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Injection Drug Use and HIV/AIDS:

The Canadian HIV/AIDS Legal Network Reacts to
Health Canada's Response to the Network's 1999 Report
on Injection Drug Use and HIV/AIDS

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Introduction

On 24 November 1999, at a press conference in the House of Commons, the Canadian HIV/AIDS Legal Network (Network) released its report on *Injection Drug Use and HIV/AIDS: Legal and Ethical Issues*.¹ The report pointed out that Canada has been in the midst of a public health crisis concerning HIV, hepatitis C, and injection drug use, and that Canada's response to this crisis has been far from being concerted and effective. The report contained 66 recommendations and called for immediate action to prevent the further spread of HIV and hepatitis C and to provide better care, treatment, and support for those who are already infected.

On 1 December 1999, during an address to mark World AIDS Day, Minister of Health Allan Rock committed to providing a response to the recommendations in the Network's report, saying that "if the Minister of Health of the country is not prepared to look at the options and consider them seriously and discuss them, then how can we marshal a decent response to the needs of this marginalized group [people who inject drugs]?" The Minister went on to say that "we have to look beyond the addiction. We have to see the person. And we have to be prepared to craft a response which reflects our decency as people."²

Today, on 31 August 2001, Health Canada released a 12-page response to the Network's report.³

¹ Canadian HIV/AIDS Legal Network. *Injection Drug Use and HIV/AIDS: Legal and Ethical Issues*. Montréal: The Network, 1999. The report is accompanied by a series of 11 info sheets and by a volume of background papers. All documents are available online at <http://www.aidslaw.ca/Maincontent/issues/druglaws.htm> and at the Canadian HIV/AIDS Clearinghouse (email: aids/sida@cpha.ca).

² Minister Rock responds to Network's report on injection drug use and HIV/AIDS. *Network news* 1999: 3, at 1.

³ Health Canada. *Injection Drug Use and HIV/AIDS: Health Canada's Response to the Report of the Canadian HIV/AIDS Legal Network*. Ottawa: Health Canada, 2001. Available online at <http://www.aidslaw.ca/Maincontent/issues/druglaws.htm>.

This paper contains:

- a short summary of the main issues raised in the Network's 1999 report;
- a summary of Health Canada's response to the Network's report;
- the Network's reaction to Health Canada's response;
- a short description of next steps the Network will undertake; and
- suggestions about how to obtain further information.

The Network is pleased with many aspects of Health Canada's response. In particular, we commend Health Canada for acknowledging that "injection drug use is first and foremost a health issue" (at 2) and that "fundamental changes are needed to existing legal and policy frameworks in order to effectively address IDU [injection drug use] as a health issue" (at i and 3). Other aspects of the response, however, are disappointing and, generally, much more remains to be done to respond to the health and human rights crisis concerning HIV/AIDS, hepatitis, and injection drug use.

The Network's 1999 Report

In its report, the Network pointed out that Canada is in the midst of a public health crisis concerning HIV/AIDS, hepatitis, and injection drug use, and that HIV and hepatitis prevalence and incidence are unacceptably high among people who inject drugs.

In Montréal, in 1997, 19.5 percent of injection drug users were living with HIV (versus five percent before 1988); in Vancouver, the rate was 23 percent in 1996-97 (versus four percent in 1992-93); in Toronto, it was 8.6 percent in 1997-98 (versus 4.8 percent in 1992-93); in Ottawa, some 20 percent of those using needle exchange programs in 1996-97 were seropositive (versus 10.3 percent in 1992-93); in Québec City and in smaller cities in Québec, clients of needle exchange programs have HIV rates of 9 percent and more; the rate is also high in Winnipeg and, although there are few data on Halifax, Calgary, Edmonton, and other cities, risk behaviours are widespread and could lead to the same phenomenon. Moreover, the epidemic is gaining ground outside the major urban centres.⁴

Nevertheless, Canada's response to this crisis has been far from being concerted and effective. *Injection Drug Use and HIV/AIDS: Legal and Ethical Issues*, the report released on 24 November 1999 by the Network, called for immediate action to prevent the further spread of HIV and to provide better care, treatment, and support for those who are already infected.

In its report, the Network pointed out that this public health crisis affects Canadian society as a whole. "People who inject drugs do not live in a vacuum. They are part of our communities. Given their geographic mobility and their interactions with other Canadians, the problem of injection drug use and HIV concerns all of us," observed Ralf Jürgens, the Network's Executive Director at the time of the launch of the Report.

