



March 2026

The HIV Legal Network (“Legal Network”) respectfully submits the following information to assist the Office of the High Commissioner for Human Rights (“OHCHR”) in its preparation of a report on drug policy and its impact on the rights of women and girls. The Legal Network’s submission focuses on the context in Canada.

(i) Laws, Regulations, and Policies

Drug Prohibition

Canada continues to criminalize personal drug possession and drug trafficking, broadly defined to include any sharing, splitting or supply of criminalized substances under the *Controlled Drugs and Substances Act (CDSA)*.¹ Not only does this perpetuate stigma, but criminalization forces people to use drugs in unsafe and isolated environments while deterring access to health and social services.² For women who use drugs, harms are amplified given the risks of child apprehension and family separation.³ Mothers who use substances face increased scrutiny and apprehension of their children⁴ — even in the absence of demonstrated harm.⁵ The consequent fear of losing custody discourages mothers and pregnant people from accessing prenatal care, harm reduction services, shelter, and addiction treatment. Further, drug enforcement disproportionately affects women and girls living in poverty and facing housing insecurity,⁶ perpetuating cycles of homelessness and violence as criminal records limit access to shelter, housing, and employment.⁷ Canada’s approach has harmful and disproportionate effects on women and girls, particularly those facing intersecting forms of marginalization, including Indigenous women, Black and other racialized women, women living with HIV, women living in poverty, and 2SLGBTQ+ women.⁸

¹ *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, ss 4 and 5.

² See HIV Legal Network, *It’s Not So Simple: The impact of simple drug possession and trafficking offences on health equity*, September 25, 2025; E. Wood et al., “The war on drugs: a devastating public-policy disaster,” *The Lancet* 373:9668 (2009): 989-990; and J. Csete et al., “Public health and international drug policy,” *The Lancet* 387:10026 (2016): 1427-1480.

³ See, e.g., E. Moir, “Hidden GBV: Women and substance use,” *Frontiers Psychiatry* 13 (2022); A. Hovey and S. Scott, “All Women Are Welcome: Reducing Barriers to Women’s Shelters With Harm Reduction,” *Partner Abuse* 10(4) (2019): 409-428; and A. Hovey, “Understanding the Landscape of Substance Use Management Practices in Domestic Violence Shelters across Ontario,” *Journal of Family Violence*, 35(2) (2019): 191-201.

⁴ J. Boyd et al., “Mothers Who Use Drugs: Closing the Gaps in Harm Reduction Response Amidst the Dual Epidemics of Overdose and Violence in a Canadian Urban Setting,” *American Journal of Public Health* 112, no. S2. April 1, (2022): 191-198.

⁵ *Ibid.*

⁶ K. Schwan et al., *The Pan-Canadian Women’s Housing & Homelessness Survey*, Canadian Observatory of Homelessness, 2021.

⁷ J. Boyd et al., *supra*.

⁸ A. Boulanger et al., *Towards Access for All: Best and Promising Practices from Low-Barrier Harm Reduction Shelters in Canada*, HIV Legal Network, February 20, 2024.

While Canada has taken some steps to reform its drug laws, gendered considerations appear to rarely factor into these reforms. In 2020, Canada’s body responsible for prosecuting drug offences produced a *Guideline* to limit the prosecution of personal drug possession charges, acknowledging that criminal sanctions have a “limited effectiveness”.⁹ Therefore, the *Guideline* instructs prosecutors to consider alternatives to prosecution except in “the most serious manifestations” of harms justifying a criminal law response, which the *Guideline* defines to include possessing drugs “in the vicinity of places frequented by children or young persons” or by a person “in a position of trust . . . in respect of children or young persons” — with obviously disproportionate impacts on women who are primary caregivers to children.

Since 2016, the toxic drug crisis has claimed over 53,000 lives, 30% of which have been women and girls.¹⁰ Indigenous women are disproportionately affected by overdose deaths and criminalization,¹¹ a consequence of colonial legacies that also intensify their vulnerability to violence, poverty, and family separation.¹² Criminalization is unequivocally fueling the risks associated with the unpredictable and toxic drug supply by hampering the establishment and scale-up of vital harm reduction, healthcare, and other services described below.¹³ This undermines human rights guaranteed by treaties of which Canada is signatory. In its 2026 Concluding Observations, the UN Human Rights Committee expressed concern about the “very high number of deaths related to drug toxicity” and Canada’s inaction in ensuring rights to life and health under the *International Covenant on Civil and Political Rights*.¹⁴

Supervised Consumption Services (SCS)

In Canada, SCS operate pursuant to exemptions to the *CDSA*, which are conferred by the federal government on a case-by-case basis.¹⁵ SCS have been shown to reduce overdose deaths, prevent HIV and HCV transmission, and facilitate access to other health and social supports, including treatment.¹⁶ SCS can also provide a refuge from violence that women may experience on the street¹⁷ and have been found to disrupt certain social structures such as gender power

⁹ Public Prosecution Service of Canada, *5.13 Prosecution of Possession of Controlled Substances Contrary to s. 4(1) of the Controlled Drugs and Substances Act*, Public Prosecution Service of Canada Deskbook Guideline of the Director Issued under Section 3(3)(c) of the *Director of Public Prosecutions Act*, August 17, 2020.

