

Canada's 43rd Federal Election: Questions and Responses

We circulated a questionnaire to each of the major federal parties — the Liberal Party of Canada, Conservative Party of Canada, New Democratic Party of Canada, Bloc Québécois and Green Party of Canada (*ordered by party standings at dissolution of the 42nd parliament*).

We wanted to better understand their positions on five critical issues related to HIV and human rights, and to equip you with need-to-know information before you head to the polls.



Restoring **funds** to the federal HIV strategy

Harm reduction services and evidence-based drug policy

Prison-based needle and syringe programs

Limiting the overcriminalization of **HIV**

Protecting the health and human rights of **sex workers**

Restoring funds to the federal HIV strategy

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, and to achieve the Sustainable Development Goal of ending AIDS globally by 2030. With more than 2400 new HIV diagnoses reported in 2017 (an increase of 17.1% since 2014), there is little hope of realizing such ambitious goals without adequately funding 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 HIV and communities particularly affected by HIV. In 2003, 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.

But as we outlined in our brief on "[The Missing Millions](#)," that committed funding increase was halted in 2007 and has flatlined at the level of roughly \$70 million a year since. As a result, over the past 13 years, more than \$100 million committed to the HIV response have simply never been delivered. Services and organizations have closed or discontinued programs despite the clear need that exists. The federal government has just released a new federal action plan on HIV and other sexually transmitted and blood-borne infections, but so far it does not include firm targets and there is no commitment to adequately fund that plan. 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.



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 new federal action plan on HIV?

LIBERAL PARTY OF CANADA:

Our government is deeply committed to addressing HIV and AIDS and supporting Canadians who live with it. We're investing \$87 million annually to tackle HIV and other sexually transmitted and blood borne illnesses. We launched Canada's new Action Plan on Sexually Transmitted and Blood-Borne Infections in July, which outlines how we'll tackle STBBIs over the next five years, with three big goals — reducing the rates of STBBIs in Canada, improving access to testing, treatment & support and fighting stigma and discrimination.

Under our Liberal Government, Canada was the first country in the world to support the principle that Undetectable = Untransmittable, a significant step for those living with HIV/AIDS. We are also providing \$30 million from the Harm Reduction Fund to prevent and control HIV and hepatitis C and recently announced Canada's largest-ever investment to tackle HIV among gay men. We will continue to work closely with community groups and those with lived experience.

CONSERVATIVE PARTY OF CANADA:

Awaiting response.

NEW DEMOCRATIC PARTY OF CANADA (NDP):

The Liberal government has cut funding to many frontline HIV/AIDS organizations and failed to increase access to testing while the number of new infections in Canada continues to rise. These cuts mean that more than 40 community-based HIV organizations across Canada have lost funding. In 2003, both Liberal and New Democrat MPs on the Health Committee agreed that the Federal Initiative to Address HIV/AIDS should be increased to \$100 million annually.

In addition, the Liberal failure to increase access to testing and treatment means that in Canada the number of new HIV infections is increasing, by 11% overall last year and even faster among Indigenous people and young gay men. Pre-exposure prophylaxis was approved in 2016 but is still not widely available even though costs have come down dramatically with the advent of generic PrEP.

This is why New Democrats will introduce low-cost steps to make home testing kits available, eliminate the need to see doctors to get tested, and take steps to make PrEP more readily available to high risk populations. New Democrats will adopt a strategy that will meet the Joint United Nations HIV/AIDS Programme goals. We will work with HIV organizations and restore badly needed funding, as per the recommendations in the House of Commons Standing Committee on Health. Canada's New Democrats will provide stable and predictable funding for these essential front-line groups, and adequately fund the new federal action plan on HIV.

We will also involve people living with HIV in all decisions across government related to the health, well-being, and dignity of people living with and affected by HIV, encourage people living with HIV to start and stay on treatment, and work towards dismantling stigma by adopting the Ontario Accord and endorsing the Undetectable = Untransmittable campaign.

BLOC QUÉBÉCOIS:

As you know, the Bloc Québécois has always called for increased federal funding to fight AIDS. We have been less involved in these debates in recent years, but trust that we will come back in force and keep up the pressure on the next government. As early as 2007, the Bloc put pressure on the Minister of Finance to respect the will of the House of Commons in this regard.

GREEN PARTY OF CANADA:

Green Members of Parliament (MPs) are committed to consulting and working with HIV organizations in Canada to examine the gaps that exist in Canada's HIV healthcare. Greens want to reorient Health Canada's mandate towards mental health and addictions, health promotion, and disease prevention and work to base health transfers to the provinces on demographics and real health care needs in each province. Green MPs are committed to adequately funding the new federal action plan on HIV.

