowed to consider the regulatory structure in place to support the site and the question of resources for its operation — but the Act should be worded flexibly so as not, in practice, to make the existence of financing a *pre-condition* to granting an exemption.

Facilitating SCS beyond legislative reforms

In addition, beyond the direct legislative reforms to the CDSA, it will be important to ensure that what is manifested throughout is an approach based on evidence and on facilitating access to these

health services where they are needed. While Bill C-37 would remove unnecessary and unwarranted requirements from the CDSA, it is important that Health Canada not continue to apply them in regulations, departmental guidelines or practice when reviewing applications for ministerial exemptions. Bill C-37 contains a welcome new provision — the proposed new section 56.1(5) — aimed at ensuring the transparency of ministerial decision-making. However, it requires a certain degree of transparency *after the fact*, once a decision has been made. Therefore, in addition to streamlining the legislative framework for SCS exemptions, we call on the government to

- commit publicly, on the record, that the onerous requirements being repealed from the CDSA via Bill C-37 will not be replicated in any regulations, guidelines or practice; and
- make publicly available, including online, any departmental guidelines or similar documents used to guide decision-making on applications for exemptions.

Beyond Bill C-37: Reducing the harms of drugs and of drug policy

Finally, against the backdrop of a national crisis of deaths from opioid overdose, when introducing Bill C-37 in December 2016, federal Health Minister Jane Philpott also declared that Canada is adopting a new strategy to deal with drugs — one that treats problematic drug use primarily as a health issue rather than a matter for criminal justice, and that restores harm reduction as a core pillar. This is a critically important change.

However, a true commitment to a more health-oriented, evidence-based drug policy must go further. Harm reduction services remain woefully underfunded in much of Canada, by both federal and provincial/territorial governments. Even basic, long-standing services such as needle and syringe programs (NSPs) have far from adequate coverage, and governments continue to deny access to such programs in federal and provincial/territorial prisons (refusing to act on more than two decades of evidence of the successful, beneficial implementation of such programs in numerous other countries). Substantially scaling-up and extending harm reduction services, including through adequate funding, must be reflected in the new federal Canadian Drugs and Substances Strategy (and provinces and territories should do the same).

But beyond strengthening specific harm reduction services, Canada must undertake a deeper rethinking of drug laws and policies in Canada. **A true harm reduction approach also considers the benefits and harms not just of various drugs, but also of our policies and their enforcement.** An overwhelming body of evidence demonstrates that the continued overwhelming emphasis on drug prohibition — from policing to prosecution to prisons — is not only failing to achieve both the stated public health and public safety goals of prohibition, but also resulting in costly damage to the public purse, to public health and to human rights, in Canada[15] and globally.[16] A growing body of evidence is also demonstrating the health, human rights and fiscal benefits to be achieved by moving away from prohibition, including through the decriminalization of the possession of drugs for personal use,[17] and even toward a smart, regulatory approach for all drugs.[18]

Canada should heed that evidence and act by introducing substantial legislative and policy reforms that would truly shift our approach to drugs — and the allocation of funds within that approach — away from criminal prohibition and its enforcement to a truly health-oriented approach, based on evidence and human rights. Without a change in direction, we will continue to see the damage done by HIV, hepatitis C, overdose, inadequate health services, over-policing and over-incarceration, particularly for some of the most marginalized people in Canadian society.