⁴ All data are from "HIV/AIDS Among Injection Drug Users in Canada," in HIV/AIDS Epi Update, Ottawa: Health Canada, 2001. Available at http://www.hc-sc.gc.ca/hpb/lcdc/bah/epi/idus_e.html.

Continuing and expanding on two other reports,⁵ the Network's report confirmed that Canadian drug laws and policies contribute to the difficulties of reacting adequately to the HIV epidemic among injection drug users. Dr David Roy, author of the ethical component of the report, explained: "The criminalization of drug use does not achieve the goals it aims for. It causes harms equal to or worse than those it is supposed to prevent." One of his conclusions pointed out that "it is ethically wrong to continue policies and programs that so unilaterally and utopically insist on abstinence from drug use that they ignore the more immediately commanding urgency of reducing the suffering of drug users and assuring their survival, their health, and their growth into liberty and dignity."⁶

The report recommended major long-term changes to drug legislation and policies. However, the Network emphasized that the great majority of the 66 recommendations contained in the report can be applied in the short term: "Our ethical and legal analysis reveals that many practical measures can and must be adopted now, given the scope of the harms and the speed with which they are increasing." The report recommended in particular that

- heroin prescription pilot projects be started in Canada;
- access to methadone treatment be improved;
- people who inject drugs no longer be excluded from clinical trials on HIV/AIDS treatments;
- pharmaceutical manufacturers undertake research on possible interactions between HIV/AIDS drugs and illegal drugs;
- complete, honest, and non-judgmental information on drugs be accessible and widely distributed;
- professionals be better trained concerning drugs other than alcohol;
- pharmaceutical associations as well as licensing bodies encourage pharmacists to distribute sterile syringes;
- correctional systems make sterile needles available to inmates; and, in general,
- repression make way for harm reduction.

At the time of the release of the report, the Network pointed out that the implementation of the report's recommendations would have a very positive, concrete effect: "Such measures would make a difference in the lives of many people who inject drugs and in the health of Canadians as a whole. Many avoidable cases of infection could be prevented and we would be able to give better care, better treatment, and better support to seropositive people."

⁵ Task Force on HIV, AIDS and Injection Drug Use. *HIV, AIDS, and Injection Drug Use: A National Action Plan*. Ottawa: Canadian Public Health Association & Canadian Centre on Substance Abuse, 1997; D McAmmond. *Care, Treatment and Support for Injection Drug Users Living with HIV/AIDS: A Consultation Report*. Ottawa: Health Canada, March 1997.

⁶ *Injection Drug Use and HIV/AIDS: Legal and Ethical Issues*. Supra, note 1, at 30-31, 93.

Many of the measures described in the report have already been successfully implemented in other countries: de facto decriminalization of cannabis for personal consumption; controlled drug prescription trials; and explicit education programs for youth. In Switzerland, for example, a controlled heroin prescription trial in several cities has significantly reduced crime and illegal heroin use while improving the health of participants.⁷

In the preparation of the report, the product of an 18-month project funded mainly by Health Canada under the Canadian Strategy on HIV/AIDS, and in part by the Québec ministry of health and social services, the Network held three national workshops and consulted fifty Canadian stakeholders to identify the priority problems relating to HIV prevention among people who inject drugs, and to better care for those who have already contracted HIV.

Seven issues were submitted for analysis to experts - Dr David Roy (Centre for Bioethics, Clinical Research Institute of Montréal) on the ethical dimension; Eugene Oscanella, (Canadian Foundation for Drug Policy) and Richard Elliott (Canadian HIV/AIDS Legal Network) on the legal aspects; and Diane Riley (International Harm Reduction Association) on the policy issues. Ronda Bessner and Ralf Jürgens wrote the main report based on the background papers, additional research, and the input from workshop participants. The report contains 66 recommendations endorsed by the stakeholders consulted from the beginning to the end of the project.

⁷ A Uchtenhagen et al. *The Swiss Heroin Trials: Final Report*. Swiss Federal Office of Public Health, 1997; A Uchtenhagen. Programme for a medical prescription of narcotics: summary of the synthesis report (July 1997). In Heroin Maintenance Treatment Research Summary. New York, NY: The Lindesmith Center, 1998, 7-14.

