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Criminality and Inequity under Canada's Legalization of Cannabis: A study of Vancouver's Downtown Eastside

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Introduction

The origin of this essay reminds us of the importance of interdisciplinary collaboration to the development and assessment of public policy. It also demonstrates the serendipitous beginnings of many interesting inquiries. This collaboration was thus fortuitous: authors Lake and Young met during Lake's doctoral dissertation defence.[1] Young was on the examining committee. Lake presented a series of epidemiological studies (three of which are summarized below) involving the use of cannabis[2] for therapeutic and harm reduction purposes among marginalized people who use drugs (PWUD) in Vancouver. Young's lines of questioning involving the legal implications of Lake's findings spurred the idea to formally outline the potential unintended health and legal consequences of inequitable access to legal cannabis among marginalized PWUD during an intensifying drug poisoning and overdose crisis. This chapter was born.

The topic of harm reduction often occasions collaboration across health and law disciplines. It also underlines the importance of input from populations directly affected by policy debates.[3] Indeed, development of harm reduction initiatives across Canada owes much to on-the-ground experience and activism,[4] critically supported by collaborations across health research and legal

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[1] School of Population and Public Health, University of British Columbia, November 2020.
[2] We use the scientific term "cannabis" throughout, but the colloquial term "marijuana" is also used to refer to cannabis in certain quotes and source material.
[3] See, for example, Larry Campbell, Neil Boyd & Lori Culbert, *Vancouver's Downtown Eastside And The Fight For Its Future* (Vancouver: Greystone Books, 2009); Leslie Robertson and Dara Culhane, eds *In Plain Sight: Reflections on Life in the Downtown Eastside* (Vancouver: Talenbooks, 2005); Travis Lupick, "The Vancouver Area Network of Drug Users looks back on 20 years fighting for human rights" (4 September 2017), *The Georgia Straight,* online: <https://www.straight.com/news/959286/vancouver-area-network-drug-users-looks-back-20-years-fighting-human-rights>.
[4] See, for example, Travis Lupick, *Fighting for Space: How a Group of Drug Users Transformed One City's Struggle with Addiction* (Vancouver: Arsenal Pulp Press, 2018) [Lupick, *Fighting for Space*]. Lupick provides a detailed account of how people who use drugs and community activists in Vancouver's Downtown Eastside successfully lobbied the city to implement and expand harm reduction services.

scholarship.[5] In this chapter, we detail an emerging concern regarding unequal access to now-legal cannabis for communities who have historically faced unrelenting criminalization and marginalization related to drug use.[6] We illustrate our argument with Lake's findings from recent epidemiological analyses involving PWUD in Vancouver. The affected population we chart here consists of PWUD consuming cannabis to support harm reduction and addiction treatment programmes. The picture that emerges from Lake's studies has deep implications for policy and legal questions around decriminalization and legalization of previously illicit drugs, in particular cannabis. The data are deeply suggestive of what law and society scholars already know well—intended consequences of legal reform are often undercut by the actual impact of that reform in the real world—in particular, for groups already profoundly marginalized in society. An additional observation not unique to us is also reinforced: the dominate discourse of criminalization…can overtake more progressive objectives."[7] In the words of John Braithwaite, the "myth of deregulation" shadows legalization schemes: liberalization of a market often leads to enhancement of state power over (some) individuals. [8] Pre-existing disadvantage accumulates and deepens in the face of so-called liberalizing legal reform. In this case, Individuals most in need of escape from the heavy boot of the state are further, through the legalization regime for cannabis, embedded in a net of illegal access to cannabis. Thus, Canada's legalization regime,

[5] Alana Klein. "Harm reduction works: Evidence and inclusion in drug policy and advocacy" (2020) 28 Health Care Anal 404.
[6] See, for example, Centre for Addiction and Mental Health, *Cannabis Policy Framework* (Toronto: CAMH, 2014).
[7] Alana Klein, "What Jurisdiction of Harm Reduction: Cannabis Policy Reform under Canadian Federalism," [Klein, "Jurisdiction"] in Andrew Potter and Daniel Weinstock, eds, *High Time*: *The Legalization and Regulation of 'Cannabis in Canada* (Montreal & Kingston: McGill-Queen's University Press, 2019) [Potter and Weinstock, *High Time*].
[8] John Braithwaite, *Regulatory Capitalism: How it Works, Ideas for Making it Work Better* (Cheltenham: Edward Elgar, 2008) at 8, as cited in Ely Aaronson and Gil Rothschild-Elyassi, "The symbiotic tensions of the regulatory – carceral state: The case of cannabis legalization," (2021) Regulation and Governance, online: <https://onlinelibrary.wiley.com/doi/pdf/10.1111/rego.12394> [Aaronson and Rothschild-Elyassi, "Symbiotic tensions"].

ushered in only a few years ago, appears to track "simultaneously along both regulatory and carceral registers."[9] This "bifurcation of governance structures"[10] flows alongside those social, colonial, and economic processes that already pattern structural racism, deep inequalities, and marginalization.[11] Not coincidentally, populations shortchanged by the cannabis legalization rules are those already disproportionately targeted by past penal regimes of drug policy.[12] These individuals, the research suggests, are excluded from the legal cannabis market and caught in a "governance landscape" that "channels them to the residual-yet-expansive domain of the carceral state."[13] The result is one of accumulated disadvantage for PWUD and pragmatic cannabis policy concerns discriminatorily delivered and denied.[14]

The field work that grounds this analysis reveals that cannabis is a common tool for PWUD to address a range of harm reduction and therapeutic needs. Yet, with early observations indicating a remarkably low uptake of legal cannabis purchase and consumption by this population, the new legalization regime threatens enhanced criminalization of cannabis use for this population. Thus the research gestures towards "the hierarchies of a law that is expected to be equal," revealing the contingency of how that law plays across existing institutions and socio-economic inequalities.[15] In part, this is a message about the intransigence of structural inequalities in the

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[9] Aaronson and Rothschild-Elyassi, "Symbiotic tensions", *supra* note 8, at 3.
[10] Aaronson and Rothschild-Elyassi, "Symbiotic tensions", *ibid*, at 4.
[11] Aaronson and Rothschild-Elyassi, "Symbiotic tensions", *ibid*, at 5.
[12] Aaronson and Rothschild-Elyassi, "Symbiotic tensions", *ibid*, at 4.
[13] Aaronson and Rothschild-Elyassi, "Symbiotic tensions", *ibid*, at 6.
[14] Carroll Seron, "Commentary: The Two Faces of Law and Inequality: From Critique to the Promise of Situated, Pragmatic Policy" (2016), 50:1 *Law & Society Review* 9-33, 10. Of course, there are other significant critiques of the new cannabis laws than the ones we discuss. For example, concern has been expressed about the "financialization" of cannabis access: that the model is one that favours a non-diverse group of elite market entrepreneurs. John Akpata, "Prometheus re-bound," CCPA, March 1, 2018, online: <https://www.policyalternatives.ca/publications/monitor/prometheus-re-bound>.
[15] Carroll Seron and Susan S. Silbey (2004) "Profession, Science and Culture: An Emergent Canon of Law and Society Research," in Austin Serat, ed, *The Blackwell Companion to Law & Society* (Malden, MA: Blackwell Publishing, 2004) 51, as quoted in Seron, *ibid*, 11.

face of legal reform that purports to lighten the legal load. But it is also yet another illustration of how law in action can have real world consequences that belie that the purpose of the law, at least as the government articulates it. And, these legalization reforms share with older forms of drug policy the reinforcement of structural inequalities.[16]

Canada's Step into the Unknown: The Legalization of Cannabis

Canada's history of cannabis regulation is peculiar, illustrating, at times, a clear lack of rationality in legislation interventions. Canada was one of the first countries in the world to criminalize cannabis, in 1923, but the concerns such criminalization was in response to are not clear.[17] It appears to have been a "last-minute inclusion" in the 1923 *Act to Prohibit the Improper Use of Opium and other Drugs.*[18] For many years, up until the early 1960s, cannabis use, and its consequent criminalization, were not much of an issue in this country. Thus one writer has referred to this early legislation as "a solution wandering around in search of a problem."[19] By the late 1960s, however, cannabis-related arrests took off; cannabis use became more mainstream and the prohibition against cannabis came increasingly under criticism. Cannabis is now one of the most widely used psychoactive substances in Canada.[20] Indeed, pre-

[16] Aaronson and Rothschild-Elyassi, "Symbiotic tensions", *supra* note 8, at 7,

[17] Simple possession, production and supply were criminalized. Akwasi Owusu-Bempah, Alex Luscombe, and Brandon M. Finlay, "Unequal Justice: Race and Cannabis Arrests in the Post-Legal Landscape," *High Time*, *supra* note 7, 114, at 112.

[18] SOC 1923 c.22.