[1] *Canada (Attorney General) v. PHS Community Services Society*, 2011 SCC 44. Available at https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/7960/index.do.
[2] Canadian HIV/AIDS Legal Network, "Statement: Bill C-37 a welcome step forward for life-saving supervised consumption sites and sound drug policy in Canada," December 12, 2016. Available at http://www.aidslaw.ca/site/bill-c-37-a-welcome-step-forward-for-life-saving-supervised-consumption-sites-and-sound-drug-policy-in-canada/?lang=en.
[3] Health Canada, "Government of Canada announces new comprehensive drug strategy supported by proposed legislative changes," news release, Ottawa, December 12, 2016. Available at http://news.gc.ca/web/article-en.do?nid=1168519.
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[5] *An Act to amend the Controlled Drugs and Substances Act ("Respect for Communities Act")*, S.C. 2015, c. 22. Available at http://www.parl.gc.ca/content/hoc/Bills/412/Government/C-2/C-2_4/C-2_4.PDF.
[6] C. Kazatchkine, R. Elliott and D. MacPherson, *An Injection of Reason: Critical Analysis of the Respect for Communities Act (Q&A)*, Toronto/Vancouver: Canadian HIV/AIDS Legal Network & Canadian Drug Policy Coalition, 2016. Available at http://www.aidslaw.ca/site/an-injection-of-reason-critical-analysis-of-the-respect-for-communities-act-qa/?lang=en.
[7] Ibid. See the list in the pull-quote on p. 5 of numerous organizations critical of the current framework.
[8] UN Committee on the Elimination of Discrimination Against Women, "Concluding Observations on the combined eighth and ninth periodic reports of Canada," UN Doc. CEDAW/C/CAN/CO/8-9, November 18, 2016, para. 45(b). Available at http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/CAN/CEDAW_C_CAN_CO_8-9_25100_E.docx.
[9] British Columbia Ministry of Health, "Ministerial order supports urgent overdose response action," December 12, 2016. Available at https://news.gov.bc.ca/releases/2016HLTH0094-002737. Order of the Minister of Health, Ministerial Order No. M488 (December 9, 2016). Available at http://www.bclaws.ca/civix/document/id/mo/mo/2016_m488.
[10] *Canada (Attorney General) v. PHS Community Services Society*, 2011 SCC 44.
[11] Ibid., para. 153.
[12] Ibid.
[13] In fact, extensive peer-reviewed research evaluating Vancouver's Insite has demonstrated that Insite has *improved* public order and has not led to increased drug use or crime: Urban Health Research Initiative, B.C. Centre for Excellence in HIV/AIDS, *Insight into Insite*, January 2010. Available at http://www.cfenet.ubc.ca/sites/default/files/uploads/publications/insight_into_insite.pdf.
[14] Bill C-37, "Summary," para. (a).
[15] Canadian HIV/AIDS Legal Network, *Drug policy and human rights: the Canadian context — Submission to the Office of the UN High Commissioner for Human Rights*, 2015. Available at http://www.aidslaw.ca/site/drug-policy-and-human-rights-ohchr/?lang=en.
[16] S. Boyd, C.I. Carter and D. MacPherson, *More Harm Than Good: Drug Policy in Canada* (Halifax & Winnipeg: Fernwood Publishing, 2016); Office of the UN High Commissioner for Human Rights, *Study on the impact of the world drug problem on the enjoyment of human rights*, Report to the UN Human Rights Council, UN Doc. A/HRC/30/65, September 4, 2015. Available at http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A_HRC_30_66_ENG.docx; T. Babor et al., *Drug Policy and the Public Good* (Oxford: Oxford University Press, 2010); S. Rolles et al., *The Alternative World Drug Report (2nd ed).* (London: Transform Drug Policy Foundation, 2016). Available at http://www.countthecosts.org/alternative-world-drug-report-2nd-edition; Global Commission on Drug Policy, *The War on Drugs and HIV/AIDS: How the Criminalization of Drug Use Fuels the Global Pandemic*, 2012. Available at http://www.globalcommissionondrugs.org/reports/the-war-on-drugs-and-hivaids; Global Commission on Drug Policy, *The Negative Impact of the War on Drugs on Public Health: The Hidden Hepatitis C Epidemic*, 2013. Available at http://www.globalcommissionondrugs.org/reports/the-negative-impact-of-the-war-on-drugs-on-public-health-the-hidden-hepatitis-c-epidemic; Global Commission on HIV and the Law, *Risks, Rights and Health* (New York: UNDP, 2012).
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