Drug treatment and health services continue to fall short of meeting needs and deaths related to drug use have increased

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As the International Drug Policy Consortium (IDPC) has stressed, "in most countries people from specific ethnic groups, women and LGBTQI+ people, young people and people living in poverty face heightened obstacles in accessing drug services."[i] Globally, women have less access to harm reduction and drug dependence treatment services compared to men due to factors such as stigma and discrimination, self-stigma, and the lack of practical accommodations for women with caretaking responsibilities,[ii] while men who have sex with men and who engage in chemsex face heightened health vulnerabilities due in part to a lack of comprehensive harm reduction response.[iii] Additionally, the UN Working Group of Experts on People of African Descent has concluded that people of African descent face ongoing racial disparities in accessing health and drug treatment services, while being disproportionately targeted by the criminal legal system.[iv]

All these shortfalls are reflected in Canada, where an unprecedented toxic drug crisis has killed 40,642 people between January 2016 and June 2023[v] and resulted in disproportionate rates of drug toxicity deaths in Indigenous communities.[vi] In the provinces of B.C.[vii] and Ontario,[viii] for example, the risk of overdose among Indigenous peoples is approximately six to seven times greater than the general public.

One key measure to address Canada's toxic drug crisis is **supervised consumption services** (SCS), which provide a safe, hygienic environment where people can use drugs under the supervision of trained staff or volunteers. Evidence demonstrate that SCS reduce the risk of accidental overdose,[ix] provide or connect people to social services, healthcare, and treatment, reduce public drug use and discarded drug equipment, prevent HIV and HCV transmission, reduce strain on emergency medical services, and provide space for people to connect with staff and peers.[x] When adapted to their needs, SCS can also provide a refuge to women who use drugs from violence that they may experience on the street.[xi] While greater federal support for SCS in Canada has contributed in recent years to their expansion and to a greater diversity of services and models,[xii] progress remains highly vulnerable to the political context given insufficient safeguards in the law and hostile local governments.[xiii] Moreover, major gaps persist to meet the needs of people who use drugs: SCS remain concentrated in urban areas and only in some provinces;[xiv] access to inhalation services is rare although in some localities inhalation has become the main route of consumption resulting in overdose deaths[xv]; and the prohibition of assisted injection by SCS staff continues to limit access to services.[xvi] Rules banning staff-assisted injection in SCS services may also put women at higher risk by denying them access to a supervised space where prompt overdose response is available,[xvii] as women more often report injecting with a regular sex partner.[xviii] Notably, women who use drugs in Canada have also confirmed the need for multiple services being offered in SCS, including women-only operating times, hygiene services, drug counselling, access to prescribed morphine or methadone, support from other people with experience of drug use, social workers, showers, and Indigenous staff[xix] — though the vast majority of SCS do not offer such diversity of services.

Another measure to address increasing drug deaths are **drug checking services**, which provide people who use drugs with information on the chemical composition of their drug samples to facilitate informed

decision-making and prevent overdose. Such services influence the behaviour of people who use drugs when results are unexpected or include drugs of concern, and support monitoring of unregulated drug markets which can inform public health alerts.[xx] However, drug checking services have only been adopted as pilot programs in Canada in a handful of primarily urban settings and lack long-term funding.[xxi]

Additionally, there is a dire lack of access to programs that enable a **safer supply of pharmaceutical-grade medications** that are of known quality and quantity for people who use drugs, with a focus on those who have not been successful with traditional treatments and are at high risk for overdose.[xxii] A growing body of evidence indicates that safer supply programs reduce the risk of death and overdose, increase engagement and retention in programs and care, improve physical and mental health, as well as social well-being and stability, and are a critical option on the continuum of care for people who use drugs.[xxiii] Yet extremely limited capacity[xxiv] and barriers to entry[xxv] leave the vast majority of people who use drugs in Canada to rely on an unregulated supply. While medicalized models of safe supply produce positive impacts for some people who use drugs, a lack of available and willing prescribers means their reach is highly limited, and a dearth of low-threshold safe supply programs, including non-medical, community-based options mean racialized and other marginalized populations are often excluded from the benefits of safe supply.[xxvi]