[19] Andrew Potter, "In Praise of Political Opportunism, or, How to Change a Policy in Only Fifty Years," *High Time*, *supra* note 7 at 9 [Potter, "In Praise of Political Opportunism"].

[20] Health Canada. Canadian Tobacco, Alcohol and Drugs (CTADS) Survey: 2017 detailed tables. 2018, online: https://www.canada.ca/en/health-canada/services/canadian-tobacco-alcohol-drugs-survey/2017-summary/2017-detailed-tables.html#t16

decriminalization, Canada had one of the highest rates of cannabis consumption in the world.[21] As part of this emerging historical context, various federal governments since the 1970s have mooted changes to cannabis legislation.[22] Cannabis reform over the second half of the twentieth century has been called a "saga of promise, hesitation and retreat."[23]

Options for policy reform sit along a continuum. At one end lies increased criminalization: a ramp up of prohibitions, penalties, and enforcement. At the other end is full legalization with no prohibitions at all, and full toleration of whatever use individual citizens choose. Under this second option, there would be simply no, or few, legal tools focused on cannabis. Some refer to this end of the spectrum as commercialization—that is, a free market in cannabis.[24] Other forms of legalization hover somewhere between the poles, demanding some form of non-criminal regulation of use, production, sales. For example, as the first country to legalize cannabis use for non-medical purposes in 2013, Uruguay takes a "middle-ground" approach in which adults who wish to use cannabis can select one of the following access options: purchase a limited quantity (40 g per month or 10 g per week) of government-approved cannabis from a participating pharmacy, receive cannabis as a member of a cannabis social club, or grow a limited amount of

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[21] Approximately 15% of the Canadian population aged 15-64 used cannabis in 2010; the third-highest annual prevalence based on countries' most recent estimates, as reported by the United Nations Office on Drugs and Crime in 2017. Data are online: <https://www.unodc.org/wdr2017/en/maps-and-graphs.html>.

[22] Prime Minister Pierre Elliott Trudeau, the current Prime Minister's father, had expressed support in 1977 for relaxation of laws against cannabis use. The Throne speech from his government had contained a call for decriminalization to the extent of removing jail sentences as response for individual possession. Potter, "In Praise of Political Opportunism", *supra* note 19, at 14. The lone outlier here is Stephen Harper's federal government, 2006 to 2015, which pointedly adopted an American style "war on drugs". Rachel Browne & Arthur White, "Harper Is Waging a War on Drugs in Canada—And Scientists Say He's Clueless, Vice News, December 18, 2015, online: https://www.vice.com/en/article/43mv99/harper-is-waging-a-war-on-drugs-in-canada-and-scientists-say-hes-clueless.

[23] Giffen, Endicott and Lambert, *Panic and Indifference*, at 571, quoted in Jean-François Crepault "Cannabis legalization in Canada: Reflections on public health and the governance of legal psychoactive substances" (2018) 6:220 Front Public Health at 82 [Crepault].

[24] Crepault, *ibid,* at 90.

cannabis (up to six plants) at home.[25] Decriminalization as a policy option typically involves the removal of criminal prohibitions relating to cannabis, and installing, instead, a regulatory regime with civil penalties for failure to observe the rules. Thus, most typically, campaigns of decriminalization retain some legal prohibition of possession and use, but infringements are met with civil not criminal penalties, or with diversion from the criminal justice system.[26] For example, in an effort to curb rising drug-related harms in the population, Portugal decriminalized simple possession of all drugs including cannabis in 2001, replacing criminal sanctions with administrative offences (e.g., fines, community service) and a drug "dissuasion" program that refers a consumer to drug treatment services depending on their level of "risk", as assessed by healthcare and social workers.[27] Each type of legal response allows a wide range of options within its model, depending on the specific policy goals and political attitudes of the government. And, a specific response might combine non-criminal regulation with criminal sanctions for some aspects of behaviour that fail to conform to the regulatory scheme. That is, there are many points along this policy continuum.[28] Harm reduction approaches sneak in somewhere between criminalization and legalization: they employ methods geared to reducing harm and emphasize pragmatic responses over dogmatic condemnation.[29]

While, as we have noted, the option of decriminalization of cannabis was much discussed by various federal governments through out the last decades of the twentieth century, the dam broke

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[25] Magdalena Cerdá and Beau Kilmer, "Uruguay's middle-ground approach to cannabis legalization" (2017) 42 Int J Drug Policy 118 at 118.

[26] Crepault, *supra* note 23, at 86.

[27] Transform Drug Policy Foundation. "Drug decriminalisation in Portugal: Setting the record straight", online: < https://transformdrugs.org/assets/files/PDFs/Drug-decriminalisation-in-Portugal-setting-the-record-straight.pdf>

[28] Crepault, *supra* note 23, at 86.

[29] Alana Klein "Criminal Law and the Counter-Hegemonic Potential of Harm Reduction" (2015), 38 Dalhousie LJ 447-471. See this article for a discussion of the contested significance of the notion of harm reduction.

with key judicial decisions in the early twenty-first century. Appeal court rulings found aspects of the criminalization of cannabis to be contrary to *the Canadian Charter of Rights and Freedoms*.[30] In *R v Parker*,[31] a key case at the turn of the century, the Ontario Court of Appeal upheld a constitutional challenge to several pieces of federal legislation that limited the applicant, Terrance Parker, in his access to use of cannabis for epilepsy treatment. Charges against Parker for growing and using cannabis were stayed and cannabis laws were declared invalid as they failed to provide exemptions permitting medicinal use. The Court stated that, 'forcing Parker to choose between his health and imprisonment violates his right to liberty and security of the person.'[32] The federal government, as a consequence, inserted the *Marihuana Medical Access Regulations*[33] into the *Controlled Drug and Substances Act*,[34] allowing individuals who met stipulated medical criteria to lawful consume and possess marijuana. [35]

The boundaries of this revised regime were hard to enforce in the face of additional court challenges.[36] As well, workarounds by individual consumers exploiting medical cannabis exemptions rendered the whole cannabis regulatory system "something of a farce."[37] As a result, "medical marijuana turned out to be a legal Trojan horse that put into question the entire cannabis regulatory regime."[38]

[30] *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution* Act, 1982, being Schedule B to the *Canada* Act 1982 (UK), 1982, c 11.
[31] *R v Parker* (2000) CanLII 5762 (ON CA)) [*Parker*].
[32] *Parker*, *ibid*, at para 10.
[33] SOR/2001-227. After a successful constitutional challenge in *R v Allard* 2016 FC 236 [*Allard*], these regulations were replaced by the *Access to Cannabis for Medical Purposes Regulations* (SOR/2016-230) in August 2016.
[34] S.C. 1996, c. 19.
[35] Although, notably, the Supreme Court of Canada upheld the criminalization of recreational use of cannabis as constitutional: *R v Malmo-Levine*; *R v Caine* [2003] 3 SCR 571, 2003 SCC 74; *R v Clay* 2003 SCC 75.
[36] See, for example, *R v Smith* 2015 SCC 34; *Allard*, *supra* note 33.
[37] Jacob Stilman, "Is Legalization a War on Drugs by the Back Door?," *High Time*, *supra* note 7, 99 at 100 [Stilman, "Back Door"].
[38] Potter, "In Praise of Political Opportunism", *supra* note 19, at 16.

On October 17, 2018, Canada became the second country in the world to legalize sale, possession, and non-medical use of cannabis by adults, following legalization of cannabis for medical purposes two decades earlier.[39] A year later, federal *legislation* was amended to allow for the legal production of edible cannabis, cannabis extracts, and cannabis topicals.[40] The resulting scheme is complex, implicating both federal law and regulations from other levels of government in the Canada, more specifically provincial and municipal governments. Legalization raises a host of issues: where cannabis users will be permitted to consume the drug, how public safety concerns are addressed, cross-border issues with other countries such as the US, compliance with international law, and appropriate evisceration of the illegal market, a market that was thriving at the point at which the legislation was introduced.[41] The process surrounding the new law is, as well, sharply criticized for its failure to include meaning full consultation with Indigenous leadership.

Commentators were clear well before the legislation was passed and came into force that the matter was far from simple. In one scholar's words, it was to be "a hugely complex and risky venture." [42] With no clear precedents in other jurisdictions around the world for the scheme

[39] Malcolm G. Bird, "Legalized Cannabis in Canada: Federalism, Policy, and Politics," in *High Times, supra* note 7 at 22, at 23 [Bird, "Legalized Cannabis"].
[40] The legislation is due for a three-year review in Autumn 2021. For an overview of outstanding issues, some of which are discussed in this chapter, see Ian Austen, "2 Years After Legalizing Cannabis, Has Canada Kept Its Promises?", The New York Times, January 23, 2021, updated April 18, 2021, online: https://www.nytimes.com/2021/01/23/world/canada/marijuana-legalization-promises-made.html.
[41] Andrew Potter and Daniel Weinstock, "Introduction", *High Time*, at 3 [Potter and Weinstock, "Introduction"], in Potter and Weinstock, *High Time*, *supra* note 7.
[42] Potter and Weinstock, "Introduction", *ibid*, at 5.