Health Canada's Response

In addressing this issue, we must look beyond the negative labels we attach to people who inject drugs. We must acknowledge that being in the grip of an addiction does not make a person any less entitled to a decent response. It means remembering that every one of those statistics is a human being, is someone's son or daughter - sister or brother.

Injection drug use is first and foremost a health issue. Involving all Canadians in a just and compassionate response means that we must dig deep in our search for solutions; and not stop until we find ones that work.⁸

Message from the Minister of Health

Health Canada's response to the Network's report starts with a message from the Minister of Health, in which Minister Rock emphasizes that injection drug use is first and foremost a health issue, and that people who inject drugs are entitled to a just and compassionate response to the many issues they face.

Foreword

The Minister's message is followed by a short foreword, which acknowledges that "fundamental changes are needed to existing legal and policy frameworks in order to effectively address IDU as a health issue." It continues by saying (at i):

This will require national and international dialogues with a broad range of stakeholders. In the meantime, however, much can be done within the current frameworks.

The foreword then explains that Health Canada's response "focuses on immediate actions that are being taken to reduce the harm associated with IDU," reflecting "Health Canada's view that Canada's response to this urgent health issue requires both improved interventions with individuals who use injection drugs and fundamental changes to the environment in which such interventions are offered."

It concludes by saying that "Health Canada is committed to working with other partners to ensure a compassionate, comprehensive and effective response to IDU."

⁸ Health Canada Response to the Network's report, *supra*, note 2, "Message from the Minister of Health." All the quotations in this chapter are from Health Canada's Response, unless otherwise indicated.

Introduction

The foreword is followed by an introduction, in which Health Canada acknowledges that “IDU is a serious health and social issue for many countries, including Canada” and that a number of reports “have identified the urgent need for action by governments and other stakeholders to reduce the harm associated with IDU” (at 1). It mentions that:

- IDU is an issue for all Canadians.
- Up to 125,000 Canadians inject drugs.
- IDU can lead to explosive epidemics of HIV infection.
- The economic cost of IDU is substantial and continues to grow.
- In 1999, people who inject drugs comprised 34 percent of new HIV infections in Canada.

Health Canada emphasizes that “IDU is first and foremost a health issue,” and that

approaching IDU as a health issue, as opposed to a law and order issue, has important benefits. It fosters an environment in which people who inject drugs are treated as respected members of society who need and deserve support and assistance, not as criminals who should be isolated from others. (at 2)

It acknowledges that several harm reduction measures have been successfully implemented in Canada, but that

more needs to be done. ... Innovative harm reduction measures must be developed, piloted, evaluated and, where found to be effective, implemented in Canada, as they have been in other countries. (at 2)

Health Canada Actions and Commitments

Reflecting the issues addressed in the Network’s 1999 report, Health Canada then describes its current actions and commitments in seven areas:

- the current legal status of drugs
- drug use and provision of health and social services
- treatment
- prescription of opiates and controlled substances
- drug users and studies of HIV/AIDS and illegal drugs
- information about the use and effects of illegal drugs
- needle exchange and methadone maintenance treatment.

The current legal status of drugs

Responding to recommendations 1 to 7 (relating to the legal status of drugs) in the Network’s report, Health Canada “recognizes that a close examination is needed of how Canada’s drug laws

and regulations affect both people who use injection drugs and those who provide health and social services to this population.” (at 4)

However, Health Canada’s response fails to commit to undertaking such a close examination, only making the following vague commitments (at 5):

- The federal Minister of Health will discuss health determinants related to HIV/AIDS and the role of federal departments with other ministers.
- Health Canada, through the Interdepartmental Coordinating Committee on HIV/AIDS and the Interdepartmental Working Group on Substance Abuse, will initiate a dialogue with other federal departments about the impacts of current drug laws on people who use injection drugs, and on those providing health and social services to them, with specific attention to the unique issues associated with HIV/AIDS and hepatitis C.
- A Senate committee is studying Canada’s drug legislation and policies. Health Canada will support the Committee’s work by providing briefing materials, testimony and other assistance.

