International treaties and conventions are not barriers to decriminalization in Canada

**Myth**

International/UN drug control conventions prevent Canadian jurisdictions from decriminalizing drug possession in full.

**Reality**

Canada has total liberty under UN drug control conventions to fully decriminalize possession, purchase, and cultivation of drugs for personal consumption. Full decriminalization is consistent with the common position of all UN agencies, Canada’s human rights obligations and its constitution.

Full Decriminalization is Consistent with Canada’s Human Rights Obligations

Drug control conventions don’t require Canada to impose any alternative to simply decriminalizing simple possession.

- 1961 & 1971 drug control conventions provide no explicit obligation for States to use criminal law or administrative sanctions
- States are required only to take measures they deem “necessary” (1961) & “appropriate” (1971)
- 1961, 1971 & 1988 conventions permit States to use “measures for the treatment, education, aftercare, rehabilitation, or social reintegration” as alternatives to conviction or punishment

Penal provisions related to personal drug possession are “subject to [the State’s] constitutional principles and the basic concepts of its legal system” and must respect “fundamental human rights” States can override any article of the conventions based on the right to health and security in their constitution.

- UN system’s common position of all UN agencies (2019) “to promote alternatives to conviction and punishment...including the decriminalization of drug possession for personal use” and “to call for changes in laws, policies and practices that threaten the health and human rights of people”
- UN human rights special rapporteurs
- International Guidelines on Human Rights and Drug Policy (2019), allowing “States [to] utilize the available flexibilities in the UN drug control conventions to decriminalise the possession, purchase or cultivation of controlled substances for personal consumption”
- The Canadian Charter of Rights and Freedoms, upholding life, liberty & security of the person; privacy; equality; freedom from cruel & unusual treatment or punishment

Mandating referrals to, or attendance at, certain services — including health assessments or treatment — or diverting people to participation in a drug treatment court or other program, is inconsistent with the above.

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1 – UN system common position on drug policy (January 18, 2019), Annex 1.
4 – Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, Article 3.4(d).
5 – Ibid, Articles 3.2 & 14.2. See also Convention on Psychotropic Substances of 1971, Article 21.