

April 11, 2025



Elizabeth May and Jonathan Pedneault
Leaders of the Green Party of Canada

Dear Elizabeth May and Jonathan Pedneault,

Re: Your party's position on key questions related to HIV, human rights, and the law

The HIV Legal Network is an organization dedicated to promoting the human rights of people living with HIV or AIDS and other populations disproportionately affected by HIV, punitive laws and policies, and criminalization. As Canada approaches the next federal election, we wish to better understand your party's positions on critical legal and policy issues, as we believe it is vital that people in Canada know where you stand on important human rights issues that underlie new HIV infections in our country. At present, Canada is the only G7 country with rising HIV rates.

The work of the HIV Legal Network, alongside that of numerous allies and communities, is focused on ensuring that Canada regains its position as a leader in addressing HIV. We hope that Canada will honour its international commitments to the United Nations' 95-95-95 by 2025 targets, meaning 95% of all people living with HIV know their status, 95% of those diagnosed receive treatment, and 95% of those on treatment have viral suppression, while upholding the human rights and dignity of all. The upcoming election provides a unique opportunity for all political parties to commit to advancing policies that support the health, rights, and well-being of people living with HIV and those at risk of new infections, including people who bear the brunt of laws and policies that are not rooted in science and human rights.

To that end, we have prepared key questions on HIV and human rights to which we respectfully request your response, at your earliest convenience. We commit to making these responses public so that people can better understand your commitment to these issues.

1. HIV Funding

Canada has signed on to UNAIDS' targets for HIV prevention and treatment, which aim to achieve zero new infections, zero deaths from AIDS, and zero discrimination related to HIV in Canada. The latest data from the Public Health Agency of Canada indicates that there were more than 2,400 new HIV diagnoses reported in 2023 (an increase of roughly 35% compared with 2022). Canada's efforts to stem the rise of new cases in recent years have been wholly insufficient, illustrating the urgent need to adequately fund the HIV response. This includes the vital services and programs that offer HIV prevention and provide care, treatment, and support to people living with and affected by HIV, and the programs that address social inequalities and advance the human rights of people living with and

communities particularly affected by HIV. In 2003, the House of Commons Standing Committee on Health unanimously recommended that Canada double its HIV funding to \$85 million annually. In 2004, the federal government committed to largely reaching this target, with funding to increase gradually to \$84.4 million per year by 2008–09.

Unfortunately, that committed funding increase was halted in 2007 and has flat-lined at the level of roughly \$70 million a year since. Services and organizations have closed or discontinued programs despite the clear need that exists. Reiterating the call for an adequately funded federal HIV strategy, in June 2019, the House of Commons Standing Committee on Health unanimously recommended an increase in federal HIV funding to \$100 million annually. In 2024, the federal government released a new federal action plan on HIV and other sexually transmitted and blood-borne infections, but so far there has been no commitment to adequately fund that plan.

Questions:

Will your party commit to collaborating with HIV organizations in Canada to restore the diverted and lapsed resources needed to address the gaps in Canada's HIV response and adequately fund the federal action plan on HIV?

In light of Canada's commitments to global health, and the dismantling of USAID south of our border, how does your party plan to contribute to international efforts to end AIDS and support HIV prevention, treatment, and care programs in low- and middle-income countries, especially those disproportionately affected by the HIV epidemic?

2. Drug Policy

Canada continues to experience an unprecedented unregulated drug crisis; more than 50,000 people have died of opioid overdose since 2016. Supervised consumption services (SCS) are one key, evidence-based health service that provides a safe, hygienic environment where people can use drugs under the supervision of trained staff or volunteers and have been proven to reduce the risks of HIV, hepatitis C (HCV), and fatal overdose. Yet, service providers in Canada cannot confidently and sustainably offer SCS without a legal exemption protecting staff and clients from criminal prosecution for drug offences while accessing services.