Protecting public health and saving lives through harm reduction services and smarter, evidence-based drug policy

Canada continues to experience an unprecedented overdose crisis; more than 11 500 people have died of opioid overdose in the past three years. Supervised consumption services (SCS) are evidence-based health services that provide 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 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. As we have documented in a [recent report](#), this exceptional regime remains a significant barrier to the rapid implementation of SCS across the country.

More generally, criminalizing activities related to personal use, such as possession, hinders the scale-up of SCS. It puts people who use drugs at increased risk of harm, including by impeding their access to vital services and emergency care in the event of an overdose. 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. As the opioid crisis continues to devastate communities and families across the country, the federal government must take immediate steps to protect the health and human rights of our family and community members who use drugs.



Will your party adopt the following necessary steps to [address the overdose crisis](#)?

1. [Decriminalize activities related to personal 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. [Secure existing SCS and scale 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, implement various options for ensuring a [safe supply](#) of controlled substances to those who are otherwise at risk of potentially fatal overdose, and other serious injury, from a toxic illegal drug market.

LIBERAL PARTY OF CANADA:

The Opioid Crisis is the most significant public health issue in Canada's recent history and we're treating it as a medical issue, not a moral one. To date, we have responded by:

- investing over \$425 million in emergency response, much of it in treatment;
- restoring harm reduction and approving nearly 40 supervised consumption sites; and,
- fast-tracking regulatory action to cut red tape.

Rather than pursuing decriminalization – which leading experts including Portugal's former head of drug policy have said is not a silver bullet to solve this crisis – we are focusing on a safe supply, which will ensure quality control.

Budget 2019 pledges \$30 million this end, and we announced additional funds in July. We continue to use all tools at our disposal to save lives and turn the tide of this national public health crisis.

To help more people access the treatment services they need, a re-elected Liberal government will invest an additional \$700 million over the next four years to help provinces and territories expand community-based services, build more in-patient rehab beds, and scale up the most effective programs – such as extending hours for InSite and other safe consumption sites. We will be challenging provinces and territories to step up as well. We will also make drug treatment court the default option for first-time non-violent offenders charged exclusively with simple possession, to help drug users get quick access to treatment, and to prevent more serious crimes.

Supervised Consumption and Overdose Prevention Sites save lives. Our government has been clear on the value of Safe Consumption Sites and harm reduction in general, and we will continue to support these services. We have made the process to set up SCS and Overdose Prevention Sites easier by allowing cities and groups to apply directly to us to set them up. Before this, only provinces could apply. As you know, the Harper government fought Canada's first supervised consumption site, all the way to the Supreme Court. And Ontario's Ford government stopped opening new sites during a review, before slashing funding to several sites last fall and allowing remaining sites to operate under a "consumption and treatment services" model.

Our government has already acted to support these critical services where necessary and we will continue to consider specific cases where there is a need. However, we know from the data that the outcomes of these services--getting people into treatment and ultimately saving lives--are significantly better when provinces integrate SCSs and other harm reduction services as closely as possible into their health care systems. We will continue to work with stakeholders at every level to address these challenges.

To help expand these services, we will invest an additional \$700 million over the next 4 years to expand community-based treatment services, and scale up the most effective, evidence-based programs.

Since 2017, our Liberal government has committed over \$350 million in funding toward a comprehensive public health emergency response, including \$30.5 million from Budget 2019. These investments include:

- \$41.8 million to scale up key life-saving measures in underserved communities,
- \$33.6 million to mitigate the impacts of the illegal drug supply, and
- \$31.3 million to identify and address emerging drug threats, and the growing use of methamphetamines.

To support the smaller cities, rural communities and remote regions increasingly affected by the opioid crisis, we are expanding access to naloxone kits and increasing the availability of opioid overdose response training. We will also support projects that offer new or expanded access to harm reduction services, provide opioid agonist treatment in underserved communities and help to connect people to health and social services.

Our investments are making a meaningful difference. But we know they're not enough. What's driving the unprecedented tragedy of this crisis isn't substance use itself. It's a drug supply tainted with powerful, lethal drugs like fentanyl. We heard clearly that access to a safe drug supply is essential to save lives. While we have made it easier for doctors to dispense prescription opioids in the context of treatment, we know we must look at other, "lower-barrier" options. Our government is embracing harm reduction, using all tools at our disposal to save lives.