A population often overlooked and facing unmet harm reduction needs is two-spirited, lesbian, gay, bisexual, trans, and queer people **(2SLGBTQ+) people who use drugs**. In Canada as in many countries, 2SLGBTQ+ people report higher prevalence of *problematic* substance use, including problematic sexualized use — which has been linked to heightened risk of HIV and other STIs, among other harms.[xxvii] For example, national data from 2017 suggests that more than 20% of gay, bisexual and other men who have sex with men (GBMSM) in Canada have ever engaged in chemsex and more than 5% did so within the last six months.[xxviii] An even more recent national survey reported that more than one-quarter (27%) reported using substances during sex within the past six months.[xxix] Of note is the much higher prevalence of use of stimulants (e.g., methamphetamine) among GBMSM compared to the population in Canada as a whole — at least four times higher among HIV-negative GBMSM and many times higher still among GBMSM living with HIV.[xxx] However, there is a dearth of both harm reduction services and services for treatment of problematic use that are equipped to respond to the needs of GBMSM, and of the broader population of 2SLGTQ+ people, who use drugs.[xxxi] Relatively few harm reduction programs address sexualized use of substances (including stimulants), many are not necessarily perceived as safe spaces by a significant proportion of 2SLGBTQ people who use drugs, and only a few organizations are doing outreach to, or have a presence within, 2SLGBTQ+ community spaces. Stigma and discrimination based on (i) substance use — and especially of sexualized drug use and of substances such as crystal methamphetamine — and (ii) sexual orientation and/or gender identity operate as compounding barriers to services for 2SLGBTQ+ people who use drugs. Among other measures, there is a need to scale up the 'cultural competence' of service providers to deliver services that are not only free of such stigma and discrimination but that are familiar with and able to respond to the needs of 2SLGBTQ+ people who use drugs, including in the context of chemsex. This requires not only training service providers generally but also supporting services that are delivered by and for peers, i.e., 2SLGBTQ+ people with personal experience of substance use.

Not surprisingly, almost none of these health and harm reduction services are available in **prisons** in Canada, where a significant proportion of people, and particularly Black men, are serving sentences for drug offences,[xxxii] and Indigenous and Black people are grossly overrepresented. Moreover, 80% of

federal prisoners report a substance use issue.[xxxiii] Research indicates the incarceration of people who inject drugs is a factor driving Canada's HIV and HCV epidemic[xxxiv] and researchers have documented dramatic recent increases of deaths in custody[xxxv] — accentuating the urgency of equivalent harm reduction services. Yet the vast majority of prisons in Canada fail to provide prisoners with access to sterile harm reduction equipment or supervised consumption services, and no prison systems offer drug checking or safe supply programs. Most prisons in Canada also deny people in prison immediate access to **naloxone**, even though most provinces offer free, unrestricted access to naloxone through first line responders, health centres, and pharmacies.[xxxvi] Naloxone is generally only accessible to prison health care or security staff and prisoners are not permitted to have naloxone kits inside their cells in the event their cellmates experience an opioid overdose.

While proven health interventions for people who use drugs fall short of meeting the demand for such services or the specific needs of many people who use drugs, calls in Canada for involuntary "treatment" and/or detention of people who use drugs are on the rise.[xxxvii] Not only is **forced treatment a violation of individuals' right to bodily autonomy and dignity**, there is no empirical evidence to suggest that it is effective in reducing drug uses or improving individual health; rather, studies confirm a link between compulsory drug abstinence programs and increased overdose-related risk.[xxxviii] As UN human rights bodies have acknowledged, "All health care interventions, including drug dependence treatment, should be carried out on a *voluntary basis with informed consent."*[xxxix] Any interventions to address an individual's substance use must therefore be voluntary and delivered in a culturally appropriate manner.

Therefore, we urge Member States to:

- Decriminalize drug possession and distribution and remove other legal and regulatory barriers to enable the implementation of a safer alternative supply to the toxic illegal drug market.

- Take measures to address discriminatory drug law enforcement practices and sentencing policies against Black, Indigenous, and other racialized people.

- Remove custodial sentences for drug offences and ensure that conditions in detention respect the United Nations Standard Minimum Rules for the Treatment of Prisoners, including with respect to equivalence in health care and harm reduction, access to treatment, and effective oversight.

