January 24, 2020

# Supporting Health and Human Rights in Drug Policy: Brief to the Minister of Health and Canadian Delegation to the UN Commission on Narcotic Drugs

Prepared for the 63rd session of the UN Commission on Narcotic Drugs
by the Canadian Civil Society Working Group on UN Drug Policy

## Introduction & Objectives

This brief is submitted to the Minister of Health and members of the Canadian delegation to the 63rd session of the UN Commission on Narcotic Drugs (CND) by the Canadian Civil Society Working Group on UN Drug Policy (see Appendix). The Working Group was originally established in preparation for the 2016 UNGASS. Since this event, members have welcomed the opportunity to be part of Canadian delegations and to participate as civil society observers in subsequent sessions of the CND.

The objective of the Working Group is to increase Canadian civil society engagement at the CND and related UN meetings and processes with a view to promoting international drug policy that:

- Is informed by current evidence;
- Adheres to international human rights agreements;
- Promotes the inclusion of people who use drugs and civil society stakeholders in all aspects of research, policy development and program implementation;
- Reflects values that embrace ongoing critical evaluation of the impacts of drug policy on individuals, families and communities; and
- Supports the achievement of the UN Sustainable Development Goals.

The following recommendations highlight priority areas in which Canada can play a leadership role in advancing evidence-informed, inclusive and effective drug policy that is grounded in a public health approach and in alignment with complementary UN initiatives, including the promotion of human rights and achievement of the Sustainable Development Goals.

The Working Group recognizes Health Canada's continued support for civil society participation at the CND and other UN Office on Drugs and Crime (UNODC) initiatives. Membership on the Canadian delegation and engagement with the recommendations contained in this brief provides an opportunity to amplify the civil society voice in the international dialogue on drug policy.

## Recommendations

### 1. Respect, protect and promote human rights

By consensus, Canada and other Member States have explicitly and repeatedly directed that drug control efforts must be in conformity with the standards of international human rights.[1] The UNODC has affirmed that all of its programs, policies and technical advice should further the realization of human rights, and cooperation between the UNODC and Member States should have as an outcome the development of States' capacities to meet their human rights obligations.[2] In 2019, the UN System Chief Executives Board for Coordination also released the "common United Nations system position on drug policy" committing the UN system to "support the development and implementation of policies that put people, health and human rights at the centre," "ensure the respect for the dignity and human rights of people who use drugs in all aspects of drug and social policies," and "call for changes in laws, policies and practices that threaten the health and human rights of people."[3] Conformity with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) affirms that "Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health".[4] Approaches that use Indigenous knowledge and culture as foundation provide a holistic approach to drug use and control. Despite the general rhetorical affirmation of human rights, attention to specific human rights concerns in the context of drug policy remain contentious at the CND, and in some settings violations of human rights have increased.[5]

**We urge Canada to support continued work by the UNODC and Member States to address these priority human rights issues:**

- **Access to controlled substances for medical purposes;**
- **Stigmatization of people who use drugs;**
- **Over-incarceration and disproportionality in sentencing;**
- **Drug detention centres;**
- **Extrajudicial executions; and**
- **The death penalty.**

**We also urge Canada to model and promote Member States' harmonization of domestic laws and policies with concrete normative guidance, such as the *International Guidelines on Human Rights and Drug Policy*, assisting States in complying with international human rights standards.**[6]

### 2. Reject ill-conceived, unrealistic and harmful demands for a "drug-free world"

In the 1998 UN Special Session on drugs, the General Assembly called for a "drug-free world," ignoring the reality of drug use and often emphasizing abstinence-based approaches at the cost of a comprehensive set of evidence-based programs and services. This unrealistic goal has been used to justify the use of measures that violate human rights, such as mass incarceration, torture, drug detention centres and the death penalty.