Going forward, a re-elected Liberal government will also invest an additional \$700 million over the next four years to expand community based services, and scale up the most effective, evidence based supports.

CONSERVATIVE PARTY OF CANADA:

Awaiting response.

NEW DEMOCRATIC PARTY OF CANADA (NDP):

New Democrats believe that there is much more we can do to save lives and support those struggling with opioids. In government, we will declare a public health emergency and commit to working with all levels of government, experts and Canadians to end the criminalization and stigma of drug addiction, so that people struggling with addiction can get the help they need without fear of arrest, while getting tough on the real criminals — those who traffic in and profit from illegal drugs.

We'll work with the provinces to support overdose prevention sites and expand access to treatment on demand for people struggling with addiction. We will also launch an investigation into the role drug companies may have played in fueling the opioid crisis, and seek meaningful financial compensation from them for the public costs of this crisis.

BLOC QUÉBÉCOIS:

The Bloc Québécois supports harm reduction policies. In particular, the Bloc Québécois supports supervised injection sites.

Quebec's approach to drug addiction has already proved to be working, and the Bloc Québécois is in favor of community groups being able to receive the support they need to do their work, on the ground, that greatly contributes to fighting addiction and reducing related harms.

We believe that the federal government must grant a class exemption to protect clients and supervised consumption services (SCS) staff, including volunteers, from possible prosecution for possession of drugs or activities that may constitute "trafficking," as soon as SCS meet minimum conditions.

In addition, as you mentioned, such an exemption would automatically protect SCS from prosecution, provided certain conditions are met, which would relieve SCS providers of considerable administrative burden, since they would no longer have to request exemptions from Health Canada on a case-by-case basis.

In addition, if the federal government wants to fund SCS, it would just have to transfer the money directly to Quebec without conditions.

GREEN PARTY OF CANADA:

Green MPs are committed to addressing the opioid crisis as a health-care issue, not a criminal issue. The first step is declaring a national health emergency. Greens would decriminalize possession, and ensure people have access to a screened supply and the medical support they need to combat their addictions. We would ensure these steps make it easier for SCS to open and operate.

Greens are committed to funding community SCS where needs are not currently being met and to decriminalize possession to ease current application processes.

Green MPs are committed to ensuring people have access to a screened drug supply and would increase funding to community-based organizations to test drugs and make Naloxone kits widely available to treat overdoses.

Protecting prisoner and public health by supporting effective prison-based needle and syringe programs

For more than 27 years, needle and syringe programs have been available in prison systems around the world 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 and the risk of HIV and hepatitis C infection, do not lead to increased drug use, reduce overdoses, facilitate referrals of users to drug treatment programs, and have not resulted in needles or syringes being used as weapons.

Acknowledging the health benefits of needle and syringe programs in prison, the Correctional Service Canada began implementing a prison needle exchange program (PNEP) in federal prisons in 2018. While this is a welcome development in principle, details of the PNEP reveal serious deficiencies that are not in keeping with public health principles or professionally accepted standards for such programs. Moreover, despite research indicating that occupational safety is better where these programs exist (because 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), some correctional officers continue to oppose the PNEP, and the program remains vulnerable to cancellation.

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Given the overwhelming evidence regarding the effectiveness of [prison-based needle and syringe programs](#), will your party [support their continued implementation in Canada's federal prisons](#), and commit to consulting with prisoners, researchers and community organizations with expertise in prison health to [fix fundamental problems with the current program](#) so that prisoners who need this health service can gain effective access?

LIBERAL PARTY OF CANADA:

Our government is committed to protecting the health and safety of all Canadians, including federal inmates, through access to harm reduction and evidence-based medical services.

Under the Prison Needle Exchange Program introduced last year by CSC, federal inmates who have undergone a risk assessment can access clean needles. The program's purpose is to limit the transmission of infectious diseases and make institutions safer for inmates and staff. Lower rates of infectious diseases among inmates also make Canadian communities safer when their sentences are over.

We support the continued roll-out of this program and other harm reduction measures in Canadian federal correctional facilities.

CONSERVATIVE PARTY OF CANADA:

Awaiting response.

NEW DEMOCRATIC PARTY OF CANADA (NDP):

New Democrats support harm reduction programs like needle and syringe programs in correctional facilities, and commit to conducting comprehensive consultations in fixing the current program.

