UNITED NATIONS
HUMAN RIGHTS
SPECIAL PROCEDURES
SPECIAL RAPPORTEURS, INDEPENDENT EXPERTS & WORKING GROUPS

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QUESTIONNAIRE

Contact Details

Please provide your contact details in case we need to contact you in connection with this questionnaire. Note that this is optional.

CANADA	☒ Member State ☐ Observer State ☐ Other (please specify)
Name of State Name of Survey Respondent	CANADA Jackie L. Awrey
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Background

Within the framework of Human Rights Council resolution 51/21, the Special Rapporteur on the highest attainable standard of physical and mental health has identified health equity as a strategic priority, ranging from the underlying determinants of health to the need to eliminate structural and systemic barriers in accessing health care services, goods, and facilities, particularly among persons living under vulnerable or marginalised circumstances. In compliance with her mandate and in line with these priorities, the Special Rapporteur on the right to health has decided to devote her next thematic report to the Human Rights Council, to be held in June 2024 to the theme of "Drug policies and responses: a right to health framework on harm reduction".

Objectives of the report

All persons are entitled to the enjoyment of the highest attainable standard of physical and mental health, which includes the underlying determinants of health and timely and appropriate health care. In the present report, the Special Rapporteur intends to explore the ways in which harm reduction intersects with the enjoyment of right to health and related human rights. Relying on the frameworks of the social and commercial,[1] determinants of health, the Special Rapporteur will examine the laws, policies, and practices that give rise to the need for harm reduction, as well as the laws, policies, and practices that take a harm reduction approach, aiming to address the negative health, social, and legal outcomes in various contexts.

Harm reduction has been primarily developed in the context of drug use, including needle and syringe programs, supervised injection and drug use facilities, opioid substitution therapy, overdose prevention, and community outreach programs, as well as access to legal assistance, social services, housing, and adequate food. However, in this report, the Special Rapporteur will take a broadened view of harm reduction to examine how this approach can intersect with the right to health and related human rights in other realms, including but not limited to sex work, abortion, and safe sex.

[1] See: www.who.int/news-room/fact-sheets/detail/commercial-determinants-of-health

The Special Rapporteur also intends consider harm reduction as key public health interventions for populations that are often stigmatised and discriminated against. She will explore how the laws, policies, and practices that give rise to the need for harm reduction can disproportionately impact certain people, such as those in situations of homelessness or poverty, persons who use drugs, sex workers, women, children, LGBTIQ+ persons, persons with disabilities, persons who are incarcerated or detained, migrants, Indigenous Peoples, Black persons, persons living with HIV or hepatitis, and persons living in rural areas. Taking an anti-coloniality and anti-racism approach, the Special Rapporteur will explore how in some contexts criminalisation and stigmatisation can serve as a legacy of colonialism and slavery.

Definitions

Most commonly, harm reduction refers to policies, programmes and practices that aim to minimise the negative health, social and legal impacts associated with drug use, drug policies and drug laws.[2] For the purposes of this report, the Special Rapporteur defines harm reduction in a broader sense, including the policies, programmes, and practices that aim to minimise the negative health, social, and legal impacts associated with various behaviours and related policies and laws, as exemplified above.

Questionnaire

The questionnaire can be downloaded below in English (original language), French and Spanish (unofficial translations). Responses can address some of the questions or all of them, as feasible or preferred.

- Download the questionnaire (WORD): English | Français | Español

How and where to submit inputs

Inputs may be sent by e-mail by 15 November 2023.

E-mail address	ohchr-srhealth@un.org
E-mail subject line	Contribution to HRC report - SR right to health
Word limit	500 words per question
File formats	Word and PDF
Accepted languages	English, French, Spanish

Treatment of inputs/comments received

Please note that all responses will be published on the official webpage of the mandate of the Special Rapporteur by default.

Key Questions

You can choose to answer all or some of the questions below. (500 words limit per question).

Inputs may be sent by e-mail **by 15 November 2023**.

[2] See also: https://undocs.org/Home/Mobile?FinalSymbol=A%2F65%2F255&Language=E&DeviceType=Desktop&LangRequested=False, para. 50.