Canada adopted, it was a venture into "the unknown,"[43] a "stab in the dark".[44] One scholar describes it as "a novel and radical policy shift;"[45] another, as a "seismic shift."[46]

The federal government chose a particular reform path. Criminal prohibitions against the illegal market connected to cannabis use, profession, sale, and so on, were not lifted. Instead a second, parallel track of a legal marketplace was devised.[47] The resulting statute, the *Cannabis Act*,[48] combines a regulatory scheme enforced by rigorous penalties to ensure compliance. The framework references three governmental purposes: keeping cannabis from youth and cannabis profits from criminals, as well as protecting public health and safety by permitting adult access to legal cannabis.[49] Adults 18 years and older are legally able to possess and share up to 30 grams of legal cannabis, buy cannabis from a provincially-licensed retailer,[50] grow up to four cannabis plants for personal use, and make cannabis products (with some conditions) at home.[51] So, in sum, the new legislation permits a variety of forms of legal consumption, production, and sale of cannabis for both recreational and medicinal purposes.

On the other side, the legislation maintains a strict regime of sanctions and penalties for those operating outside of the legal framework. The legislation does take away mandatory minimum sentences for cannabis offices, but, in other aspects, the legislation has intensified the state's

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[43] Potter and Weinstock, "Introduction", *High Time*, *supra* note 41 at 3.
[44] Potter and Weinstock, "Introduction", *ibid,* at 6.
[45] Crepault, *supra* note 23, at 82.
[46] Stilman, "Back Door", *supra* note 37, at 100.
[47] Potter and Weinstock, "Introduction", *High Time*, *supra* note 41 at 4.
[48] *Cannabis Act*, S.C. 2018. C. 16. Assented to 2018-06-21. [*Cannabis Act*]
[49] For the government summary of these purposes and the legislative provisions, see the government website on Cannabis Legalization and Regulation, online: https://www.justice.gc.ca/eng/cj-jp/cannabis/.
[50] In some provinces and territories cannabis can be bought online from federally-licensed producers.
[51] For more precise details, see online: https://www.justice.gc.ca/eng/cj-jp/cannabis/.

response to illicit cannabis use. Sanctions start at warnings and tickets, but they quickly ramp up to criminal prosecution and imprisonment. For instance, possession over the limit can result in up to almost 5 years in jail,[52] illegal distribution or sale to up to 14 years in prison.[53] These are significant, life-altering penalties. In such a manner is legalization paired with intensified carceral oversight.[54] Legalization and its goals legitimate more punitive responses to those who pursue cannabis through other means. The "sunny ways"[55] of cannabis legalization mask less benign treatment of those operating outside the legal regime.

Cannabis Legalization in a Federal State

Key to the maze of regulations achieving both legalization and enhanced criminalization is appreciation of how jurisdiction to regulate cannabis and its sale is shared across levels of government.[56] The federal government has jurisdiction over the legal or illegal status of the substance. They can oversee supply and production of the legal product, its packaging, quality control, and testing. The criminal provisions in the new legislation are the domain of the federal government. Provincial jurisdiction extends to distribution, consumer retail, and workplace or public consumption. Federal and provincial governments share (or, in the case of home cultivation, dispute) responsibility with respect to personal production, taxation, public safety, and public health.[57]

[52] See, s. 8, *Cannabis Act*, *supra* note 48.
[53] See, s. 10, *Cannabis Act*, *supra* note 48.
[54] Klein, "Jurisdiction", *supra* note 7 at 136.
[55] Parli, "Sunny Ways", online::< https://parli.ca/sunny-ways/>.
[56] Bird, "Legalized Cannabis", *supra* note 39 at 23.
[57] Jared Wesley, "Cannabis Legalization and Colonial Legacies," *High Time supra* note 7, 35, at 37 [Wesley, "Colonial Legacies"].

Provinces and territories are responsible for determining how cannabis is distributed and sold within their jurisdictions, what products are offered, what packaging is allowed, what potency levels are set, and how much the product will cost.[58] Thus, provinces control the retail framework for the sale of recreational cannabis. Provinces can also add additional regulations that lower possession limits, increase the age at which cannabis use becomes legal, restrict public consumption of cannabis, and further regulate personal cultivation of cannabis. Indeed, in the words of some experts, the "nuts and bolts" of the legal market have been assigned to the provincial governments to implement.[59] The predictable result is two-fold: variety across provincial regimes and internecine squabbling between provinces and the federal governments over details of the scheme. However, largely, provincial governments have chosen to slide legal cannabis into to existing regulatory frameworks for tobacco and alcohol, although often with more significant penalties.[60] Again, as with the federal legislation, provincial regulatory frames emphasize prohibition of actions outside the legal market. One commentator notes: "Prohibition and enforcement appear to be so central to the emerging regime that provincial and municipal authorities have secured 75 per cent of cannabis tax revenues to cover the high costs of legalization resulting from the increased burden on policing."[61]

In BC, cannabis retailing responsibility lies with the Liquor and Cannabis Regulation Branch (LCBR). The LCBR is the sole distributor of non-medical cannabis for the province. Retailers are required to receive a provincial cannabis retail license pursuant to the *Cannabis Control and*

[58] Government of Canada "Cannabis in the provinces and territories", online: <https://www.canada.ca/en/health-canada/services/drugs-medication/cannabis/laws-regulations/provinces-territories.html>.
[59] Potter and Weinstock, "Introduction", *High Time, supra* note 41 at 4.
[60] Wesley, "Colonial Legacies", *supra* note 57 at 44.
[61] Klein, "Jurisdiction", *supra* note 7 at 136.

Licensing Act.[62] The City of Vancouver regulates where cannabis retailers may open shop. [63] Cannabis retailers are required to apply for and receive a municipal development permit and business license.[64]

We have already mentioned the failure of Canadian governments to consult with Indigenous communities on cannabis legal reform: one prominent legal scholar has stated that, "they just didn't deal with how they saw things developing with Indigenous involvement."[65] This is problematic for two reasons in ways relevant to the narrower scope of this paper. First, as already mentioned, Indigenous individuals disproportionately bear the burdens of criminalization: in Vancouver, approximately 70% of the city's Indigenous residents live in the Downtown Eastside (DTES) neighbourhood (detailed below), making up about 30-40% of the DTES population—[66] above representation of Indigenous residents in Vancouver's general population (2.2%).[67] Second, the cannabis industry, estimated by some to be worth upwards of $5 billion in 2021,[68] could provide much needed revenue and employment for Indigenous

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[62] *Cannabis Control and Licensing Act,* [SBC 2018] CHAPTER 29 <https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/18029>. See also, *Cannabis Distribution Act* [SBC 2018] CHAPTER 28, <https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/18028>.

[63] City of Vancouver "Approved Locations". online: <https://vancouver.ca/doing-business/cannabis-retail-dealer-business-licence.aspx>

[64] In 2015 Vancouver adopted a bylaw that would allow the regulated sale of medical cannabis, where retailers paid a $33,000 licensing fee that would be used to help the city cover the cost of regulating and policing the local, federally unsanctioned industry.

[65] Dwight Newman, constitutional scholar, cited in Canadian Press, BlueLine, April 26, 2021, "Our Own Grey Areas': First Nations Navigate Hazy Cannabis Retail Jurisdiction" [Newman, "Our Own"]. online: <https://www.blueline.ca/our-own-grey-areas-first-nations-navigate-hazy-cannabis-retail-jurisdictions/>.

[66] Estimates vary. See, for example, Cecilia Benoit, Dena Carroll & Munazi Chaudhry "In search of a healing place: Aboriginal women in Vancouver's Downtown Eastside (2003) 56 Soc Sci Med 821 at 824. See also Reporting in Indigenous Communities "Communities", online: http://indigenousreporting.com/2016/communities/

[67] Statistics Canada "Aboriginal Population Profile, 2016 Census", online: <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/abpopprof/details/page.cfm?Lang=E&Geo1=CSD&Code1=5915022&Data=Count&SearchText=Vancouver&SearchType=Begins&B1=Aboriginal%20peoples&C1=All&SEX_ID=1&AGE_ID=1&RESGEO_ID=1>

[68] Jesse Donovan, "Canada must respect Indigenous cannabis laws," August 1, 2019, Policy Options [Donovan], online : https://policyoptions.irpp.org/magazines/august-2019/canada-must-respect-indigenous-cannabis-laws/

communities.[69] First Nations cannabis tax and regulatory powers remain open subjects of advocacy.[70] In sum, movement towards establishment of Canada as the multi-juridical state urged by the Truth and Reconciliation Commission,[71] requires respecting and creating legal space for Indigenous communities' own law-making authority over cannabis, as well as recognizing nation-to-nation participation in consultations around settler government cannabis reform that impacts Indigenous peoples.[72] The current federal structure of Canadian settler government fails to contemplate this.