More generally, criminalizing people who use drugs, including via prohibitions on personal drug possession, increases the risk of harm, including by impeding people's access to vital services and emergency care in the event of an overdose. As the Expert Task Force on Substance Use unanimously recommended to Health Canada in 2021, Canada should "end criminal penalties related to simple possession" and "end all coercive measures related to simple possession and consumption."

Meanwhile, the increasing toxicity of the illegal, and hence unregulated, drug market contributes to the ongoing overdose crisis; criminal prohibitions have contributed to this public health emergency and cannot solve it. In response, the Task Force also recommended that the Government of Canada

“immediately begin a process of legislative change to bring the *Controlled Drugs and Substances Act* (CDSA), the *Tobacco and Vaping Products Act* (TVPA), the *Cannabis Act*, and any other relevant federal legislation under a single public health legal framework with regulatory structures that are specific to different types of substances.”

As the opioid crisis continues to devastate communities across the country, the federal government must take immediate steps to protect the health and human rights of all people who use drugs. This is particularly true in the face of provincial governments that may be opposed to harm reduction and position such efforts as replacing voluntary treatment and care, rather than being a pathway to these.

Question:

Will your party adopt evidence-based drug policy to protect public health and address the overdose crisis, including by taking the following measures?

1. Decriminalizing activities related to drug use, which would remove the need for SCS providers to obtain an exemption from criminal prosecution and allow SCS to open and operate in a similar fashion to other health services.
2. Securing existing SCS and scaling up services by
 - (a) granting an ongoing class exemption to any SCS that meet minimum required conditions, instead of the current, onerous case-by-case application process; and
 - (b) committing federal funds to support SCS, including in provinces and territories where authorities are unwilling to fund these essential services.
3. In consultation with people who use drugs, commit to regulating all substances under a single public health legal framework to increase access to a regulated supply for people who are otherwise at risk of potentially fatal overdose, and other serious injury, from a toxic illegal drug market.
4. Expanding funding for culturally sensitive and gender-responsive harm reduction programs and services, including for women, Indigenous, Black, and 2SLGBTQ+ communities.

3. HIV Criminalization

People living with HIV currently face a maximum penalty of lifetime imprisonment for aggravated sexual assault — one of the most serious criminal offences in the *Criminal Code* — and designation as a sex offender for not disclosing their HIV status to sexual partners, even in cases where there is little or no risk of transmission. This means a person engaging in consensual sex that causes no harm, and poses little or no risk of harm, can be prosecuted and convicted. To date, approximately 225 people across Canada have been charged, including in cases when there was little or no risk of passing on the virus. Researchers have documented, and the Canadian Department of Justice has recognized, that gay men and Black and Indigenous people are disproportionately affected by prosecution or the threat of prosecution in cases of HIV non-disclosure.

In recent years, scientific knowledge around HIV transmission risks and advances in treatment and prevention methods have made even clearer what has already long been evident to experts and advocates in Canada and across the world: HIV criminalization is unscientific, unjust, and harmful to public health and to human rights.

As part of the Canadian Coalition to Reform HIV Criminalization (CCRHC), the HIV Legal Network has long advocated for *Criminal Code* reform as a necessary measure to address the harms of HIV criminalization. In its 2022 Community Consensus Statement — which was developed after consulting hundreds of community members and key stakeholders across Canada and has been endorsed by over 100 organizations — the CCRHC set out a strong and unified demand for law reform based on four key pillars:

1. Removing non-disclosure, exposure, or transmission of HIV or other sexually transmitted and blood-borne infections (STBBIs) from the reach of sexual assault laws, including designation as a sex offender.
2. Enacting reforms to ensure that any other provisions in the *Criminal Code* are not used to further stigmatize and discriminate against people living with HIV and STBBIs.
3. Ending the deportation of non-citizens following conviction.
4. Reviewing past convictions so that people living with HIV previously criminalized under these harmful and stigmatizing laws no longer have to live with the label of a sex offender and criminal.

Question:

Does your party commit to reforming the *Criminal Code* in consultation with the HIV sector and in alignment with the key pillars of the CCRHC's Community Consensus Statement?