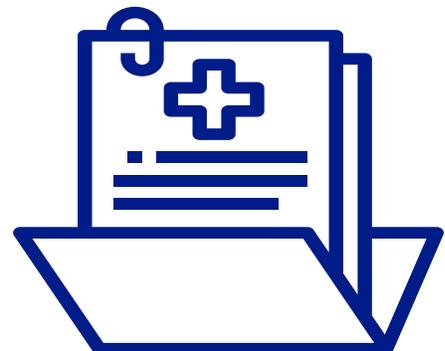
BLOC QUÉBÉCOIS:

The Bloc Québécois supports the idea of setting up needle exchange programs in Canada's prisons. Last spring, the Bloc Québécois told the relevant Ministers about its concerns regarding the "Correctional Service of Canada Prison Needle Exchange Program."

The Bloc Québécois does not oppose the implementation of harm reduction measures, but asks that the program have all the necessary resources to address the lack of prior consultation with the local union, people in prison, researchers and organizations regarding different forms of implementation, in particular: the syringe exchange program in cells and supervised spaces; increased accessibility of medical resources on a more complete schedule; and the possibility for detainees to analyze substances in their possession.

GREEN PARTY OF CANADA:

The Green Party is committed to evidence-based decision making and consultation with stakeholder communities. We would support consulting with prisoners, researchers and community organizations to fix the problems with the current PNEPs.



Limiting the “overcriminalization of HIV”

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 a lifetime 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 like a violent rapist. To date, approximately 200 people across Canada have been charged, including in cases when there was little or no risk of passing on the virus.

Numerous HIV organizations across Canada and internationally oppose criminal charges for non-disclosure in cases of otherwise consensual sex, except in limited circumstances (such as when people are aware of their status and maliciously infect others). Recognizing the need to limit the “overcriminalization of HIV” in Canada, in December 2018 the Attorney General of Canada directed federal Crown attorneys (who handle such criminal cases in the three territories) to stop prosecuting people whose HIV viral load is suppressed. She also directed prosecutors to “generally” not prosecute people who used a condom, took HIV treatment as prescribed, or just had oral sex, because she concluded that there is “likely no realistic possibility of transmission” in these circumstances. While this is a step in the right direction, law reform is necessary to end unjust prosecutions and remove HIV non-disclosure from the law of sexual assault, as recommended by the House of Commons Standing Committee of Justice and Human Rights in its [report](#) released in June 2019.



Does your party commit to implementing the recommendations of the Standing Committee to

- (a) [reform the Criminal Code in consultation with the HIV sector](#) (including removing HIV non-disclosure from the reach of sexual assault laws), and
- (b) engage with provincial counterparts to [develop improved, and consistent, prosecutorial policy across the country?](#)

LIBERAL PARTY OF CANADA:

As you may know, on December 1, 2016, our government announced that it would work with the provinces and territories, affected communities, and medical professionals to examine the criminal justice system’s response to non-disclosure of HIV status. Further to this commitment, the Department of Justice Canada released a report on December 1, 2017, entitled Criminal Justice System’s Response to Non-Disclosure of HIV, which is available [here](#).

You may be interested to know that Part B of the report was informed by the Public Health Agency of Canada’s systematic review of the scientific evidence of the sexual transmission of HIV. That review was published in the Canadian Medical Association Journal and can be found [here](#).

The Department’s report provides an overview of important considerations, including recent scientific evidence on sexual HIV transmission risk, the applicable criminal law, and stakeholder perspectives and recommendations. It summarizes that sexual activity with a person living with HIV who has maintained a viral load below 200 copies per millilitre of blood does not pose a realistic possibility of transmission. In addition, it draws some important conclusions that serve to limit the reach of the criminal law in this area.

These conclusions informed the development of a prosecutorial directive on HIV non-disclosure, which our government announced on December 1, 2018. The Directive came into force on December 8, 2018, and applies to HIV non-disclosure cases in the territories. Further information is available [here](#).

The Directive reflects the Supreme Court of Canada's 2012 Mabior decision, which clarified that persons living with HIV must disclose their HIV status prior to engaging in sexual activity that poses a "realistic possibility of transmission" of HIV, and that the most recent scientific evidence on the risks of sexual transmission of HIV should inform whether this legal test is met.

Furthermore, on June 17, 2019, the House of Commons Standing Committee on Justice and Human Rights presented a report entitled The Criminalization of HIV Non-Disclosure in Canada. The Committee's report is available [here](#).

We are reviewing the report and its recommendations with interest. Our government is committed to addressing the issue of over-criminalization of HIV non-disclosure, and the Committee's report will inform these efforts. We will work to end the stigmatization of HIV positive people under criminal law, and identify the best path to fight stigma around HIV, and support HIV-positive Canadians.