Case study: Cannabis use among marginalized PWUD in Vancouver

We turn now to the field research that Lake undertook into cannabis use for harm reduction and therapeutic purposes among PWUD in Vancouver, B.C. [73] As the following section outlines, the observations that motivate this chapter are incidental to the motivating focus of the research. But, like *obiter dicta* in judicial decisions, these findings allow another, additional conversation of interest: unintended health and social disparities perpetuated by the new cannabis legislation on marginalized communities

Study setting

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[69] *Ibid*

[70] For discussion and history of this, see First Nations Tax Commission, First Nations Cannabis Jurisdiction Update: June 2018, online: https://fntc.ca/first-nation-cannabis-jurisdiction/; Our Own, *supra* note 65; CBC News, Erik White, February 26, 2021, "3 years ago you could only buy legal weed on First Nations, now some say the industry needs a 'red market'" [Some Say], online: https://www.cbc.ca/news/canada/sudbury/ontario-first-nations-cannabis-1.5927412

[71] Recommendation #42, Truth and Reconciliation Commission of Canada: Calls to Action, online: http://trc.ca/assets/pdf/Calls_to_Action_English2.pdf.

[72] The Pheasant Rump Nakota Nation in Saskatchewan has passed its own *Traditional Medicinal Plants Act,* regulating possession and sale of cannabis on their reserve. Donovan, *supra* note 68.

[73] The filed research on which this paper relies was conducted by Stephanie Lake under the supervision of M-J Milloy and supervisory committee members Jane Buxton, Thomas Kerr, and Zach Walsh.

In B.C., drug overdoses (the majority of which are driven by contamination of the unregulated drug supply with highly potent synthetic opioids such as fentanyl)[74] were declared a public health emergency in 2016. Nearly five years later, overdose deaths continue to hit unprecedented levels, with over 1,500 deaths in 2020.[75] The majority of overdose deaths in Vancouver have been concentrated in its DTES neighbourhood:[76] a highly-concentrated urban area that has come to be widely known for its open illicit drug market. As summarized by McNeil et al., "[the DTES] has been shaped by the interplay between entrenched poverty, homelessness, and drug use".[77] Often labelled as "the poorest postal code in Canada",[78] the neighbourhood is marked by extreme levels of visible poverty and substandard living conditions—densely-packed low-income housing, shelters, tent encampments, and street-based homelessness.[79] Many people living or accessing services in the DTES contend with a host of intersecting social and structural adversities (e.g., stigma and discrimination, colonialism and dispossession, criminalization, precarious employment and housing, barriers to accessing necessary healthcare)[80] These conditions contribute to the high burden of disease and disability within the community. In sum, "the landscape is inner city and

[74] See British Columbia Coroners Service "Illicit drug overdose deaths in BC: Findings of coroners' investigations" (27 September 2018) Government of British Columbia, online: <https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/statistical/illicitdrugoverdosedeathsinbc-findingsofcoronersinvestigations-final.pdf>
[75] See British Columbia Coroners Service "Illicit drug toxicity deaths in BC, January 1, 2010 – November 30, 2020" (2020), Government of British Columbia, online: <https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/statistical/illicit-drug-update.pdf>
[76] See Vancouver Coastal Health "Response to the Opioid Overdose Crisis in Vancouver Coastal Health" (2018), online: <http://www.vch.ca/Documents/CMHO-report.pdf>
[77] Ryan McNeil et al., "Negotiating place and gendered violence in Canada's largest open drug scene" (2014) 25:3 Int J Drug Policy 608 at 609.
[78] See, for example, Michael Krausz and Kerry Jang, "Lessons from the creation of Canada's poorest postal code" (2015) 2:3 Lancet Psychiatry e5.
[79] See City of Vancouver "Downtown Eastside Local Area Profile" (2013), online: <http://vancouver.ca/files/cov/profile-dtes-local-area-2013.pdf> [2013 Profile]. See also, Todd Wong, "2019 Downtown Eastside Local Area Profile", online: https://www.sfu.ca/content/dam/sfu/continuing-studies/images/city-program/publications/2019%20Downtown%20Eastside%20Local%20Area%20Profile.pdf; City of Vancouver, "Downtown: Neighbourhood Social Indicators Profile" (2020), online: https://vancouver.ca/files/cov/social-indicators-profile-downtown.pdf.
[80] 2013 Profile, *ibid.*

urban, a material outlook that is among the poorest in North America, and a symbolic vista that signals the multiple blights of race, gender, culture, and class oppressions of 21st century capitalism."[81] Without doubt, the current DTES is a scene of crisis that strikes deeply at the heart.

There is another, less studied, aspect to the DTES, however. The neighbourhood is a place of creative and vigorous community. Strong collective ties and identification equally characterize the DTES, resulting in conditions that are celebratory of difference and forceful in assertion of rights.[82] More specifically, in the 1990's, the DTES was the birthplace in Canada of drug user-led activism that emerged in response to dual public health crises of drug overdose and HIV/AIDS deaths among PWUD.[83] This DTES-based grassroots community activist movement, which remains strong today, ultimately paved the way for Vancouver to adopt progressive harm reduction programming, including supervised consumption and overdose prevention sites, needle distribution programs, and injectable opioid treatment programs.[84]

In recent years, as a growing number of studies began investigating the potential role of cannabis in reducing or replacing other substances (particularly in the management of chronic pain),[85] the

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[81] Margot Young, "Insite: Site and Sight (Part 1 - Insights on Insite)" (2011) 19:3 Const Forum Const 87.
[82] See Nick Blomley, "Enclosure, Common Right and the Property of the Poor" (2008) 17 Soc Leg Stud 311 at 312. Blomley references activism around issues of land, redevelopment and gentrification, but his characterization of the neighbourhood applies equally to poverty and drug use issues.
[83] Lupick, *Fighting for Space, supra* note 4.
[84] See Ehsan Jozaghi et al., "Activism and scientific research: 20 years of community action by the Vancouver Area Network of Drug Users" (2018) 13:1 SATPP 18.
[85] See, for example, Philippe Lucas et al., "Substituting cannabis for prescription drugs, alcohol and other substances among medical cannabis patients: The impact of contextual factors" (2015) 35:3 Drug Alcohol Rev 326. See also Kevin F Boehnke et al., "Medical cannabis use is associated with decreased opiate medication use in a retrospective cross-sectional survey of patients with chronic pain" (2016) 17:6 J Pain 739. One high-impact study, in which authors noted a 25% lower overdose death rate in states with medical cannabis laws, is often credited as having catalyzed proliferation of research studies addressing the question of cannabis as a "substitute" for opioids; See Marcus Bacchuber et al., "Medical cannabis laws and opioid analgesic overdose mortality in the United States, 1999-2010" (2014) 174:10 JAMA Intern Med 1668.

idea of cannabis as harm reduction took off at the community-level. In the years preceding cannabis legalization, at least two models of cannabis distribution to PWUD for harm reduction purposes emerged in the DTES, as detailed by Valleriani et al.[86] The Cannabis Substitution Project (CSP) originated out of the office of the Vancouver Area Network of Drug Users (VANDU), the city's prominent drug user-run advocacy organization.[87] The program began in 2017 as a once-weekly first-come-first-served service for which community members would line up to receive a pre-packaged preparation of cannabis products supplied by local illicit cannabis growers and distributors.[88] The program now runs twice per week, serving approximately 200 people each day.[89] The High Hopes Foundation, also founded in 2017, operates out of the offices of the Vancouver Overdose Prevention Society (OPS).[90] This program serves a smaller number of registered participants on an informal, per-needs basis.[91] Similar to CSP, the availability of products within this program is dependent on donations from, typically, illicit growers and/or producers.[92] One aim of these programs is to support PWUD in the DTES to reduce, regulate, or stop their use of drugs through the use of cannabis. The status of these programs is precarious given the previous classification of cannabis as a controlled drug and the newly illegal status of distributing cannabis that originated outside of the legal framework. For example, in the fall of

[86] Jenna Valleriani et al., "The emergence of innovative cannabis distribution projects in the Downtown Eastside of Vancouver, Canada" (2020) 79 Int J Drug Policy 102737 [Valleriani et al.]
[87] VANDU is essentially a drug users union; their mission statement reads: "VANDU is a group of users and former users who work to improve the lives of people who use drugs through user-based peer support and education. VANDU is committed to increasing the capacity of people who use drugs to live healthy, productive lives. VANDU is also committed to ensuring that drug users have a real voice in their community and in the creation of programs and policies designed to serve them,"online: <https://vandureplace.wordpress.com/history/>.
[88] See Saša Lakić, "Cannabis Substitution Project claims its free 'care packages' help opioid users kick" (22 March 2018) *Vancouver is Awesome*, online: <https://www.vancourier.com/news/cannabis-substitution-project-claims-its-free-care-packages-help-opioid-users-kick-1.23209946>
[89] See Valleriani et al., *supra* note 86 at 3.
[90] The High Hopes Cannabis Collective described its mission as "to facilitate the sharing of home-grown cannabis to increase access to cannabis to people who need it most," online :<https://www.discoverhighhopes.com/>
[91] See Valleriani et al., *supra* note 86.
[92] *Ibid.*

2020, the CSP was evicted from its storefront space and began distributing from a van temporarily before being raided by the Vancouver police.[93] Certain unregulated and illegal retail cannabis stores in the DTES have also been known to make accommodations for low-income community members;[94] however, given the illegal nature of these stores, their operational status is continuously in question and under threat.