¹⁰ H. Dasari et al., *Trends in accidental drug overdose mortality in Canada: An analysis from 1974 to 2023*, *International Journal of Drug Policy*, Volume 145, 2025.

¹¹ First Nations Health Authority, “First Nations Illicit Drug Deaths Rise during COVID-19 Pandemic,” 2020; Justice Canada, *Overrepresentation of Indigenous People in the Canadian Criminal Justice System: Causes and Responses*, 2023, and CBC Radio Canada, “Les Premières Nations particulièrement touchées par les surdoses aux opioïdes,” 2019.

¹² Justice Canada, *ibid*; Government of Canada, *Key statistics on gender-based violence in Canada*, June 10, 2024 and J. Boyd et al., *supra*.

¹³ Government of Canada, *Canada’s overdose crisis and the toxic illegal drug supply*, 2026 and Government of Canada, *Opioid- and Stimulant-related Harms in Canada*, 2025.

¹⁴ CCPR/C/CAN/CO/7, 2026, paras 31, 33-34.

¹⁵ Government of Canada, *Supervised consumption sites: Status of applications*, 2026.

¹⁶ See, e.g., G. Kolla and T. Gomes, *What the Evidence Says about Defunding Ontario’s Remaining Supervised Consumption Sites*, March 20, 2026; Government of Canada, *Supervised consumption explained: types of sites and services*, 2024 and HIV Legal Network, *Scaling up supervised consumption services*, 2024 at pp 9 and 21.

¹⁷ N. Fairbairn, “Seeking refuge from violence in street-based drug scenes: Women’s experiences in North America’s first supervised injection facility,” *Social Science & Medicine* 67 (2008): 817–823.

dynamics, enabling women to assert agency over their drug use practices.¹⁸ Many sites also serve marginalized communities, including sex workers and people from queer and racialized backgrounds.¹⁹ Gender-specific SCS can connect women who use drugs to resources including women's shelters and programming for domestic and sexual violence prevention, although few gender-responsive SCS exist in Canada. Despite their proven effectiveness, SCS are being defunded and scaled back across the country.²⁰ This has particularly harmful impacts on the most marginalized women and girls who use drugs.²¹

Shelters

Women who use drugs experience rates of gender-based violence (GBV) far exceeding those of the general population.²² There are well-established links between drug use and GBV, including a heightened risk of violence among women who use drugs and the use of drugs as a response to violence.²³ Yet, many violence against women (VAW) shelters in Canada operate on “zero tolerance” or abstinence-based policies towards drugs, barring women and gender-diverse people from accessing emergency and other shelter.²⁴ Despite human rights laws that prohibit discrimination linked to drug use, several provinces explicitly prohibit women who use drugs from accessing shelters.²⁵ In other provinces, many shelters have their own policies denying access.²⁶ Even where shelters aim to support women who use drugs, many lack the resources or training necessary to adequately do so.²⁷ A 2021 national survey found that women who use drugs were barred from shelters three times more than women who do not use drugs.²⁸ When shelters deny access or shame women based on substance use, women are forced into situations of heightened risk, including femicide.²⁹

¹⁸ J. Boyd, “Gendered violence & overdose prevention sites: A rapid ethnographic study during an overdose epidemic in Vancouver, Canada,” *Addiction*, 2018.

¹⁹ Women and HIV/AIDS Initiative, “WHA! Statement on the Closure of Ontario Supervised Consumption Sites,” 2024: <https://whai.ca/about/commitments/supervised-consumption-sites/>.

²⁰ See, for example, *Scaling up supervised consumption services in Canada*, supra; Toronto Acting Medical Officer of Health, *Anticipated service impacts for Toronto Public Health and emergency responders due to the closure of Supervised Consumption Sites in Toronto*, 2025 and C, D’Mello and I. Callan, “Hospitalizations and death: Ontario’s internal warnings over supervised consumption site ban,” *Global News*, 2024.