CONSERVATIVE PARTY OF CANADA:

Awaiting response.

NEW DEMOCRATIC PARTY OF CANADA (NDP):

New Democrats will take measures to reduce the criminalization and stigmatization of people living with HIV. Our laws should reflect the science: that sexual activity with a person living with HIV who is taking prescribed treatment and has maintained a suppressed viral load poses a negligible risk of transmission. Additionally, provisions in the Criminal Code may actually work to actively discourage sexually active adults from getting tested.

That's why we would reform the Criminal Code in consultation with the HIV sector to remove HIV non-disclosure from sexual assault laws, and engage with provincial counterparts to develop improved, and consistent, prosecutorial policy across the country. But to end criminalization, we must do more. We need to invest in education and prevention to help further reduce the remaining stigmas associated with HIV.

BLOC QUÉBÉCOIS:

We are eager to work with organizations whose primary purpose is to fight discrimination against people living with HIV in order to improve the framework of rules and procedures to counter discrimination. The Bloc Québécois agrees with the directive of the Attorney General of Canada released in December 2018 to stop prosecutions against people living with HIV whose viral load is suppressed. The Bloc Québécois believes, along with the 170 community organizations, that HIV non-disclosure prosecutions should proceed when the behavior in question was intentional and resulted in the actual transmission of the virus.

GREEN PARTY OF CANADA:

Yes. The Green Party of Canada agrees with the recommendations of the House of Commons Standing Committee of Justice and Human Rights and is committed to both of these measures.

Protecting the health and human rights of sex workers

In December 2013, the Supreme Court of Canada unanimously struck down several sections of Canada's Criminal Code dealing with prostitution as unconstitutional, because they violated the rights of sex workers by undermining their health and safety. Despite calls from sex worker groups and their allies for critical discussion and collaboration to propose legislation in keeping with the Court's decision, the federal government passed the *Protection of Communities and Exploited Persons Act* in 2014, re-introducing many of the very harms the Court had struck down as unconstitutional. For more than four years, sex workers and health and human rights advocates have repeatedly called on the federal government to repeal this law, yet there has been no legislative change and sex workers continue to face violations of their health and human rights.

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.



Will your party support the [repeal of all sex work-specific criminal laws](#), including the *Protection of Communities and Exploited Persons Act*, and [meet with sex workers to develop a holistic vision of law reform](#) that will improve their health and safety?

LIBERAL PARTY OF CANADA:

The Liberal Party remains committed to ensuring that all of our criminal laws are effective in meeting their objectives, promote public safety and security, and are consistent with our constitutionally protected rights. A re-elected Liberal government will continue to be committed to ensuring that our criminal justice system respects victims, and holds offenders to account.

CONSERVATIVE PARTY OF CANADA:

Awaiting response.

NEW DEMOCRATIC PARTY OF CANADA (NDP):

Too many sex workers live in fear of violence and discrimination, and are too often unwilling to report abuse, since many actions related to sex work are still illegal. These women and men deserve to be safe. The criminalization of sex work perpetuates conditions that lead to violence against sex workers.

Many experts have argued that current laws put in place by the previous Conservative government do not comply with the Bedford decision of the Supreme Court, and that they could be unconstitutional.

We need action to protect the safety, autonomy and other human rights of sex workers. An end to the criminalization of sex work is a necessary step to help protect the health and safety of all sex workers. We will also work with communities with lived experience to develop a vision of law reform that will improve their health and safety.

We also need a national discussion on sex work, women's safety and more effectively combating human trafficking. Rather than an approach that further marginalizes already vulnerable sex workers, we need to focus on building a comprehensive strategy to protect and support them.

BLOC QUÉBÉCOIS:

Before suppressing all Criminal Code–related provisions, the Bloc Québécois proposes to study the federal approach with all stakeholders, including sex workers and community organizations.

GREEN PARTY OF CANADA:

The Green Party would reform sex work laws in Canada with a clear focus on harm reduction, given the dangers that sex trade workers face. Green MPs would repeal C-36 (*the Protection of Communities and Exploited Persons Act*) and pass legislation that develops regulations for legal prostitution between consenting adults. We firmly believe that sex workers must be consulted on any policy development that affects them.



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The Legal Network thanks the Liberal Party of Canada, New Democratic Party of Canada, Bloc Québécois and Green Party of Canada for participating in our questionnaire. We will update this document if we receive a response from the Conservative Party of Canada. The translation of Bloc Québécois responses into English and Liberal Party of Canada responses into French was handled by the Legal Network. The Legal Network does not endorse any party.