1. While the concept of harm reduction has traditionally been applied to drug use, the Special Rapporteur is taking a broadened approach to harm reduction. What types of harm reduction policies, programmes, and practices are in place in your community, and what is their purpose or aim? How successful have they been at achieving that aim? Please provide data, as possible.

My name is Jackie, I am 60 years old, I live in Alberta, Canada. I am a former smoker, who smoked over 36 years. While I had tried many times over the years to quit smoking, all traditional approved quit methods failed me. Until I discovered flavoured nicotine vaping products in 2014. Also know as ENDS (electronic nicotine delivery systems) or ENNDS Electronic non-nicotine delivery systems) I have been 9 years cigarette-free, thanks to this innovative [tobacco harm reduction] ***THR*** product. I write to you, as a consumer advocate for ***THR*** products and fair regulations. I have no conflicts of interest to declare. The right to health and the right to tobacco harm reduction are two of the many human rights I advocate for. Right to Health

Success rate of THR products: ENDS; Snus: Oral Nicotine Pouches: What are Nicotine Pouches; success rates Nicotine E-Cigarettes More Effective than NRTs & The Swedish Experience: A Roadmap to a Smoke Free Society

The success rate of ENDS within Canada: *According to Stats Canada 2022, the rate of smokers, whether occasional or frequent users is down to all time lows of 0.3% for those aged 12-17 years.*

Even those in the age brackets of 18-34 years are declined to 10.7%; in age brackets 35-49 smoking rates are 14% down from 2020 figures. However in those 50+ years plus; smoking rates have remained more or less the same. **Canada: 2022 Smoking Rates by Age**

Many countries including the WHO, are using "youth use" as reasons to ban, restrict or deny THR products to adult smokers who benefit from switching to them. While it is illegal for youth to buy ENDS, they still obtain them in the same ways as they obtain other adult-only products like liquor or cannabis. ENDS products are diverting youth and young adults away from cigarettes, who may otherwise be inclined to start smoking. Youth who are inclined to be people who smoke, are experimenting with ENDS, instead. This has resulted in figures on youth smoking that have been at all time lows in Canada. However, those in the age brackets of 50 years old plus, the smoking rates have remained the more or less the same. This is in part due to various organizations and governments, implying overly restrictive regulations on nicotine vaping; or claiming they are just risky or more dangerous than continued smoking. While Health Canada itself acknowledged that nicotine vaping products can help people quit smoking, and exposes the user to far less toxins. Many politicians and provincial governments maintain the status quo of "Quit Our Way or Die."

> **There are an estimated 82 million adults across the globe who have used ENDS/Vaping to quit smoking, and use them to avoid relapses back to smoking. 82 Million Vapers Globally 2021**

2. How do legal frameworks affect the harm reduction policies, programmes, and practices (whether related to drug use or otherwise) that are available in your community, country, or region? Are there laws or policies that either facilitate or

serve as a barrier to adopting or implementing certain harm reduction policies, programmes, and practices? Aside from legal and regulatory barriers, are there other obstacles in place? Please provide specific examples.

The current attitude in terms of use of THR products in Canada, and within provinces is an approach which stigmatizes and dehumanizes THR users, ex-smokers who have quit smoking with THR products. **It creates barriers.** Some provinces in Canada have denied palatable flavoured vaping products which prevent relapse back to smoking. Canada has excise taxed THR products at high rates nationally, which gives cigarettes a cost-effective advantage. Those who use open tank vaping products are taxed the most, as it is taxed based on volume. Eco-friendly open tank options which 70% of adult vapers use, pay the price. Thereby making safer nicotine products; THR products more expensive to adapt to; and costly to maintain use of; compared to continued smoking.