Study population

Below, we summarize the findings of three epidemiological studies exploring different research questions involving the use of cannabis by marginalized PWUD in the context of mounting opioid-related harms.[95] The studies were led by author Lake as part of her doctoral dissertation, which can be read in full online.[96]

Data for the studies come from two open prospective cohorts of PWUD recruited from the DTES: the Vancouver Injection Drug Users Study (VIDUS) and the AIDS Care Cohort to evaluate Exposure to Survival Services (ACCESS). Study recruitment protocols and eligibility requirements are described in detail elsewhere.[97] In both cohorts, participants complete

[93] See Sarah Berman, "Vancouver Projects Give Weed to Curb Overdoses. Police Just Raided One" (17 November 2020) *The Tyee*. online: <https://thetyee.ca/News/2020/11/17/Weed-Curbing-Overdoses/>
[94] See, for example, acknowledgment of an informal credit system for marginalized PWUD in Koharu Loulou Chayama et al., "The role of cannabis in pain management among people living with HIV who use drugs: A qualitative study" (2021) Epub ahead of print Drug Alcohol Rev (DOI: 10.1111/dar.13294) 6 [Chayama et al.]
[95] At the time of writing, studies 1 and 2 were published as peer-reviewed articles, and study 3 was undergoing peer-review.
[96] Stephanie Lake "Cannabis use during an opioid-related public health crisis: Implications for therapeutic advancements and harm reduction initiatives" (2020) University of British Columbia online: https://open.library.ubc.ca/cIRcle/collections/ubctheses/24/items/1.0395368 [Lake, "Cannabis use during a public health crisis"].
[97] See, for example, Mark W Tyndall et al., "Impact of HIV infection on mortality in a cohort of injection drug users" (2001) 28:4 JAIDS 351. See also M-J Milloy et al., "Increased prevalence of controlled viremia and decreased rates of HIV drug resistance among HIV-positive people who use illicit drugs during a community-wide Treatment-as-Prevention initiative" (2015) 62:5 Clin Inf Dis 640.

interviewer-administered questionnaires every six months at a study office located on the DTES. The questionnaire covers a range of demographic characteristics, drug use patterns, behavioural factors (e.g., syringe sharing, public injecting), use of harm reduction strategies (e.g., supervised injection site usage), and socio-structural exposures (e.g., experiences of incarceration, police interactions). Measures of cannabis use more broadly (e.g., frequency of use) have been longstanding components of the cohort questionnaires; however, questions designed to elicit more specific information about cannabis use (e.g., reasons for use, modes of administration, preferred products) were added to the cohort questionnaires beginning in 2016. Data collection and study instruments for each cohort are harmonized to allow for pooled analysis of the data. All participants provide written informed consent prior to the first data collection and receive a $40 honorarium upon completion of each interview. Both cohort studies were approved by the UBC/Providence Healthcare Research Ethics Board.

Study 1: Characteristics of PWUD who use cannabis

In Study 1, we aimed to examine socio-demographic, substance use, and health-related characteristics of cannabis-using PWUD in Vancouver, and to explore whether these characteristics differed by self-reported reasons for cannabis use. In short, we analyzed data from 2686 interviews conducted among 897 PWUD who reported using cannabis between June 1, 2016, and November 30, 2018 (note: the final six weeks of this study period occurred post-legalization).[98] At each interview during this restricted study period, self-reported reasons for cannabis use (see categories in Box 1) were recorded.

[98] The study's methods and results are described in full in its original publication. Stephanie Lake et al., "Characterizing motivations for cannabis use in a cohort of people who use illicit drugs: A latent class analysis" (2020) 15:5 PLoS One e0233463 [Lake et al., "Characterizing motivations"].

Box 1. Categories for cannabis use reasons

(1) To relieve pain, including multiple sclerosis (MS), arthritis, etc.
(2) To help with sleep
(3) To help with HIV medications and AIDS symptoms
(4) To treat nausea or loss of appetite
(5) To substitute for other substances including heroin, crack, meth, or alcohol
(6) To relieve stress
(7) To treat a mental health concern other than addiction
(9) For spiritual purposes
(10) For creativity
(11) To get high, recreation, socialize
(12) To come down off of other drugs
(13) To treat withdrawal

We used this data in a latent class analysis, guiding the identification of four cannabis use groups: (1) PWUD using cannabis predominantly for intoxication purposes ("recreational" class); (2) PWUD using cannabis predominantly for a therapeutic purposes other than pain ("non-pain therapeutic" class); (3) PWUD using cannabis predominantly for pain management purposes ("pain" class); and (4) PWUD using cannabis predominantly for pain and at least one additional therapeutic purposes ("pain +" class); see Table 1 for distribution of cannabis use reasons overall and amongst classes. Notably, intoxication was the most common reason for cannabis use overall (reported in over half of interviews); but pain, insomnia, nausea and appetite stimulation, and stress were all common therapeutic motivations (reported in roughly one-third of interviews). Participants also reported using cannabis in an effort to stop or reduce the use of other drugs or alcohol in over 10% of interviews.

Table 1. Representation of cannabis use motivations overall and within latent classes among 897 PWUD who reported cannabis use between June 1, 2016 and November 30, 2018

	Overall n = 2686; 100%	**Class 1:** n = 848; 31.6%	**Class 2:** n = 1007; 37.5%	**Class 3:** n = 588; 21.9%	**Class 4:** n = 243; 9.0%
Cannabis use reasons	**Proportion of observations**				
Intoxication	0.53	**1.00**	0.29	0.26	**0.50**
Pain relief	0.31	<0.01	<0.01	**1.00**	**1.00**
Mental health	0.08	0.02	0.10	0.06	0.21
Insomnia	0.32	0.00	**0.50**	0.22	**0.98**
Substitution	0.12	0.05	0.15	0.12	0.26
Nausea	0.29	0.00	0.45	0.27	**0.65**
Creativity / Spirituality	0.06	0.07	0.07	<0.01	0.12
Stress	0.32	0.13	0.45	0.17	**0.77**
Manage addiction	0.04	<0.01	0.06	0.02	0.09
Characterization	NA	Recreational	Non-pain therapeutic	Pain	Pain +

Note: Class-specific proportions ≥0.50 are shown in bold.

Whereas members who fell into the "recreational" cannabis use class reported primarily receiving their cannabis from an informal source such as a friend or family member, the three remaining groups that were characterized by therapeutic cannabis use (alone or in addition to non-therapeutic use) cited illicit cannabis retail stores as their primary source of cannabis. Members of the pain class were also more likely than the other respondents to report obtaining cannabis from a non-profit compassion club. It is important to emphasize that fewer than 1% of the participant interviews included reports of obtaining cannabis through legal channels (either as an authorized medical cannabis patient or through a legal retailer in the six-week study period that occurred after legalization).

We used generalized estimating equations (GEEs) to examine characteristics associated with membership in each of these cannabis use classes. We observed that daily use of cannabis was reported significantly more often by participants who fell into one of the three classes characterized

by therapeutic cannabis use. We also observed that members of these therapeutic classes tended to exhibit indicators corresponding with lower quality of physical and mental health. For example, having HIV was significantly associated with membership in the "non-pain therapeutic" class; reporting moderate-to-severe levels of pain, a lifetime mental illness diagnosis, and low quality of perceived health were significantly associated with membership in the "pain" class; and reporting moderate-to-severe levels of anxiety was significantly associated with membership in the "pain +" class. These results revealed a wide spectrum of cannabis use among PWUD—from primarily non-medical to specific therapeutic applications—with a lot of overlap in between. Our findings also suggest that many PWUD are using cannabis to address physical and mental health issues that very often go under- or untreated in this population.

