

Prison inmate takes Ottawa to court over access to clean needles

The federal government is being sued for not providing clean needles to inmates in prisons - something the former inmate and advocacy groups behind the suit argue not only violates offenders' right to health care but makes a public health problem worse.

Cities across Canada have had needle exchanges for years, the logic being that it's better for addicts to shoot up using clean equipment than to share syringes and pass along such blood-borne diseases as Hepatitis C and HIV/AIDS, which are then passed on to others.

Ottawa has argued that providing clean needles in federal prisons would make no sense given that injection drugs are already forbidden and that it would be better to focus efforts on enforcing that rule.

However, the lack of sterile needles violates inmates' Charter rights to life, liberty and security of the person, as well as rights to equal treatment, court documents filed in Toronto Tuesday morning allege. The suit is being filed against Public Safety Minister Vic Toews, Corrections Canada Commissioner Don Head, Correctional Services of Canada and Attorney General Rob Nicholson.

Prison inmates still have rights as Canadian citizens, the suit argues, and the right to health care includes a right to reduce the risk of injecting drugs - something they'd be able to do outside of prison. And this lawsuit wants a judge to order Ottawa to set up needle exchange programs in all federal prisons.

"Prisoners are entitled to health care just like we all are. ... It's discriminatory when we say we don't provide them with the tools to protect themselves," said Sandra Ka Hon Chu, a lawyer and policy analyst with the Canadian HIV/AIDS Legal Network. "It's a huge public health benefit when you have people coming out from prison with fewer risk behaviours and fewer infections."

In addition to the Canadian HIV/AIDS Legal Network, applicants include the Prisoners with HIV/AIDS Support Action Network, the Canadian Aboriginal AIDS Network and CATIE, a charitable organization for HIV-AIDS and Hep-C information.

The argument being made is strikingly similar to that used successfully by advocates of InSite, Vancouver's supervised injection site. In 2011, the Supreme Court found that denying clients the right to services at InSite limits their Charter rights and was "arbitrary," "disproportionate" and "not in accordance with the principles of fundamental justice."

While a supervised injection site gives addicts a safe space to shoot up, needle exchanges simply provide them with the equipment to do so. All inmates would get clean needles, subject to strict rules around keeping them in a spot guards can check up on. Users caught injecting would still be punished for breaking the law, just as users caught with drugs would still be in possession of contraband.

Advocates of the equipment say programs in countries around the world, from Switzerland to Moldova to Iran, have shown these needles don't increase drug use and don't create new addicts - in fact, they argue, it makes it more likely inmates seek addiction treatment.

Steven Simons, one of the appellants behind the legal action, contracted Hepatitis C "during his incarceration in a federal penitentiary as a result of another prisoner using his injection equipment and inadequate access to sterile equipment for his own use," the suit alleges. "It's really, really, really difficult to find someone who's willing to do a case like this," Ms. Chu said - to effectively become a poster boy for convicted criminals injecting drugs in prison. Mr. Simons, 42, was a peer health educator in prison.

It isn't easy to make a sympathetic case for convicts' rights, especially as the federal Conservatives have made a point of beefing up crime legislation to ensure that criminals pay for their misdeeds. But this issue goes beyond the people in prison, Ms. Chu argues.

People in prison are 10 times more likely to have HIV/AIDS than the general Canadian population, and as much as 30 times more likely to have Hepatitis C. Despite a "zero tolerance"

policy towards contraband, they're also more likely to do drugs - but it's easier to get drugs behind bars than it is to get clean needles.

This makes prisons an effective breeding ground for HIV and Hepatitis C. And when infected prisoners leave prison and return to Canadian society and their family and friends, they become vectors of those diseases regardless how they got infected.

It's been 20 years since Switzerland opened the world's first prison needle exchange. Now there are 11 countries with such programs, including Armenia, Romania, Iran and, most recently, Scotland.

Despite concerns these needles would be used as weapons, Ms. Chu said, that hasn't been the case. If anything, prison staff are safer because they're less likely to get pricked by a dirty, shared needle than an inmate has hidden somewhere in his or her cell. This way, Ms. Chu said, the needle's "out in the open. It's not hidden."

This suit has been years in the making. But Ms. Chu said it's especially crucial now given the increased numbers of inmates in federal penitentiaries as a result of the federal Conservatives' tough-on-crime legislation.

"It's never been more pressing," Ms. Chu said.

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