



HIV and Human Rights

“The full realization of human rights and fundamental freedoms for all is an essential element in the global response to the HIV epidemic.” – UN GENERAL ASSEMBLY, POLITICAL DECLARATION ON HIV/AIDS

The HIV epidemic is one of the worst public health crises the world has ever seen. While extraordinary progress has been made over recent decades to slow the rate of new infections and improve treatment, an attitude of complacency and a pervasive belief that we’ve “halted the threat of HIV” have translated into a lack of political and financial commitment to sustain the HIV response. The epidemic is not over and these commitments need to be strengthened if we are to bring it to an end. In fact, Canada has seen a significant increase in the number and rate of reported HIV infections, jumping 25% from 2014 to 2018.

Canada has signed on to the international Sustainable Development Goal of “ending AIDS by 2030,” as well as interim targets for preventing new infections, increasing access to HIV testing and connecting people to effective HIV treatment. To achieve these, it is crucial to centre our response on human rights, particularly for those who are marginalized and otherwise subject to stigma, discrimination, and other infringements on human rights. Greater attention must be paid to the structural factors and social inequities that continue to drive new infections or impede access to medicines among various “key populations,” including people who use drugs, sex workers, Indigenous people, LGBTQ+ people, and prisoners.

In Canada and around the world, people living with, at risk of, or affected by HIV are being denied the right to enjoy the highest attainable standard of health, including barriers impeding access to HIV prevention and life-saving medications. HIV-related stigma and discrimination remain a reality for people living with HIV. They may face discrimination in employment, housing, medical treatment, services, and travel. A continued misuse of criminal charges against people living with HIV violates human rights, provokes a climate of fear and stigma, and impedes HIV prevention and treatment efforts.

There is ample evidence to support the benefits of measures to protect, promote, and fulfil the human rights of people living with HIV and of key populations most affected. Advancing human rights is not simply an ethical and legal obligation; it is also sound public health policy that saves lives.

PRIORITIES FOR ACTION

The world can end HIV as a public health threat, but to do so we need meaningful, consistent action by our leaders — and dedicated funding to support that action.

- **Educate yourself and others on the status of HIV in Canada**, as well as who is getting HIV and how.
- **Understand how the denial and violation of human rights fuels the HIV epidemic**, in this country and around the world, and scale up human rights programs that are essential to an effective response to HIV.
- **Meaningfully engage and involve people living with HIV and community experts** while implementing programs and initiatives that affect their lives.
- **Take action to abolish punitive laws, policies, and practices**, particularly those targeting key populations; instead, champion the implementation of protective laws, policies, and practices.

FACTS AND FIGURES

- A cumulative total of 88,881 HIV diagnoses have been reported to the Public Health Agency of Canada since HIV reporting began in Canada in 1985.
- HIV infection rates are rising. In 2018, a total of 2,561 HIV diagnoses were reported in Canada, which is an increase of 8.2% compared with 2017. Saskatchewan reported the highest diagnosis rate of any province, followed by Quebec, Manitoba, and Ontario.
- There were an estimated 8835 people with undiagnosed HIV in Canada in 2016. That's 14% of all people living with HIV in Canada who are unaware of their status.
- Indigenous people are disproportionately affected. Making up just 4.9% of the total population, they represented 11.3% of all new infections in 2016.
- Half of all people living with HIV in Canada are gay, bisexual, or other men who have sex with men (GBMSM), and approximately 16% of all GBMSM in Canada are living with HIV.
- In 2018, people who inject drugs (PWID) were the third most frequently reported exposure category among adults (at 18.3%). PWID accounted for more than a quarter of cases among adult women (28.4%), and 14.1% of cases among adult men.

TRUTH AND RECONCILIATION

The intersection of HIV and human rights is clear in the context of Indigenous communities: Indigenous people in Canada are disproportionately affected by the epidemic. Of the reported cases in 2018 for which the race/ethnicity of the person was known, 19.3% were Indigenous people — even though Indigenous people represent less than 5% of the total population of Canada. There is a similar discrepancy in the incarceration rates. In 2017/18, 30% of the population of provincial prisons and 29% of federal ones identified as Indigenous. Recent statistics show that these rates continue to grow. Given the known correlation between incarceration and HIV transmission, it's impossible to ignore that the two are linked in this case.

HIV prevalence is also critically linked to access to health care.

If people do not have easy access to testing and treatment, transmission rates climb. Indigenous communities are known to be underserved by health services, making them more likely to be affected by HIV.

In 2015, the federal government committed to implementing the recommendations made by the Truth and Reconciliation Commission. Three of the recommendations specifically address the imbalance in access to health care, four target legal rights and the need to dramatically lower the rate of incarceration among Indigenous people, and another calls for equity within the judicial system. If all of these are finally implemented, we may begin to see an end to the disproportionate and unjust effect of HIV on the Indigenous population in Canada.

HIV LEGAL NETWORK: RESEARCH, EDUCATION, AND ADVOCACY FOR RIGHTS

The HIV Legal Network is a global leader in the fight for human rights and against HIV. We work with and on behalf of key populations who face a disproportionate HIV burden because of their marginalization, and unequal or unfair treatment under the law. Our work is designed to ensure that respecting, protecting, and fulfilling human rights is a key part of the HIV response, in Canada and around the world.

We work in Canada to decriminalize HIV, drug possession, and sex work, allowing people to live their lives without fear of stigma and persecution. We advocate for access to essential harm reduction services for people who use drugs — in and out of prison. Beyond our borders, we work with partners to challenge laws and policies that discriminate against and criminalize LGBTQ+ people, people who use drugs, and people living with HIV to ensure that everyone can access health care and openly seek testing and treatment, without fear of prosecution or other abuse.

KEY RESOURCES

L. Challacombe, "The Epidemiology of HIV in Canada," CATIE, 2018. Available at www.catie.ca/fact-sheets/epidemiology/epidemiology-hiv-canada.

Reference Group on HIV and Human Rights, *Action on human rights is essential to achieving "the end of AIDS"*, Statement on the occasion of the UN General Assembly 2016 High-Level Meeting on Ending AIDS, June 8–10, 2016. Available at 90-90-90 brief: www.hivhumanrights.org/commitmenttohumanrights/wp-content/uploads/downloads/2016/05/HRRefGrp-HLM_Stmt-full.pdf.

Haddad N, Robert A, Weeks A, Popovic N, Siu W, Archibald C. HIV in Canada—Surveillance Report, 2018. *Can Commun Dis Rep* 2019;45(12):304–12. Available at <https://doi.org/10.14745/ccdr.v45i12a01>.

UNAIDS, *International Guidelines on HIV/AIDS and Human Rights*, (2006 Consolidated Version). Available at www.unaids.org/en/resources/documents/2006/20061023_jc1252-internguidelines_en.pdf.

UNAIDS, *Guidance Note: Human rights and the law*, 2014. Available at www.unaids.org/sites/default/files/media_asset/2014unaidsguidancenote_humanrightsandthelaw_en.pdf.

Global Commission on HIV and the Law (UNDP HIV/AIDS Group), *HIV and the Law: Risks, Rights & Health*, Supplement, July 2018. Available at <https://hivlawcommission.org/wp-content/uploads/2018/09/HIV-and-the-Law-supplement-FINAL.pdf>.

1240 BAY STREET, SUITE 600, TORONTO, ONTARIO M5R 2A7
TELEPHONE: +1 416 595-1666

WWW.HIVLEGALNETWORK.CA