Study 2: Cannabis use and opioid use among PWUD living with pain

Chronic pain is highly prevalent among marginalized PWUD. Extensive research led by Voon et al.[99] in Vancouver has highlighted how PWUD must often source illicit opioids to manage pain after being denied adequate pain management through legal routes. As demonstrated in Study 1, pain is a driving motivating factor underlying cannabis use among many PWUD. A comprehensive review of the evidence by the National Academies of Sciences, Engineering, and Medicine concludes that there is substantial evidence of cannabis' therapeutic benefit for certain kinds of chronic pain commonly experienced among PWUD (e.g., neuropathic pain)[100] and experimental research has begun to demonstrate cannabis' potential to lower the opioid dose required to achieve

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[99] See Pauline Voon et al., "Self-management of pain among people who inject drugs in Vancouver" (2014) 4:1 Pain Manag 27. See also Pauline Voon et al., "Denial of prescription analgesia among people who inject drugs in a Canadian setting" (2015) 34:2 Drug Alcohol Rev 221, and Pauline Voon et al., "Pain as a risk factor for substance use: a qualitative study of people who use drugs in British Columbia, Canada" (2018) 15:1 Harm Reduct J 35.
[100] See Committee on the Health Effects of Marijuana *The Health Effects of Cannabis and Cannabinoids: The Current State of Evidence and Recommendations for Research* (Washington, D.C.: The National Academies Press, 2017).

analgesia (known as an "opioid-sparing effect").[101] Study 2 examined a subgroup of marginalized PWUD living with chronic pain to understand whether the use of opioids was reduced among those who engage in frequent cannabis use.

We analyzed data from 5350 interviews conducted among 1152 cannabis-using and non-using PWUD who reported living with pain between June 1, 2014, and November 30, 2017.[102] At each interview during this restricted study period, we asked participants about their recent (past six-month) use of cannabis and illicit use of opioids (i.e., heroin, counterfeit pharmaceutical opioids, and not-as-prescribed use of pharmaceutical opioids). Using a generalized linear mixed effects model, we analyzed the association between high-frequency (i.e., daily or more use, on average, during the past six months) cannabis and high-frequency illicit opioid use. We found that the odds of high-frequency illicit opioid use were 50% lower among participants who reported high-frequency cannabis use. In contrast, participants who reported occasional (less than daily, on average, during the past six months) did not have significantly lower odds of using illicit opioids frequently. This finding raises the possibility that PWUD engaging in high-frequency cannabis use are managing pain in a way that reduces their need to use illicit opioids as frequently. This hypothesis was further supported through our sub-analysis that compared reasons for cannabis use between daily and occasional users. Here, we noted that high-frequency cannabis users reported using cannabis for pain management purposes and additional therapeutic purposes that often co-

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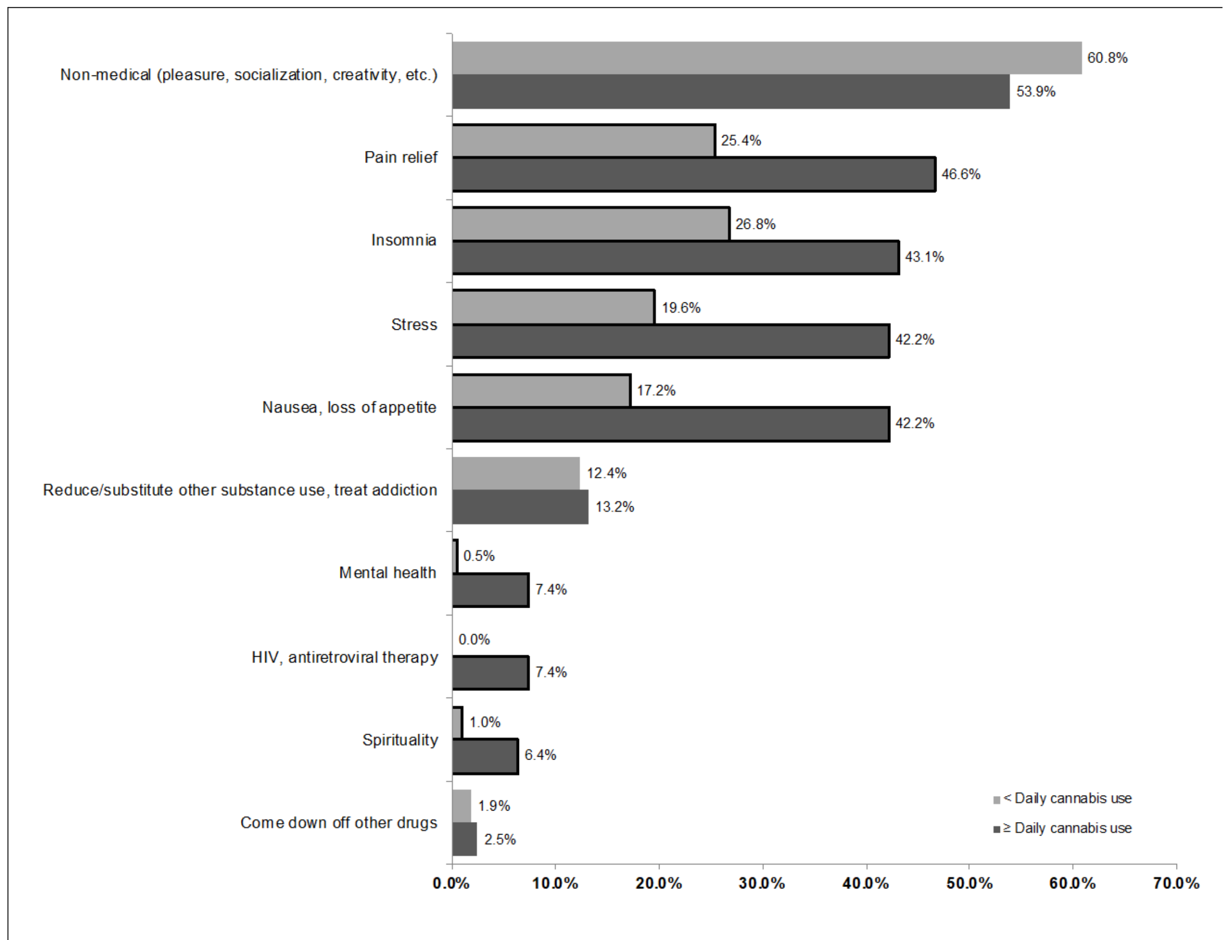
[101] See Ziva D Cooper et al., "Impact of co-administration of oxycodone and smoked cannabis on analgesia and abuse liability" (2018) 43:10 NPP 2046 at 2047.
[102] The study's methods and results are described in full in its original publication. See Stephanie Lake et al., "Frequency of cannabis and illicit opioid use among people who use drugs and report chronic pain: A longitudinal analysis (2019) 16:11 PLoS Med e0233463 [Lake et al., "Frequency of cannabis"].

occur with pain, such as insomnia and stress, significantly more often than occasional cannabis users (Figure 1).

Figure 1. Self-reported reasons for cannabis use among daily (n = 204) and occasional (n = 210) cannabis-using PWUD with chronic pain, June 1, 2017 – November 30, 2017



Note: Borders indicate Chi-square or Fisher's $p<0.05$; Fisher's test used for mental health and HIV comparisons

Study 3: Cannabis use among PWUD on methadone treatment for opioid use disorder

Methadone, an opioid receptor agonist, is the most common medication-based treatment of opioid use disorder. Methadone is meant to block the subjective (euphoric) effects of illicit opioids,

prevent opioid withdrawal, and supress opioid cravings.[103] Retention in treatment is critical to reducing illicit opioid use and preventing overdose.[104] It has been well-established through numerous studies that, at lower doses, patients are more likely to continue using opioids and discontinue treatment.[105] The use of cannabis to manage symptoms of opioid dependence, including symptoms of withdrawal such as irritability, nausea and vomiting, and heightened pain sensitivity, was documented in the medical literature as early as the 1800s.[106] The practice appears to remain common today, but often as a self-guided strategy.[107] Study 3 aimed to examine whether cannabis use interrupted this well-established link between lower patient doses and negative treatment outcomes.