Some provinces are more restrictive than others; in terms of access to products; restrictions on products – flavour bans; or denial of use. Flavour bans Other provinces have issues excise taxes Additional Taxes which are added to the federal taxes. How taxation of ENDS increases cigarette sales While on a national level at this time; Canada itself has not restricted all flavoured vape products. But the threat to ban flavours nationally still looms. Canada Will Prohibit Most Vape Flavours Again, claiming prevention of youth uptake and gateway to smoking theories, as reasons. Gateway theories Debunked

However, adults who use flavoured nicotine vape products to become and remain smoke-free, and those who still smoke, are the ***unintended consequences.*** These restrictive agendas; keep people smoking, cigarettes. Smoking kills 48K+ Canadians yearly. Restricting access to THR vaping harms for adults who smoke, it denies them safer nicotine products. It condemns them to a life of disease and death (continued smoking.) Legal nicotine vaping products to date have cost zero lives. Restrictive Vaping Policies; efforts to curb cigarette use will go up in smoke Youth Misinformation

A Case for Flavours In Tobacco Harm Reduction to Save Lives *[page 4:]*

11.6% of Canadians ages 12 and older, are daily; or occasional smokers. *Percentage of Canadains Smoking 2003 to 2022* Only a small percentage 7% can quit with NRTs. *NRTs Success*. Evidence based flavoured nicotine vaping products are twice as effective as NRTs for quit rates. *Cochrane Review* THR vaping is recognized in UK & NZ as quit smoking methods *Vaping to Quit Smoking UK* *NZ Facts on Vaping*

E-cigarettes are less toxic to the users and bystanders. *Replica Study: CoEHAR Research Shows Minimal to Zero Cancerogenic Effects of E-Cigarettes*

In recent months the WHO FCTC COP meetings have focused from tobacco control to nicotine control, and nicotine abstinence agendas. These agenda items affect 112 million people across the globe who use THR products to become and remain smoke-free. COP10 Agenda

3. **How does the jurisdiction in place in your region/country/state approach the criminalisation (or decriminalisation) of drug use? Please provide disaggregated data, including but not limited to gender, age, race/ethnicity, status of poverty, sexual orientation and the number of persons deprived of liberty for drug possession or consumption.**

Many Canadian health organizations and NGOs, who are *THR* denialists, THR Denial lobby the governments to deny use; restrict variety; or tax THR products. They claim they do so to reduce youth exposure and use. Despite the evidence, that THR products like nicotine vaping products are vastly less risky than continued smoking. Smoking kills 48K+ Canadians annually. These harmful fear-mongering narratives sway public opinion and keep adults smoking. Such restrictions on THR products, give cigarettes; the most deadly products an economic boost. It sways adults to continue to smoke, or relapse back to smoking.

Time to Quit Harmful Narratives Around Vaping

DE-Stigmatizing Vaping through Balanced Understanding ***Vaping to Quit Smoking***

Smokers Urged to Swap Cigarettes for Vapes

STUDY: Replica Study Slight or No Cytotoxic, Mutagenic and Genotoxic Effects Induced by E-Cigarette Aerosol

STUDY: Respiratory Health Effects of E-Cigarette Substitution

2023. Oct. Lives Saved - Integrating Harm Reduction into Tobacco Control

Electronic Cigarettes: an Overlooked Tool to Alleviate Disparities in Tobacco Use Disorder Among People with Mental Health and Substance Use Disorders - 2023.

American Lung Assoc. Seeks to Suppress Harm Reduction Information

Nicotine without smoke: tobacco harm reduction

Action on Smoking and Health UK: ASH Resources E-Cigarettes

4. **Beyond reducing the adverse health, social, and legal consequences of drug use, what other areas can benefit from harm reduction policies, programmes, and practices in furtherance of the right to health and related human rights? Examples may include, but are not limited to, the decriminalisation of sex work, the decriminalization of abortion, and safe sex programmes.**

5. **What type of harm reduction policies, programmes, and practices, as well as mental health and other support (e.g., housing, legal, social, educational, and economic), are available for people who use drugs in the community, institutions, or detention facilities? Please share examples of the impact of criminalisation, discrimination, stereotypes and stigma on the different groups of the population e.g., persons in situation of homelessness, migration, or poverty, sex workers, women, children, LGBTIQ+ persons, persons who are detained or incarcerated, persons with disabilities, Indigenous Peoples, Black persons, persons affected by HIV or hepatitis, and persons living in rural areas, etc.).**