**We urge Canada to consistently oppose insertion of "drug-free world" language within UN documents as unrealistic and counter-productive.**

## 3. Implement and promote a public health approach to drugs

A public health approach is an organized, comprehensive, multi-sectoral effort directed at maintaining and improving the health of populations, incorporating evidence-informed policy and practice, and based on principles of social justice.[7,8] These principles include equity and the protection and promotion of human rights, including the right to enjoy the highest attainable standard of health. A public health approach addresses relevant determinants of health to reduce problematic substance use and associated harms. Drug policy focused on creating greater equity for Indigenous peoples must support access to and availability of resources to enable an Indigenous specific public health approach guided by Indigenous knowledge. Focused attention and equitable capacity to address the Indigenous determinants of health (colonialism and its ongoing racism, social exclusion, denial of cultural continuity, political and territorial sovereignty, and self-determination) are essential to reduced drug use and harms. Over-emphasis on the prevention of drug use in isolation tends to target and stigmatize people who use drugs, often ignoring the structural and other determinants of use, and contributes to punitive, discriminatory approaches that compound harms at both individual and community levels.[9] A comprehensive public health approach includes decriminalizing the possession of drugs for personal consumption and evidence-based movement towards the regulation of currently prohibited drugs, including innovative approaches to providing a safe supply.[10,11]

**We urge Canada to take a strong leadership role in promoting and modelling a public health approach focused on health and social justice, rather than relying on criminal law responses.**

## 4. Support harm reduction as a key component of a comprehensive public health approach to drugs

Harm reduction measures have been recognized as essential for people who use drugs by the UN General Assembly, the Human Rights Council, the World Health Organisation (WHO), UNAIDS and multiple human rights treaty bodies and special rapporteurs.[12] The *WHO/UNODC/UNAIDS Technical Guide* identifies key harm reduction interventions as part of a comprehensive approach for addressing HIV among people who inject drugs. These interventions include needle syringe programs and opioid agonist therapy, which need to be accessible to all in both community and correctional settings and which should be culturally relevant. Additionally, cultural connection and access to culturally relevant services are identified as key sources of resilience for Indigenous people, including those struggling with problematic drug use and who are vulnerable to or living with HIV. All of these interventions have demonstrated efficacy in reducing a range of HIV and other risks and harms related to drug use.[13] The lack of investment in harm reduction is a primary reason the Millennium Development Goal targets for addressing HIV among people who use drugs were widely missed; UNAIDS has warned of rising HIV infections among people who inject drugs.[14]

**We urge Canada to maintain its leadership role in the promotion of a public health approach, including explicit, firm support for harm reduction interventions such as those identified in the *WHO/UNODC/UNAIDS Technical Guide.*** [15]

**We also urge Canada to reiterate the commitment to innovative approaches including drug checking and safe supply made in the Way Forward Panel Discussion at the High Level Segment of the 62nd session of the CND.**

## 5. Pursue and support the decriminalization of possession of drugs for personal consumption as essential to a public health and human rights-based approach to drugs

Criminal prohibitions are ineffective in deterring drug use. The 2019 UNODC *World Drug Report* found that improved access to international data has revealed even higher rates of drug use than previous estimates.[16] Criminalization of drug possession directly leads to both individual and systemic stigma and discrimination that prevents people from seeking services, and to widespread human rights violations. This has disproportionate impacts on certain populations, including Indigenous peoples, people of colour, women, youth and those with mental health conditions or problematic substance use. As of March 2018, Indigenous prisoners made up 28% of the total federal prison population while comprising just 4.3% of the Canadian population; 40% of incarcerated women in Canada are Indigenous; and Indigenous women are more likely than white women to be in prison for drug offences.[17] Criminalization also prioritizes the allocation of resources to the criminal justice system rather than to the development of health and social services,[18] leading an increasing number of UN, health and human rights bodies to call for the decriminalization of drug possession for personal consumption.[19] In fact, support for the decriminalization of possession for personal consumption, and its permissibility under the drug control treaties, has now been well documented by a range of UN bodies and special rapporteurs on human rights, including OHCHR, UNAIDS and the WHO.[20]

**We urge Canada to support and implement the decriminalization of drug possession for personal use as a key component of a public health and human rights-based approach to drugs.**

## 6. Reflect the realities of the impacts of drug policies on the ground

The drugs landscape has changed significantly, and policy must keep pace. Numerous states have implemented evidence-based local and national reforms aimed at addressing public health and human rights concerns in place of the status quo of demand and supply reduction measures rooted in criminal prohibition. Tensions are growing between Member State practice and outdated treaties or unjustifiably inflexible and inappropriate interpretations of those treaties. These tensions are evident in the growing international movement toward cannabis policy reform, in which Canada has played a leadership role. The way forward must include frank discussions aimed at resolving these tensions and measures taken toward reform; for example, *inter se* modifications enable Member States to test and evaluate the impacts of innovative policies, while operating within the boundaries of international law.[21]