We analyzed data from over 12000 interviews conducted among 1389 cannabis-using and non-using PWUD who reported being enrolled in methadone treatment between December 1, 2005, and November 30, 2018.[108] As with study 2, at each interview, we asked participants about their recent use of cannabis and illicit opioids. We also asked about their current methadone dose, defining "lower" doses as those below the median dose in the patient sample (90 mg/day).[109] We

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[103] See Vincent P Dole "A medical treatment for diacetylmorphine (heroin) addiction" (1965) 193:8 JAMA 80.
[104] See, for example, Richard P Mattick et al., "Methadone maintenance therapy versus no opioid replacement therapy for opioid dependence (Review)" (2009) 2009:3 Cochrane Database Syst Rev CD002209.
[105] See, for example, Eric C Strain et al., "Moderate- vs high-dose methadone in the treatment of opioid dependence: a randomized trial" (1999) 281:11 JAMA 1000. See also B Nosyk et al., "Proportional hazards frailty models for recurrent methadone maintenance treatment" (2009) 170:6 Am J Epidemiol 783.
[106] See Lester Grinspoon *Marijuana Reconsidered* (Cambridge: Harvard University Press, 1971) at chapter 8.
[107] For example, over half of PWUD reported using cannabis to address symptoms of opioid withdrawal in Bergeria et al., "The impact of naturalistic cannabis use on self-reported opioid withdrawal" (2020) 113 J Subst Abuse Treat 108005.
[108]The study's methods and results are described in full in the original paper. Lake "Cannabis use during a public health crisis", *supra* note 96 at 87.
[109] This threshold is consistent with previous literature demonstrating improved outcomes at doses around or exceeding 100 mg/day; see, for example, Leslie Lappalainen et al, "Dose-response relationship between methadone dose and adherence to antiretroviral therapy among HIV-positive people who use illicit opioids" (2015) 110:8 Addiction 1330. See also Einat Peles et al., "Similarities and changes between 15- and 24- year survival and retention rates of patients in a large medical-affiliated methadone maintenance treatment (MMT) center" (2018) 185 Drug Alcohol Depend 112.

used GEEs to analyze the relationship between lower treatment dose and high-frequency illicit opioid use overall and within strata of cannabis use (i.e., high-frequency users and low-frequency/non-users). As expected, lower doses were significantly associated with daily use of illicit opioids during treatment. Within strata of cannabis use, however, the association differed markedly: compared to higher doses, the odds of daily illicit opioid use were 86% higher for patients on lower treatment doses but only 30% higher during periods of high-frequency cannabis use. While the primary finding of this study points to the importance of stabilizing patients on adequate treatment doses, it also signals a potential role of cannabinoids in mitigating some of the negative effects that can arise with sub-therapeutic methadone dosing (e.g., opioid withdrawal and cravings), requiring further investigation through rigorous experimental research. Thus, to emphasize, cannabis use appears to be a common and potentially meaningful co-treatment tactic among patients.

Discussion: Implications of Cannabis Legalization for Marginalized People Who Use Drugs

As drug-related overdoses continue to rise across the province, the research at the centre of this chapter indicates a range of therapeutic and harm reduction applications of cannabis as it pertains to opioid use. Worth noting (and described in detail within each individual study)[110] are several limitations associated with the design and structure of the studies, including self-reported measures, non-random sampling, and residual confounding, that preclude generalizing these findings to all PWUD and interpreting the reported relationships as being causal. More rigorous experimental research will be needed to formally probe the underlying explanations for the observed relationships between cannabis use and opioid use among people at high risk of overdose.

[110] See Lake et al., "Characterizing motivations", *supra* note 98 at e0233463-13; Lake et al., "Frequency of cannabis", *supra* note 102 at e0233463-12; Lake, "Cannabis use during a public health crisis", *supra* note 96 at 78.

However, the current findings uncover a substantial demand for cannabis products for harm reduction purposes among PWUD. This observation is further supported by in-depth qualitative research conducted among PWUD both in Vancouver[111] and across a diversity of urban settings in North America.[112] Unlicensed (illegal) dispensaries in the DTES were the primary source of cannabis for the majority of PWUD who used cannabis for therapeutic purposes; legal access routes (either the longstanding medical program or legal non-medical sources in the short period that followed legalization) were virtually inexistent.[113]

A quick scan of the landscape of available legal cannabis sales provides a revealing backdrop to this story. As of March 2021, the City of Vancouver reported 40 operational licensed legal cannabis locations, and several additional locations with developmental approval.[114] Operational retail stores are highly concentrated in certain regions, including the Downtown core and its West End neighbourhood, Kitsilano, and Mount Pleasant. Currently, no operational legal stores are situated in the Downtown Eastside, Chinatown, or Strathcona neighbourhoods—where many of Vancouver's PWUD reside and/or access services. In 2015, despite cannabis' illegality at the federal level, the city moved to regulate the quickly growing number of illicit cannabis retail stores. In designing the regulations, stating concern for "vulnerable populations", the city created

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[111] See Valleriani et al., *supra* note 86; Braedon Paul et al. "'Something that actually works': Cannabis use among young people in the context of street entrenchment" (2020) 15:7 PLoS One e0236243; Chayama et al., *supra* note 94
[112] See Laura Wenger et al., "The phenomenon of low-frequency heroin injection among street-based urban poor: drug user strategies and contexts of use" (2014) 25:3 IJDP; Miriam Boeri et al., "Green hope: perspectives on cannabis from people who use opioids" (2020) Soc Inq; Emily Nichol, Karen Urbanoski and Bernie Pauly, "A peer-run cannabis substitution program: Experiences and outcomes over the first year" (2020) Canadian Institute for Substance Use Research and Solid Outreach, online: <https://solidvictoria.org/wp-content/uploads/2021/02/SOLID_CSP-Report_First-Year-Experiences-and-Outcomes_September-8_-2019.pdf>.
[113] Lake et al., "Characterizing motivations", *supra* note 98.
[114] See City of Vancouver "Cannabis retail store business license" (2021), online: <https://vancouver.ca/doing-business/cannabis-retail-dealer-business-licence.aspx>

an exclusion zone on cannabis retail throughout the majority of the DTES.[115] The ban was lifted the ban in June 2019 after council heard testimony from community members, service providers, addiction clinicians, and researchers about the therapeutic potential of cannabis for this population,[116] but the operation of legal cannabis stores in the DTES and surrounding area lags behind other densely-populated regions as a result.

Thus, more than two years after cannabis legalization, and more than five years after efforts to regulate cannabis retail at the municipal level, there remains a high level of illicit cannabis retail activity within the city. The B.C. Ministry of Public Safety does not know how many unregulated cannabis stores operate in the province,[117] but government regulators have described their efforts in containing the prolific and volatile illicit cannabis industry as “fighting a hydra”—that is, as soon as the government closes one illegal shop, another one will spring up in the area.[118] Indeed, in the year following legalization, cannabis consumers in B.C. exhibited both the highest prevalence of illegal cannabis product purchase (at 51.4%), and lowest prevalence of strictly legal product purchase (at 16.8%) of all the provinces, demonstrating that B.C. has not transitioned to the legal market at the same rate as other Canadian provinces.[119] A local reporter

[115] See Vancouver City Council “Motion: Cannabis as an alternative to opiates and more dangerous drugs on the Downtown Eastside” (26 June 2019), online: <https://council.vancouver.ca/20190626/documents/cfsc3.pdf>.
[116] See Piper Courtenay “Vancouver’s city council votes to end cannabis prohibition in the Downtown Eastside” (27 June 2019) *Canncentral*, online: <https://www.canncentral.com/vancouvers-city-council-votes-to-end-cannabis-prohibition-in-the-downtown-eastside>.
[117] See Dan Fumano “Regulators play 'Whac-A-Mole' as Vancouver's illegal pot shops flourish” (9 January 2021) *The Vancouver Sun*, online: <https://vancouversun.com/cannabis/cannabis-business/regulators-play-whac-a-mole-as-vancouvers-illegal-pot-shops-keep-sprouting>.
[118] *Ibid.*
[119] See Michelle Rotermann “What has changed since cannabis was legalized?” (2020) 31:2 Health Rep (Statistics Canada) 11 at 16. It is worth noting that many factors that varied across jurisdictions are thought to contribute to faster transition to the legal market, including the availability of legal retail cannabis in the period immediately following legalization. In B.C., where cannabis retail is a mix of government- and private-run stores, only one government-run store (Kamloops) was operational on legalization day. Rotermann writes that, according to the 2019 NCS, an estimated 29.4% of Canadian cannabis users reported obtaining all of the cannabis they consumed from a legal source. Many consumers obtained cannabis from multiple sources.

writes: “The province that was once a global capital of the marijuana world still doesn’t have a cannabis retail sector capable of servicing the market, keeping countless unlicensed dealers in business.”[120] Municipal regulatory details as well confound the spread of legal outlets. For example, concern has been expressed about the high cost of licenses for legal cannabis retailers.[121] The City council has moved to address this, with one councillor remarking: “It was quite clear that there’s a growing concern that Vancouver’s market is actually growing, but in the illegal market.”[122]

The pieces connect. The research done by Lake shows a high prevalence of cannabis use—for a wide variety of non-medical and medical purposes—among PWUD living in the DTES. Yet the availability of legal cannabis in that neighbourhood is limited and the result is continued and necessary resort to the thriving illegal market and unsanctioned informal cannabis exchanges. The research forces us to think about how legalization regimes, and Canada’s in particular, have disparate impact as they play out in “the context of the uneven distribution of the capacity to comply.”[123] The choice available to many of the study participants is illicit use or no use at all.[124] This finding resonates with findings of other researchers, forcing the recognition that “legalization regimes allow for more subtle distinctions whose disparate impact largely rely on the uneven distribution of the capacity to comply.”[125]

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[120] Ian Mulgrew, “B.C. cannabis police 'blink,' and reverse their stance on evidence,” Vancouver Sun, online: Feb 19, 2020. https://vancouversun.com/opinion/columnists/ian-mulgrew-cannabis-police-blink-and-reverse-their-stance-on-evidence.