The Network’s report also contained other concrete recommendations to the federal government aimed at reducing the harms from current drug laws (such as, among other issues, decriminalizing the possession of small amounts of currently illegal drugs for personal use, at least when medically prescribed). Without responding to each of these recommendations, in its response Health Canada makes the following commitments:

- Health Canada will study and assess innovative approaches to enforcement and will promote the use of alternatives to the traditional criminal justice system response where such alternatives are demonstrated to be effective.
- Health Canada will work with key partners to enhance the implementation, accessibility and effectiveness of needle exchange programs (NEPs) and to reduce the barriers to such programs in Canada.
- Health Canada will continue to work with Justice Canada and the law enforcement sector to address judicial and policing concerns related to NEPs.
- Health Canada will continue to work with the Federation of Canadian Municipalities on a strategy to stimulate local action on IDU.

Drug use and provision of health and social services

Responding to recommendations 8 to 14 in the Network’s report, Health Canada “recognizes the need to reduce barriers to obtaining care and to alleviate the suffering of people who inject drugs” and “acknowledges the desirability of a broader range of treatment options, including greater availability of treatments based on a harm reduction approach.” (at 6) Health Canada makes several commitments, including to examining “the implications and feasibility of enabling provision of illegal drugs to drug users while they are in HIV/AIDS care” and to working with universities and professional associations “to enhance the quality of training for professional care providers on drug-related issues.” Most importantly, recognizing that people who inject drugs deserve to be heard, Health Canada says that it will support a national harm reduction conference

bringing together people who use drugs, service providers, and HIV/AIDS, hepatitis C and human rights organizations.

However, the response does not address at all one of the most important recommendations in the Network's report, namely that "as part of the Canadian Strategy on HIV/AIDS, Health Canada should develop and implement, in close collaboration with relevant stakeholders, a strategy for integrating HIV/AIDS and drug programming in Canada" (recommendation 14).

Treatments

Recommendations 15 to 23 of the Network's report, aimed at improving access to good care, treatment, and support for drug users with HIV/AIDS, were not directed at Health Canada. Nevertheless, Health Canada's response contains a short section on this issue. In particular, Health Canada says (at 9) that it "concur[s] that HIV treatment should not be withheld solely on the grounds that an individual uses drugs" and recognizes that "more needs to be done to ensure that the benefits of simpler treatment regimens are available to all persons living with HIV/AIDS, including those who use injection drugs."

Prescription of opiates and controlled substances

Currently, methadone is the only opioid approved for the long-term treatment of drug-dependent persons in Canada. Although methadone maintenance has many advantages, it is not appropriate treatment for all drug-dependent persons. Therefore, the Network's report recommended that in the longer term, Health Canada develop plans to permit physicians to prescribe opiates and controlled stimulants; and that in the shorter term, pilot projects involving the prescription of heroin, cocaine, and amphetamines be authorized, funded, and initiated in Canada (recommendations 24 and 25).

Health Canada's response fails to make any commitments on this important issue, but rather contains the following general statement (at 9, with reference):

Health Canada supports the advancement of scientific knowledge about IDU addictions treatment and harm reduction through methodologically and ethically sound research. To this end, the Department has been following with interest the development of a proposal for the North American Opiate Medication Initiative. Health Canada endorses, in principle, pilot projects that can expand the evidence base and the range of available treatment, prevention and harm reduction models. Future implementation of opiate prescription trials in Canada should be facilitated by the results of a successful heroin prescription program in Switzerland.

Drug users and studies of HIV/AIDS and illegal drugs

The issue addressed in recommendations 26 to 40 of the Network's report is the lack of adequate clinical information upon which to base treatment of HIV-positive people who use drugs. People who use drugs are excluded from studies of HIV/AIDS drugs. In addition, there is little research into the effects of currently illegal drugs on the immune system, or the interaction between HIV/AIDS drugs and currently illegal drugs. This hinders the provision of optimal care, treatment, and support to HIV-positive injection drug users. The report's recommendations in this

area were, with one exception, not directed at Health Canada. Nevertheless, Health Canada's response contains some general statements on the issue. In particular, Health Canada agrees that it is "important to support a strengthened and integrated research agenda related to IDU, illegal drugs and HIV/AIDS." It makes two commitments (at 10):

- it "will pursue opportunities for partnerships with the CIHR [Canadian Institutes of Health Research] on HIV/AIDS, hepatitis C and other research issues related to IDU"; and
- it will "examine the practical implications and feasibility of conducting clinical trials to determine how illicit drugs (street drugs) interact with HIV/AIDS drugs, as well as the effects of illicit drugs on the progression of HIV disease."