²¹ J. Boyd et al., “Mothers Who Use Drugs,” supra; *The Neighbourhood Group et al v HMKRO*, 2025 ONSC 1934 and M. Magnuson et al., “‘We’ve lost a lot of lives’: the impact of the closure of North America’s busiest supervised consumption site on people who use substances and the organizations that work with them,” *Harm Reduct J* 22 1 (2025): 98.

²² See, e.g., E. Moir, “Hidden GBV: Women and substance use,” *Frontiers Psychiatry* 13 (2022); A. Hovey and S. Scott, supra; and A. Hovey, supra.

²³ A. Boulanger et al., supra.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

²⁷ See, e.g., Government of Yukon, *Government of Yukon implementing coroner’s inquest recommendations*, July 12, 2024; Ontario Drug Policy Research Network, *Opioid-Related Toxicity Deaths Within Ontario Shelters: Circumstances of Death and Prior Medication & Healthcare Use*, June 2024; K. Maki, *More Than a Bed: A National Profile of VAW Shelters and Transition Houses*, Women’s Shelters Canada, May 2019 and A. Boulanger et al., supra.

²⁸ *The Pan-Canadian Women’s Housing & Homelessness Survey*, supra.

²⁹ Statistics Canada, *Number of victims of spousal homicide*, July 2023; D. Sutton, *Gender-related homicide of women and girls in Canada*, Statistics Canada, April 5, 2023, at 3; and Canadian Femicide Observatory for Justice and Accountability, *#CallitFemicide: Understanding sex/gender-related killings of women and girls in Canada*, 2018-2022, April 2023.

(ii) Good Practices and Challenges

Advances in law, policy, and programs have been made in some areas benefiting women and girls who use drugs. A limited number of SCS in Canada offer gender-specific services for women.³⁰ These spaces incorporate sexual and reproductive health services such as pregnancy testing and other resources into harm reduction programs; have flexible, low-threshold services that are accessible for people with children, with the assurance that their substance use alone will not be a reason to report them to child protection authorities; and provide links between harm reduction services, drug treatment programs, shelters, and violence prevention services.³¹

Certain provinces and territories have also introduced low barrier shelter standards that prohibit exclusion based on drug use.³² For instance, in Ontario and the Northwest Territories, publicly funded VAW shelters must be accessible to all women and gender-diverse people, including those who use drugs. These shelters must also have policies to respond to on-site drug use and to support those who use drugs, limiting police involvement.³³ Similarly, In British Columbia, provincially funded shelters must have a “high level of accessibility” for women and gender-diverse people, and must have harm reduction supplies and practices in place.³⁴ Notably, publicly funded shelters in British Columbia must also have robust plans to maintain safety, without requiring police intervention, and must have safety measures to protect children and support parents, without having to report parents to child welfare agencies simply due to their drug use.

For both SCS and shelters, the success of peer-led harm reduction initiatives have demonstrated the value of involving people with lived experience in service design.³⁵ In the context of gender-responsive SCS, for example, peer support workers are women who have a current or previous history of substance use who have shared experiences with clients, such as difficulties accessing the healthcare system, homelessness, and experiences with substance use treatment.³⁶

However, these initiatives remain fragmented and localized. Moreover, with drug prohibition being the dominant approach to substance use in Canada, opportunities to scale up low-barrier harm reduction services are limited by numerous legal and administrative barriers. Removing these barriers, including by decriminalizing personal drug possession and supply, repealing policies that permit discrimination based on substance use, and expanding funding for gender sensitive and culturally appropriate harm reduction services, is critical to ensure the rights of women and girls who use drugs is respected.

³⁰ See, e.g., YWCA, “YWCA Hamilton’s New Safer Use Drug Space offers a haven for women who use substances,” June 2022: <https://www.ywcahamilton.org/ywca-hamiltons-new-safer-use-drug-space-offers-a-haven-for-women-who-use-substances/> and ATIRA, *Sister Space: The world’s first and only women-only, community-accessible overdose prevention site*, <https://atira.bc.ca/what-we-do/program/sisterspace>.

³¹ HIV Legal Network, *Gendering the Scene: Women, Gender-Diverse People, and Harm Reduction in Canada*, 2020.

³² A. Boulanger et al. *supra*.

³³ *Ibid*.

³⁴ *Ibid*.

³⁵ W. Small et al., “The Injection Support Team: A Peer-Driven Program to Address Unsafe Injecting in a Canadian Setting,” *Substance Use & Misuse* 47(5) (2012): 491–501.

³⁶ CATIE, *SisterSpace Overdose Prevention Site*, March 12, 2021.