- Adopt drug policies that uphold the human rights of people who use drugs, including by explicitly prohibiting discrimination against people who use drugs and by ensuring access to evidence-based, gender-sensitive harm reduction services such as needle and syringe programs, supervised consumption services, and drug checking for people who use drugs in all their diversity.

- Support efforts to ensure that specific populations of people who use drugs have greater, equitable access to harm reduction services and services for treatment of problematic substance use that respond to their needs. This should include support specifically to improve the competence of service providers to serve 2SLGBTQ+ people who use drugs, including those who participate in sexualized drug use, and supporting the delivery of such services by and for peers, i.e., 2SLGBTQ+ people with current or former first-hand experience of such use.

- Ensure that drug dependence treatment is evidence-based and voluntary, and informed consent is a precondition for any medical treatment or intervention.

- Incorporate and fund harm reduction services, and support community-led advocacy and harm reduction services.

[i] IDPC, *Off track: Shadow report for the mid-term review of the 2019 Ministerial Declaration on drugs*, 4 December 2023.
[ii] Ibid.
[iii] Ibid.
[iv] Ibid.
[v] Government of Canada, *Opioid- and Stimulant-related Harms in Canada*, December 2023.
[vi] L. Hatt, *The Opioid Crisis in Canada*, Library of Parliament, 2022.
[vii] First Nations Health Authority, "FNHA Releases 2022 Toxic Drug Poisoning Crisis Data," April 21, 2023.
[viii] The Chiefs of Ontario and The Ontario Drug Policy Research Network, *Opioid Use, Related Harms, and Access to Treatment among First Nations in Ontario Annual Update, 2013 – 2021*, November 2023.
[ix] Government of Canada, *Supervised consumption explained: types of sites and services*, February 2023,
[x] Ibid.
[xi] 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.
[xii] Government of Canada, Supervised consumption sites: Status of applications, undated.
[xiii] See, Alberta Health, *Recovery-oriented Supervised Consumption Services Standards*, October 5, 2022 and Ontario Ministry of Health and Long-Term Care, *Consumption and Treatment Services: Application guide*, October 2018. See also Canadian HIV/AIDS Legal Network, *Overdue for Change: Scaling up Supervised Consumption Services in Canada*, February 2019.
[xiv] C. Russell et al, "'Small communities, large oversight': The impact of recent legislative changes concerning supervised consumption services on small communities in Ontario, Canada," *International Journal of Drug Policy* Volume 82, August 2020, 102822.
[xv] D. Major, "Changing nature of Canada's overdose crisis calls for more aggressive response, experts say," *CBC News*, January 3, 2023.
[xvi] M. Gagnon et al., *Nurse-Assisted Injection: A Path to Equity in Supervised Consumption Services,* Canadian Institute for Substance Use Research, 2022.
[xvii] N. Fairbairn et al., supra note and G. Kolla, K. S. Kenny, M. Bannerman, et al., "Help me fix: The provision of injection assistance at an unsanctioned overdose prevention site in Toronto, Canada," *International Journal of Drug Policy* (2020) Feb;76:102617.
[xviii] Canadian HIV/AIDS Legal Network, *Gendering the Scene: Women, Gender-Diverse People, and Harm Reduction in Canada*, 2019.
[xix] A. Bayoumi, C. Strike, et al., *Report of the Toronto and Ottawa Supervised Consumption Assessment Study*, 2012 and J. Boyd et al., "Gendered violence & overdose prevention sites: A rapid ethnographic study during an overdose epidemic in Vancouver, Canada," *Addiction*, (2018) 1113:12, pp. 2261-2270. DOI: 10.1111/add.14417.
[xx] N. Maghsoudi et al., "Drug checking services for people who use drugs: a systematic review," *Addiction* 2022; 117: 532- 544.
[xxi] Government of Canada*, Interactive map: Canada's response to the opioid overdose crisis*, undated.
[xxii] Government of Canada, *Safer supply*, undated. See also *Interactive map: Canada's response to the opioid overdose crisis,* ibid.
[xxiii] See, for example, A. Slaunwhite et al., "Effect of Risk Mitigation Guidance opioid and stimulant dispensations on mortality and acute care visits during dual public health emergencies: retrospective cohort study," *British Medical Journal* 2024; 384 :e076336 doi:10.1136/bmj-2023-076336 and National Safer Supply Community of Practice, *Prescribed Safer Supply Programs: Emerging Evidence*, 2023.
[xxiv] *Interactive map: Canada's response to the opioid overdose crisis*, supra.
[xxv] *Prescribed Safer Supply Programs: Emerging Evidence*, supra.