Information about the use and effects of illegal drugs

Recommendations 41 to 49 in the Network's report aim at ensuring the provision of accurate and complete information on illegal drugs to health-care providers, drug users, and the general public. Health Canada's response does not address the most important recommendation directed at it, namely that, together with provincial and territorial health officials, it should provide funding for the development and wide distribution of "accurate, non-biased, and non-judgmental information on illegal drugs for health-care providers, drug users, and members of the public."⁹

Needle exchange and methadone maintenance treatment

The Network's 1999 report made several recommendations (50 to 66) aimed at enhancing the availability and effectiveness of needle exchange programs and methadone maintenance treatment.

In its response, Health Canada does not address the recommendations in the Network's report that were directed at it (54, 56, 57, 64), but makes some general statements acknowledging the "need for expanded, more effective harm reduction and addictions treatment service in all settings across the country" and the need for increased collaboration with the Correctional Service of Canada "to improve interventions aimed at reducing the harm associated with IDU in correctional facilities." (at 11) It further states that it is working closely with its provincial/territorial partners to enhance needle exchange and methadone maintenance treatment programs.

Conclusion

In its conclusion (at 12), Health Canada's response again states that "IDU is a complex health issue that requires urgent attention in Canada," and that "Health Canada is committed to both strengthening and expanding efforts with respect to IDU."

⁹ *Injection Drug Use and HIV/AIDS: Legal and Ethical Issues*, supra, note 1, at 78 (recommendation 41).

The Network's Reaction to Health Canada's Response

Progress

As mentioned above, the Network is pleased with many aspects of Health Canada's response.

Most importantly, Health Canada acknowledges and repeats many times throughout the document that "injection drug use is first and foremost a health issue" and that "fundamental changes are needed to existing legal and policy frameworks in order to effectively address IDU [injection drug use] as a health issue."

Health Canada also makes several important commitments, including to

- "working with other partners to ensure a compassionate, comprehensive and effective response to IDU" (at 1);
- initiating "a dialogue with other federal departments about the impact of current drug laws on people who use injection drugs" (at 5)
- working with key partners to enhance the implementation, accessibility and effectiveness of needle exchange programs and to reduce the barriers to such programs in Canada (at 6) and
- "both strengthening and expanding efforts with respect to IDU." (at 12)

In addition, we welcome that Health Canada's response explicitly recognizes that

- the problems associated with injection drug use have reached critical proportions and require urgent attention (at 1 and 12);
- injection drug use is an issue for all Canadians (at 1);
- Canada will not be able to turn the situation around without doing more (at 2);
- people who inject drugs must be treated as respected members of society who need and deserve support and assistance, not as criminals who should be isolated from others (at 2);
- innovative harm reduction measures must be developed, piloted, evaluated and, where found to be effective, implemented in Canada, as they have been in other countries (at 2);
- the involvement of drug users and drug user networks in reducing the harm associated with injection drug use is crucial (at 8, 9, 12);
- provision of services should not be contingent upon an individual's entry into drug treatment (at 8);
- it is important to support a strengthened and integrated research agenda related to IDU, illegal drugs, and HIV/AIDS (at 10);
- there is a need for expanded, more effective harm reduction and addictions treatment services in all settings across Canada (at 11); and

- increased collaboration is needed with the Correctional Service of Canada to improve interventions aimed at reducing the harm associated with IDU in prisons (at 11).

Disappointment

However, other aspects of Health Canada's response are disappointing.

The failure to address the impact of drug laws and policies

The response acknowledges that changes are needed to existing legal and policy frameworks, both national and international, in order to effectively address injection drug use as a health issue, but then totally skirts the issue - as did the Federal/Provincial/Territorial Committee on Injection Drug Use paper entitled *Reducing the Harm Associated with Injection Drug Use in Canada*,¹⁰ another response to the "significant number of recent, well-researched reports and consultations recommending action to reduce the harm associated with injection drug use in Canada."¹¹ Both Health Canada's response and the F/P/T Committee paper explicitly recognize the importance of undertaking a close examination of Canada's drug law, regulations and policies related to injection drug use and to drug use in general, and point out that a large number of reports "have identified some aspects of Canada's drug laws as contributing to the harms associated with injection drug use and have established the need for changes to drug policy in Canada."¹² But both papers fail to deal with this fundamental issue in a meaningful way and tiptoe around it.