4. Sex Work

In its 2013 *Bedford* decision, the Supreme Court of Canada struck down *Criminal Code* provisions dealing with sex work on the basis that they violated the rights of sex workers and were unconstitutional. In 2014, the federal government passed the *Protection of Communities and Exploited Persons Act* (PCEPA), re-introducing the very harms the Court had struck down as unconstitutional by making it a crime to publicly communicate about, purchase, materially benefit from, procure, or advertise sexual services.

Since then, sex workers and advocates for health and human rights have repeatedly called on the federal government to repeal this law because research has demonstrated that the PCEPA:

- forces sex workers into isolation;
- exposes sex workers to the risk of eviction and unsafe workplaces;
- prevents sex workers from meaningfully communicating with clients to access information related to their health, safety, and ability to refuse or consent to sex;

- deprives sex workers of valuable relationships that offer support and protection;
- prevents sex workers from accessing health, social, and legal services, including vital HIV prevention, testing, treatment, and support services;
- discourages sex workers from reporting abuse given the criminalization of their work and the risk of exposing themselves and their networks to arrest;
- subjects sex workers to grave stigma and discrimination; and
- subjects sex workers to unwanted and unsolicited police presence in their lives — particularly for Indigenous, Black, migrant, and trans sex workers, and sex workers who use drugs, who are regularly profiled and targeted.

Regrettably, and despite attempts by sex worker-led organizations to remedy the issue through the courts, there has been no legislative change. Sex worker organizations across Canada have developed extensive recommendations for law reform, including changes to the federal criminal law, that would better protect their health and rights.

Question:

Will your party

(a) support the repeal of all sex work-specific criminal laws, including the *Protection of Communities and Exploited Persons Act*, and

(b) engage with sex worker-led organizations and people with lived experiences to develop a holistic vision of law reform, centred on human rights and labour protection?

5. Prison Health

Incarcerated people have a right to health and an equivalent standard of healthcare in prison vis-à-vis the standard of care that is available in the community. Yet, in Canada, that right is not consistently respected or protected. Incarcerated people are regularly denied healthcare, including tools to protect themselves from known risks. As a result, their health suffers, with implications for public health, as the vast majority of people in prison return to their communities.

The HIV Legal Network advocates for the implementation of evidence-based policies and programs in correctional and detention facilities to safeguard the health and human rights of incarcerated people. These include needle and syringe programs, which have been available in prison systems around the world for decades and have been endorsed by numerous health and human rights organizations in Canada and internationally. Evaluations of these programs have consistently demonstrated that they reduce needle-sharing, lessen the risk of HIV and HCV transmission and overdose, do not lead to increased drug use, and facilitate referrals of users to drug treatment programs. In the prison context, research indicates that occupational safety improves where these programs exist as staff are far less vulnerable to accidental needle-stick injuries and less likely to experience such an injury from a needle/syringe that has been shared by many people.

More broadly, there remain important gaps in policy and practice in the provision of healthcare in federal prisons, which fuel the transmission of HIV, HCV, STBBIs, and other harms in prison and beyond. These gaps are particularly pronounced for Indigenous people, racialized people, gender-diverse people, and women in Canadian prisons. The HIV Legal Network thus calls for federal prison and health authorities to work together to improve healthcare in prison.

Question:

Will your party

(a) support the implementation of evidence-based harm reduction policies and programs in Canada's federal prisons, including needle and syringe programs, opioid agonist therapy, supervised consumption services, substance use treatment such as safe supply, sterile tattooing equipment, access to naloxone, condoms, dental dams, lubricant, and bleach and

(b) ensure the implementation of trauma-informed, culturally sensitive and gender-responsive care for women, gender-diverse people, Indigenous, Black, and 2SLGBTQ+ people in prison?