[xxvi] Canadian Civil Society Advancing Safe Supply Working Group, *Innovating Beyond Exclusively Medicalized Approaches: Policy Brief and Recommendations*, February 2023.
[xxvii] For more detailed discussion, see R. Elliott, *Connection, Care, Community: Strengthening Harm Reduction for GBT2Q People who Use Drugs in Canada*, HIV Legal Network, 2023.
[xxviii] N. Brogan et al., "Canadian results from the European Men-who-have-sex-with-men Internet survey (EMIS-2017)," *Canada Communicable Disease Report* 2019; 45(11): 271-282.
[xxix] Community-Based Research Centre. Blog post: "Substance Use Among GBT2Q", August 4, 2022; N. Lachowsky, "U=U, PrEP, Substance Use, and HIV Self-Testing: Key Findings from Sex Now 2021," June 14, 2022.
[xxx] Canadian Centre on Substance Use and Addiction, "Methamphetamine: Canadian Drug Summary" March 2020. This figure is based on data from: Canadian Tobacco Alcohol and Drugs Survey. 2017 Supplementary Tables. Ottawa: Health Canada, 2018.
[xxxi] Sub-populations within the 2SLGBTQ+ population also have specific factors shaping their substance and associated risks, and hence specific needs when it comes to effective harm reduction and treatment services – including bisexual people, trans and non-binary people, Black people, two-spirited Indigenous people, other racialized people, sex workers, young people, those living in poverty or experiencing homelessness, and those who are or have been incarcerated. For some discussion, see R. Elliott, *supra*.
[xxxii] See K. DeBeck et al., "Incarceration and drug use patterns among a cohort of injection drug users," *Addiction* 2009 Jan; 104(1): 69–76 and Office of the Correctional Investigator, *A Case Study of Diversity in Corrections: The Black Inmate Experience in Federal Penitentiaries Final Report*, 2014.
[xxxiii] Correctional Service Canada, *Substance Use Patterns of Indigenous and Non-Indigenous Women Offenders*, No RIB-19-08, June 2019.
[xxxiv] See, for example, M.W. Tyndall et al., "Intensive injection cocaine use as the primary risk factor in the Vancouver HIV–1 epidemic," *AIDS* 17,6 (2003): pp. 887–893; H. Hagan, "The relevance of attributable risk measures to HIV prevention planning," *AIDS* 17,6 (2003): pp. 911–913.
[xxxv] Tracking (In)Justice, *Ontario Deaths in Custody on the Rise*, December 2022 and Correctional Service Canada, *Overdose Incidents in Federal Custody, 2018/2019*, December 2020.
[xxxvi] Canadian Pharmacists' Association, *Environmental Scan: Access to naloxone across Canada*, November 2017.
[xxxvii] BCCDC, *Detention-based services for people who use drugs*, 2021. In Alberta, the proposed *Compassionate Intervention Act* would give police and family the ability to force adults and youth into involuntary drug treatment and there have been ongoing calls for involuntary treatment of houseless people who use drugs.
[xxxviii] A. Vo et al, "Assessing HIV and overdose risks for people who use drugs exposed to compulsory drug abstinence programs (CDAP): A systematic review and meta-analysis," *Int J Drug Policy* 2021 Oct; 96:103401. doi: 10.1016/j.drugpo.2021.103401. Epub 2021 Aug 11. PMID: 34389218; PMCID: PMC9027650.
[xxxix] See, for example, R. Lines, J. Hannah and G. Girelli, "'Treatment in Liberty' Human Rights and Compulsory Detention for Drug Use," *Human Rights Law Review*, Volume 22, Issue 1, March 2022 and ILO, OHCHR, UNDP, UNESCO, United Nations Population Fund, UNHCR, UNICEF, UNODC, UN Women, WFP, WHO, and UNAIDS, 'Joint Statement: Compulsory drug detention and rehabilitation centres', March 2012.