Given the urgency of the situation, it may be justifiable to focus on immediate initiatives that can be undertaken within the existing legal framework, but it is not justifiable to completely avoid the issue of the impact of existing laws and policies on prevention and on our ability to provide adequate care, treatment, and support to drug users. During the preparation of the Consultation Report on *Care, Treatment, and Support for Injection Drug Users Living with HIV/AIDS*,¹³ people providing services to injection drug users emphasized that they "know what to do, but ... are not able to do it for a variety of reasons," chief among them the barriers created by the legal

¹⁰ Reducing the Harm Associated with Injection Drug Use in Canada. Working Document for Consultation. March 2001. Available at <http://www.aidslaw.ca/Maincontent/issues/druglaws.htm>, together with an extensive comment prepared by the Legal Network.

¹¹ Ibid, at 4, with reference to the Legal Network's reports, *Injection Drug Use and HIV/AIDS: Legal and Ethical Issues* and *HIV/AIDS in Prisons: Final Report*; and to the following other reports: *HIV, AIDS and Injection Drug Use - A National Action Plan*; *HIV, Hepatitis, and Injection Drug Use in British Columbia - Pay Now or Pay Later?*; *Second National Workshop on HIV, Alcohol, and Other Drug Use*; *The Red Road: Pathways to Wholeness*; *Report of the Task Force into Illicit Narcotic Overdose Deaths in British Columbia*; and *Drug use and the HIV epidemic, a frame of reference for prevention* (MSSS Quebec).

¹² Ibid, at 9-10, referring to the reports cited supra, in note 11.

¹³ McAmmond, supra, note 5.

status of drugs and drug use. As a result, it has been persuasively argued that it “is unethical not to consider alternatives to drug laws and policies.”¹⁴

No response to some recommendations

Health Canada fails to respond to a number of the concrete recommendations in the Network’s report that were directed at Health Canada, choosing to make general statements on larger issues rather than to make commitment or even take action on specific recommendations. In addition, some of the commitments made are quite vague and do not get to the level of detail that would make them meaningful, and that would enable accountability. This is disappointing particularly because Health Canada took over 18 months to prepare the response to the Network’s report.

The Network recognizes that Health Canada’s response to the Network’s report must be read together with the recommendations in the paper by the F/P/T Committee on Injection Drug Use. As stated in Health Canada’s response, both “documents reflect this Government’s view that Canada’s response to injection drug use requires both improved interventions and the promotion of a supportive, non-discriminatory environment in which these interventions are offered.”¹⁵ However, while the F/P/T Committee’s paper does contain more specific actions than Health Canada’s response, many of its recommended actions also leave too much room for interpretation or do not go far enough.¹⁶

Urgent action, not words, is needed

Health Canada’s response does acknowledge that “urgent attention” (at 12) is required to the many issues related to injection drug use and HIV/AIDS and hepatitis, that “Canada’s response to this urgent health issue requires both improved interventions with individuals who use injection drugs and fundamental changes to the environment in which such interventions are offered,” (at i), and that “more needs to be done.” (at 2). However, the commitments made do not respond to the need for urgent action expressed in 1999 in the Network’s report (and in many other reports). The public health tragedy of HIV/AIDS and hepatitis C among injection drug use has been underway for many years, and at least some of it could have been prevented had governments moved from meetings and further consultations to actually doing something about the problems at

¹⁴ D Roy. Injection Drug Use and HIV/AIDS: An Ethical Analysis of Priority Issues. In: *Injection Drug Use and HIV/AIDS: Legal and Ethical Issues. Background Papers*. Montréal: Canadian HIV/AIDS Legal Network.

¹⁵ Health Canada’s Response, *supra*, note 3, “Message from the Minister of Health.”

¹⁶ See the Network’s comments on the F/P/T Committee report, *supra*, note 10.

hand. In some ways, the situation resembles that of the blood tragedy in the 1980s, when decision-makers did exactly what is still being done to a large extent today with regard to injection drug use: meet, consult, and act too late. As Jan Skirrow, former Deputy Minister of Community & Occupational Health of Alberta, has said:

A marginalized community (in this case injection drug users) is experiencing an epidemic of death and disease resulting not from anything inherent in the drugs that they use, but more from the ineffective and dysfunctional methods that characterize our attempts to control illicit drugs and drug users. There is the same unwillingness to carefully analyze the problem or to depart from traditional methods and conventional thought that was integral to the blood tragedy. There is a struggle for power and control over the issue between law enforcement and public health. There is a profound lack of understanding among decision-makers and many health professionals regarding the nature of the community and individuals at risk.