**We urge Canada to advocate for an open discussion recognizing and aiming to resolve tensions within the treaty system and the effects of the scheduling regime on public health and human rights.**

## 7. Ensure system-wide coherence by promoting and adopting more comprehensive and sophisticated indicators for evaluating the impacts of drug policy

The narrow set of indicators used to evaluate drug policy has historically failed to provide insight into how drugs and drug policies affect peace and security, development and human rights, as well as the health issues that intersect all three. Amidst ongoing efforts by the UNODC to submit an improved and streamlined annual report questionnaire (ARQ) for consideration at the upcoming session of the CND, it is important to remain vigilant of Member States' efforts to challenge the inclusion of language in the revised ARQ that is consistent with the *UNGASS Outcome Document,* including language about human rights, human development and the Sustainable Development Agenda.[22] Given the absence of questions about comprehensive human rights and human development indicators on the impacts of drugs and drug policies in the revised ARQ, it is relevant to consider opportunities to harmonize and streamline data collection across the UN system. Recent work by the Chief Executives Board for Coordination provides multi-dimensional support to Member States on drug-related matters by forging a common position on the question of the ability of global drug policy to advance security, development and human rights. The board also established the UN System Coordination Task Team on the Implementation of the UN System Common Position on drug-related matters. In light of their objective to strengthen system-wide coherence on matters of drug control, it is prudent to consider how efforts by the UN System Coordination Task Team can fill gaps and address limitations of the revised ARQ, particularly with respect to measuring the impact of drugs and drug policies on health, peace and security, development and human rights. [23]

**We urge Canada to continue supporting the inclusion of language in the revised ARQ that is consistent with the *UNGASS Outcome Document*, including language about human rights, human development and the Sustainable Development Agenda.** [24]

**We also urge Canada to consider and support opportunities for engaging the UN System Coordination Task Team to contribute to UN system-wide coherence.**

## 8. Ensure full access to essential medicines and facilitate medical research

Ensuring the availability of controlled substances for medical and scientific purposes is a fundamental objective of the UN drug conventions and an obligation of Member States. To date, however, few countries have achieved this objective.[25] The access gap is particularly severe in low- and middle-income countries.[26]

Appropriate access to controlled medicines is strongly supported by CND Resolutions 53/4[27] and 54/6,[28] and World Health Assembly Resolutions WHA67.19[29] and WHA68.15.[30] Despite broad international support for these commitments, too often the resolutions have been undermined by Member States and by the International Narcotics Control Board (INCB) with calls for additional essential medicines including ketamine, tramadol and pregabalin to be placed under international

control, despite the adverse impact these controls would have on access for medical uses, a concern of particular importance in many low-income countries.

**We urge Canada to engage other Member States in recognizing and reinforcing the leading role of the WHO as the primary specialized agency for health within the UN system.**

**We further urge Canada to recognize and advocate for the authority and role of the WHO in assessing substances for international control through the Expert Committee on Drug Dependence, strengthening access to controlled medicines and executing its responsibilities under the international drug control treaties on medical and scientific matters. The WHO should be given the oversight role to ensure that the drug control conventions and system support a public health approach.**

**We also urge Canada to emphasize the obligation of the INCB to ensure the availability of controlled substances for medical and scientific purposes and to ensure that inappropriate regulatory barriers are not in place.[31]**

## 9. Recognize intersectionality: Gender and race

Current drug policies have had a disproportionate and discriminatory impact on women, people of diverse gender identities and racialized and Indigenous communities. As UN bodies, including UN human rights committees, have recognized, determinants of health such as stigma, sexism, racism, colonialism, intergenerational trauma, homophobia, transphobia, poverty, housing insecurity and homelessness, pregnancy and parenting, physical and sexual violence and repressive laws and policies that disproportionately affect women, people of diverse gender identities and racialized communities who use drugs are not sufficiently accounted for in the design of health strategies directed at people who use drugs. In 2016, for example, the UN Committee on the Elimination of Discrimination against Women expressed concern about "the excessive use of incarceration as a drug-control measure against women and the ensuing female over-population in prison," as well as "the significant legislative and administrative barriers women face to access supervised consumption services," and 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 offences."[32] In 2017, the Committee on the Elimination of Racial Discrimination expressed concern at the disproportionately high rate of incarceration of Indigenous peoples and African-Canadians and called for "evidence-based alternatives to incarceration for non-violent drug users."[33]