As mentioned earlier, many health organizations and NGOs take on a prohibition, abstinence only approach. The "Quit our Way or Die," narratives. As does organizations like the WHO. The only acceptable quit smoking, or safe nicotine products in their views are Nicotine replacement therapies [NRTs] or cold turkey. **They create barriers** by lobbying against ENDS products and other THR products like oral nicotine products or Snus. NGOs are often connected to government people and use those connections to force through policies. They sway public opinions about the products. They spread misinformation and myths which are repeatedly debunked by peer-reviewed evidence. This misinformation and myths, in turn persuades politicians and the public into believing ENDS are just as bad, or worse than smoking. This fear-mongering approach has acted to persuade smokers to remain smoking. It condemns those who smoke to a life of disease and death. Vaping Myths & Facts

E-Cigarettes are not the Gateway into Smoking: Global Study

Most Young People do not vape; Very few vape regularly

New Studies are Debunking Misinformation About Youth Vaping

6. **Are there alternative measures to institutionalisation or detention? For example, are there outpatient or inpatient facilities available in your country for people using drugs? Please provide additional details (are they compulsory, voluntary; number available in urban and rural areas; entity in charge; type of support provided and type of staff working in these facilities/centres)?**

Many people who smoke are people with mental health challenges *MHC. Studies have shown that people with neuro-diversity issues, tend to be self medicating with nicotine, as a means to cope with their MHC. Nicotine Benefits MHC Nicotine helps with other ailments besides MHC. Nicotine Treatment for Cognitive Dysfunction But, nicotine replacement therapies have not helped everyone. Some people have adverse reactions to NRTs. Nicotine is delivered faster when it is inhaled. Prior to ENDS, cigarettes where the only means of inhaling nicotine, cigarettes are a dirty delivery system. ENDS offer those with MHC safer ways to inhale nicotine to achieve the self-medicating benefits of nicotine those patients need. E-Cigarettes An Overlooked Tool

By reducing the stigma attached to ENDS products and making the public aware of the health benefits of these tools, we not only see fewer smokers. We also, see those who use nicotine offered much safer products. We reduce smoking related diseases, and deaths. While most countries appear to want less smoking, placing barriers on THR products, only equates to more smoking. Destigmatizing Vaping It showcases that adults who smoke, are pawns to be sacrificed.

Many adults who smoke are also from poorer demographics; visual minorities; LGTBQ+ communities; the homeless; persons with disabilities; and migrates; people who work in service trades. People who are already stigmatize based on their socioeconomic standings or self identity. Therefore, when you restrict or over regulate; or make ENDS products less appealing through flavour bans, or tax them to be more expensive than cigarettes. You keep the very population who would benefit, in terms of better health and cost savings, you keep them smoking. You dehumanize them. Every person no matter their socioeconomic status or self

identity should have the right to health, and the right to safer products. Harm reduction is a basic human right. Tobacco harm reduction should be too. Impact of Flavour restrictions

E-Cigarette Bans Boost Traditional Cigarette Sales

In all scenarios, the concern for adults who smoke, often those experiencing socioeconomic or other disadvantages has been dismissed. This sub-populations benefits the most from safer nicotine alternatives. However, limited, narrow-minded policies ignore this group of people. The exaggerated over concern over youth use, youth experimentation, ignores that youth who vape; may otherwise start smoking. It does not change the fact that ENDS/Vaping is helping to decline the smoking rates. When dealing with safer alternatives over the dominant form of nicotine - cigarettes, the primary concern should be the unintended consequences, reduced adults switching to ENDS; diversion of youth from smoking, increase relapses, harmful user or vendor work arounds, and the unregulated illicit market.

7. **Please provide examples of harm reduction policies, programmes, and practices adopted or implemented with international cooperation or through foreign assistance in your country, as well as their impact on different groups within the population. What types of challenges can arise from reliance on foreign assistance? Please also provide examples focusing on the need for, and impact of, harm reduction policies, programmes, and practices on different groups of the population (e.g., persons in situation of homelessness, migration, or poverty, sex workers, women, children, LGBTIQ+ persons, persons who are detained or incarcerated, persons with disabilities, Indigenous Peoples, Black persons, persons affected by HIV or hepatitis, and persons living in rural areas, etc.).**

8. **Are there programmes of research and innovation related to harm reduction from a right to health perspective (e.g., needle and syringe programmes, supervised injection and drug use facilities, opioid substitution therapy, and others beyond the area of drug use), including outreach and education programmes, in your community, country, or region? Please provide good practices and examples.**