... Our committees meet, the media reports the political rhetoric and the disagreements of experts, and effective program responses remain in limbo as we try to sort out what are in essence power and control issues. Yet people continue to die in alarming numbers, and no one seems to notice or care very much.¹⁷

The commitments in the paper are welcome, but long-overdue action must not be further delayed.

A lack of accountability

As mentioned above, many commitments in Health Canada's response remain fairly vague. But even those that are concrete are not accompanied by a timetable for implementation, and it is not clear how Health Canada will demonstrate progress toward fulfilment of the commitments made.¹⁸

¹⁷ J Skirrow. Lessons from Krever - a personal perspective. *Canadian HIV/AIDS Policy & Law Newsletter* 1999; 4(2/3): 35-41, at 40-41.

¹⁸ About the importance of insisting that governments adopt plans and timetables, see K Roth. Human rights and the AIDS crisis: the debate over resources. *Canadian HIV/AIDS Policy & Law Review* 2000; 5(4): 93-98, at 95. Available at <http://www.aidslaw.ca/Maincontent/otherdocs/Newsletter/vol5no42000/rothdurban.htm>

Next Steps

In the end, our success in dealing with any problem, and certainly with drugs, depends on the clarity of our understanding, and our courage.¹⁹

Despite its many shortcomings, Health Canada's response to the Network's report on HIV/AIDS and injection drug use, together with the F/P/T Committee on Injection Drug Use paper, is an important and significant step in the right direction. The federal and provincial/territorial governments have made important acknowledgments and commitments. It remains to be hoped that action will follow the words. As the Network has said before, thus far the inaction has been

striking, particularly if one considers that those responsible for it – and particularly the federal, provincial, and territorial governments, and public health authorities across Canada – should know better and should have learned their lessons from the Commission of Inquiry on the Blood System in Canada (the Krever Inquiry). But the lessons from that Inquiry – many directly applicable to the HIV/AIDS epidemic among injection drug users ... seem to be forgotten, or are applied whenever convenient, and otherwise neglected. Thousands of injection drug users have been infected with HIV and hepatitis C virus in the last years, many as a direct result of inaction. Their infections were preventable. And many more will become infected in the years to come unless immediate action is taken.²⁰

The Network will continue to undertake follow-up activities aimed at ensuring provision of better care, treatment, and support to people who use injection drugs, and more effective efforts to prevent HIV and hepatitis infection and other harms associated with drug use.

As part of these activities, we are currently finalizing a paper on the legal and ethical issues associated with the establishment of safe injection sites in Canada, as well as a background paper and info sheets providing a legal and ethical analysis of scenarios frequently encountered in the provision of HIV-related services to people who use injection drugs.

¹⁹ J Skirrow. A Review of A Framework for Action: A Four Pillar Approach to Drug Problems in Vancouver. *Canadian HIV/AIDS Policy & Law Review* 2001; 6(1/2): forthcoming.

²⁰ Enough Is Enough (editorial). *Canadian HIV/AIDS Policy & Law Review* 1999; 4(4): 3-4.

For Further Information ...

- (1) consult the website of the Canadian HIV/AIDS Legal Network at <http://www.aidslaw.ca/Maincontent/issues/druglaws.htm>. The website's section on drug laws and policies contains pdf and html versions of the Network's 1999 report and volume of background materials; a series of easy-to-read info sheets on injection drug use and HIV/AIDS; Health Canada's response to the Network's report, as well as this paper; the paper of the F/P/T Committee on Injection Drug Use, as well as the Network's comments on it; and more;
- (2) contact Thomas Haig at the Network's resource centre at thaig@aidslaw.ca or 514 397-6828 ext 224, for information about other resources on legal and ethical issues related to HIV/AIDS, hepatitis and injection drug use available at the Network's resource centre; or
- (3) contact Ralf Jürgens for questions or comments concerning this document and, more generally, the Network's activities in the area of injection drug use and HIV/AIDS and hepatitis.