6. Immigration

Canada's immigration system perpetuates harm against people living with HIV through s. 38(1)(c) of the *Immigration and Refugee Protection Act*, the "excessive demand" regime, which limits migration to Canada based on the anticipated costs of a person's health condition. People living with HIV are exposed to anti-HIV stigma throughout the immigration process — be it through an application for asylum, for a work or study permit, or for permanent residence — as they are forced to undergo mandatory HIV testing, with potential implications on the outcome of their applications. The measures that create that stigma also introduce significant inefficiency to Canada's immigration system and have not been proven to save public healthcare costs.

Additionally, newcomers with HIV often struggle to access timely and culturally competent healthcare due to the complexity of our healthcare system and the lack of accessible information on how to navigate it; lack of healthcare coverage and financial constraints; and lack of culturally competent healthcare and language barriers. Many newcomers come from countries where HIV is highly stigmatized, making disclosure and seeking care challenging.

The harms of the *Safe Third Country Agreement* (STCA) have also been documented for decades — and have only intensified under the Trump administration, as his policies further undermine access to protection for refugees. People living with HIV and other marginalized groups face risks in U.S. immigration detention, including inadequate medical care, barriers to HIV treatment, and disproportionate detention and abuse of racialized and LGBTQ+ claimants. Denying these individuals access to Canada's refugee system — on the grounds that the US is a "safe" country — is indefensible.

Consequently, the HIV Legal Network advocates for the federal government to take the following measures to address the situation of newcomers living with HIV:

- revoking the “excessive demand” regime, pursuant to s. 38(1)(c) of the *Immigration and Refugee Protection Act*;
- establishing universal, voluntary, opt-out STBBI screening, testing, and treatment programs for migrants, immediately following their arrival in Canada, that is separate and independent from the immigration application process; and
- immediately suspending the *Safe Third Country Agreement*.

Question:

Does your party commit to the above reforms, in consultation with the HIV sector and migrant rights and justice organizations?

7. Access to HIV Treatment, Care, and Prevention

Access to HIV treatment is crucial to achieving the UN’s 95-95-95 targets. Effective HIV treatment not only improves the health and life expectancy of people living with HIV but also significantly reduces the risk of transmission, supporting broader public health goals.

Despite Canada’s strong healthcare system, challenges remain in accessing HIV treatment, particularly among marginalized populations. Barriers include unequal access to healthcare, high drug costs in some provinces, stigma, and systemic discrimination faced by Indigenous people, racialized communities, people who use drugs, and those experiencing homelessness. Inconsistent healthcare coverage across provinces and territories also creates disparities, with some individuals struggling to afford or access necessary medications.

To meet the 95-95-95 targets, Canada must address these disparities by improving universal access to HIV treatment, care, and prevention methods like PrEP and PEP (pre- and post-exposure prophylaxis). Strengthening outreach programs and targeted efforts to reach marginalized groups, reducing stigma in healthcare settings, and ensuring equitable access to HIV treatment, care, and prevention, particularly for uninsured or underinsured populations, are key to closing treatment gaps.

Question:

What policies will your party implement to ensure equitable access to HIV treatment, care, and prevention methods, particularly for marginalized communities, including Indigenous peoples, racialized communities, people who use drugs, and those experiencing homelessness?

We are at a critical point in the fight against HIV. By ensuring universal access to prevention and treatment while upholding human rights — especially for the most affected populations — we can eliminate AIDS as a global public health threat by 2030. Canada, along with other nations, has pledged to achieve this as part of the Sustainable Development Goals. However, success will depend on sufficient investment, widespread implementation of evidence-based healthcare, and a strong commitment to protecting the rights of marginalized communities.

Thank you for your attention to these crucial issues. We look forward to your response and to hearing more about the direction your party plans to take in supporting people living with HIV and those affected by punitive laws and policies, and your approach on these important matters of health and human rights in the context of the 2025 federal election.

Sincerely,

A handwritten signature in black ink, reading "Janet Butler-McPhee". The script is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.A handwritten signature in black ink, reading "Sandra Ka Hon Chu". The script is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Janet Butler-McPhee and Sandra Ka Hon Chu
Co-Executive Directors
HIV Legal Network