**We urge Canada to promote recognition at the CND and among Member States 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 drug treatment, harm reduction and other drug-related health services that are tailored to meet their specific needs.**

## 10. Recognize the effect of drug policies on youth, support evidence-informed education and meaningfully include young people in policy making

Current drug policies and accompanying education and prevention approaches focused on prohibition have failed to achieve the objectives of protecting the wellbeing of children, promoting delay of onset of use, and preventing problematic youth substance use.[34] When youth are made a central theme in developing policy but denied an active role in the process, it disregards their autonomy and their expertise.[35]

**We urge Canada to acknowledge that the right to education as outlined in the *Convention on the Rights of the Child* is a key component in the protection of youth and entitles young people to education about drugs that is rooted in scientific evidence and harm reduction.**

**In accordance with the "right to the highest attainable standard of health," we also urge Canada to recognize that youth have the right to access harm reduction services and the right to access evidence-based voluntary drug dependence treatment, including drug substitution therapies.[36]**

**We further urge Canada to emphasize the negative impacts of law enforcement approaches on children and youth, domestically and internationally.**

## 11. Ensure that diverse civil society, including people who use(d) drugs, have meaningful representation at key international meetings on drugs

The participation of civil society organizations and the meaningful inclusion of people who use drugs in drug policy dialogues is required to successfully address drug issues. As the UNGASS in 2016 demonstrated, strong civil society voices and organizations working with Member States and UN agencies can favourably affect the development of global drug policy within the UN and facilitate input from a broad range of experts. Given their engagement in affected communities, civil society organizations — including those of people who use or have used drugs — have unique contributions to make to these debates and to implementing policies and programs on the ground. People who use drugs are essential constituents in the development of global drug policy. Their continued involvement ensures policies are grounded in the voice, human rights and dignity of people who use drugs.

**We urge Canada to continue to include and support the meaningful participation of civil society (including Indigenous peoples, youth, people who use drugs and communities particularly affected by problematic drug use and by drug policies) on the official Canadian delegation to key international drug policy meetings, including the CND.**

## Appendix: Supporting Members

| Organization | Representatives |
|---|---|
| **British Columbia Centre on Substance Use** | Cheyenne Johnson |
| **Canadian Association of People who Use Drugs** | Frank Crichlow<br>Natasha Touesnard<br>Karen Turner<br>Shanell Twan |
| **Canadian Centre on Substance Use and Addiction** | Rebecca Jesseman<br>Rita Notarandrea |
| **Canadian Drug Policy Coalition** | Scott Bernstein<br>Daniel Gates<br>Donald MacPherson |
| **Canadian HIV/AIDS Legal Network** | Sandra Ka Hon Chu<br>Richard Elliott |
| **Canadian Public Health Association** | Ian Culbert |
| **Canadian Students for Sensible Drug Policy** | Alex Betsos<br>Heather D'Alessio |
| **Centre on Drug Policy Evaluation** | Nazlee Maghsoudi |
| **Community Addiction Peer Support Association** | Rick Blute<br>Gord Garner |
| **Harm Reduction Nurses Association** | Marilou Gagnon |
| **Health Officers' Council of British Columbia** | Mark Lysyshyn<br>Betsy MacKenzie |
| **Medecins Sans Frontieres / Doctors Without Borders** | Jason Nickerson |
| **Moms United and Mandated to Saving the Lives of Drug Users** | Donna May |
| **Moms Stop the Harm** | Petra Schulz |
| **Thunderbird Partnership Foundation** | Carol Hopkins<br>Deborah Meness<br>Kate Turner |

## Endnotes

1 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.

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12 *Statement by UN High Commissioner for Human Rights Michelle Bachelet (2019)*. Harm Reduction International Conference. https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24529&LangID=E.

13 WHO, UNODC, UNAIDS (2012), *WHO, UNODC, UNAIDS Technical Guide for Countries to Set Targets for HIV Prevention, Treatment and Care of Injecting Drug Users*, 2012 Revision. (Geneva: WHO Press), http://www.who.int/hiv/pub/idu/targets_universal_access/en/.

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