[121] Michelle Gamage, “Vancouver pot shops pay Canada’s highest licensing fees. They don’t have a straight answer why,” (30 September 2020) *Mugglehead,* online: <https://mugglehead.com/vancouver-retailers-pay-highest-licensing-fees-in-country/>; Bailey Nicholson and Lisa Steacy, “Vancouver council votes to slash sky-high fees for cannabis retailers” (18 February 2021), *NEWS 1130*, online: <https://www.citynews1130.com/2021/02/18/vancouver-cannabis-retail-fees/>.

[122] Nicholson and Steacy, *ibid*.

[123] Aaronson and Rothschild-Elyssi, “Symbiotic tensions”, *supra* note 8, at 9.

[124] Aaronson and Rothschild-Elyssi, “Symbiotic tensions”, *ibid*, at 9.

[125] Aaronson and Rothschild-Elyssi, “Symbiotic tensions”, *ibid*, at 10.

Other researchers have noted similar obstacles to legal cannabis use among marginalized populations; from interviewing clients of recent cannabis distribution harm reductions programs in the DTES, Valleriani et al. detailed specific economic, bureaucratic, and societal barriers to legal cannabis access in this population.[126] The cost associated with legal access channels emerged as a primary concern.[127] For example, dried cannabis costs approximately $5 per gram at illicit dispensaries in the DTES, and these stores can weigh out cannabis to match the amount that a community member is able to pay (e.g., half a gram for $2.50),[128] whereas federally-legal dried cannabis flower—subject to minimum pricing schemes established at the provincial level—is sold in prepackaged quantities averaging $10.48 per gram.[129] Thus, even with the eventual establishment of legal cannabis stores in the DTES, the population under study is unlikely to have the financial resources to participate in the legal market. Cost-prohibitive prices can have the unintended consequence of supporting a thriving illicit market, running counter to one of the stated motivations for cannabis legalization.[130] Additional barriers to access include requirements for government-issued identification (non-medical and medical access), physician authorization (medical access), credit card payment, and mailing address (medical access)[131].

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[126] Valleriani et al., "Cannabis distribution projects", *supra* note 86 at 4.
[127] A more recent study backs up this observation. Pauly *et al* found that costs associated with procuring cannabis were difficult, particularly for legal cannabis: "While cannabis is legal in Canada, sourcing and funding cannabis by programs were identified as primary challenges." Bernie Pauly, et al, "'If I knew I could get that every hour instead of alcohol, I would take the cannabis': need and feasibility of cannabis substitution implementation in Canadian managed alcohol programs," (2021) 18 Harm Reduct J 65 at 78.
[128] *Ibid.*
[129] See Government of Canada "Canadian Cannabis Survey 2020: Summary" (2021), online: <https://www.canada.ca/en/health-canada/services/drugs-medication/cannabis/research-data/canadian-cannabis-survey-2020-summary.html#a6-01>
[130] See Task Force of Marijuana Legalization and Regulation "Toward the legalization, regelation, and restriction of access to marijuana: Discussion paper" (30 June 2016) Government of Canada, online: <https://www.canada.ca/en/health-canada/programs/consultation-toward-legalization-regulation-restriction-access-marijuana/discussion-paper-introduction.html>
[131] Valleriani et al., "Cannabis distribution projects", *supra* note 86 at 5.

Community-based cannabis distribution programs, including the harm reduction programs described by Valleriani et al. and the more established non-profit cannabis compassion club models, appear to address a number of the reported access gaps for PWUD, but such programs are on shaky ground: they operate outside of a legal framework and must rely on donations of illicit cannabis products.[132] Essentially, they are part of a formally illicit, irregular network of cannabis distribution whose operational status depends on the discretion of local law enforcement. Thus, we return to the key observation that, with few realistic options for accessing legal cannabis, an already marginalized population of PWUD will continue to rely on informal, extra-legal (basically illegal), avenues to procure cannabis for harm reduction and/or therapeutic purposes.

The "retailing and regulatory"[133] issues that are front and centre in how cannabis has been made legally available, determination of which largely lies with the provinces, raise considerable barriers to accessing the legal market.[134] The legalization regime enhances state control of and scrutiny over consumer cannabis choices. And, while some commentators bemoan from libertarian perspective such state imposition,[135] our concern is the impact this kind of state regulation has on those most marginalized and typically those already caught in the cross hairs of coercive state oversight.

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[132] Valleriani et al., "Cannabis distribution projects", *supra* note 86 at 2. A detailed description of compassion club operational models is provided in Lynne Belle-Isle "Cannabis as Therapy for People Living with HIV/AIDS" (2006) Canadian AIDS Society, online: <http://sagecollection.ca/en/resources/final-report-cannabis-therapy-people-living-hivaids-our-right-our-choice>.
[133] Bird, "Legalized Cannabis", *supra* note 39 at 32.
[134] Bird, "Legalized Cannabis", *ibid,* at 26.
[135] See, for example, Bird, "Legalized Cannabis", *ibid*, at 33.

In sum, PWUD—who already face widespread social and health harms as a direct result of the war on drugs—will not enjoy the many benefits that legalization is touted to bring, including access to quality-tested products, reduced engagement with the illicit drug market, and legalized possession and use; and they may even experience enhanced criminalization as a result.

This set of observations is not surprising. We know that criminalization of cannabis—subjecting cannabis users to criminal penalties and the criminal justice system—has had disproportionate negative impact for individuals already subject to toxic mixes of racism, poverty, and colonialism.[136] Canada lags behind other jurisdictions in collecting racially disaggregated criminal justice data[137] but commentators agree that criminalization has had a disparate impact on racialized and Indigenous groups. They have had a higher likelihood of arrest and conviction for drug use:[138] in Toronto, "Black people with no history of criminal convictions have been three times more likely to be arrested by Toronto police for possession of small amounts of marijuana than white people with similar backgrounds;"[139] in Vancouver, Indigenous people have been almost seven times as likely to be arrested for simple cannabis possession than their white counterparts.[140] And partial decriminalization is unlikely to effectively and equitably

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[136] Crepault, *supra* note 23 at 85.

[137] Owusu-Bempah et al, *supra* note 17, at 114]

[138] Jim Rankin, Sandro Contenta, and Andrew Bailey, "Toronto Marijuana Arrests Reveal "Startling" Racial Divide" (6 July 2017) *Toronto Star*, online: <https://www.thestar.com/news/insight/2017/07/06/toronto-marijuana-arrests-reveal-startling-racial-divide.html>; Scot Worley and Akwasi Owusu-Bempah, "Race, Ethnicity, Corie and Criminal Justice in Canada," in *Race, Ethnicity, Crime and Criminal Justice in the Americas*, ed. Anita Kalantry-Crompton (London: Palgrave Macmillan, 20120, 11 – 40.) As quoted in Crepault, *supra* note 23, at 86.

[139] Crepault, *supra* note 23, at 86. Akwasi Owusu-Bempah and Alex Luscombe, "Race, cannabis and the Canadian war on drugs: An examination of cannabis arrest data by race in five cities," (2020), online ahead of print IJDP (DOI: 10.1016/j.drugpo.2020.102937) [Owusu-Bempah and Luscombe, "Race, cannabis, and the Canadian war on drugs"]. Under the criminalization regimes, social harms associated with cannabis criminalization were "highly arbitrary and, in the case of racialised communities, discriminatory and inequitable." Crepault, *supra* note 23, at 86.

[140] Owusu-Bempah and Luscombe, "Race, cannabis, and the Canadian war on drugs", *supra* note 139 at 5. By way of related illustration of discriminatory policing, a 2017 investigation by CBC News found that, in 2016, Indigenous women were nearly 10 as likely to be street checked that white women. Indigenous people were six times more likely to be stopped. Black individuals were 5 times more likely. Stephanie Dubois. April 21, 2021, "New

reduce this social burden, it will not address structural racism. Moreover, experts assert that: "Given that the opportunity for police discretion remains under decriminalization it would likely reproduce and perpetuate the arbitrary and discriminatory law enforce practices" experienced under full criminalization.[141] Criminalization, is "not evenly distributed across the population, but [will] focus on racialized minorities."[142] This returns us to our opening argument: legalisation schemes "may operate simultaneously along both regulatory and carceral registers."[143] The studies we discuss here reveal a carceral outcome highly likely for PWUD—and especially Black and Indigenous PWUD—living in Vancouver's DTES.

This outcome of intensified criminalisation of the most vulnerable is not inevitable, nor is it beyond the control of government regulators. Contrast Canada's situation to California, where cannabis legalization was accompanied by equity measures such as automatic expungement of certain cannabis-related criminal records[144] and cannabis social equity business funding[145]. In Canada, however, very little consideration was paid to social equity[146] in designing the new legislation.[147] Absent are policy measures that address to the needs of vulnerable and

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'statement to police' card for Indigenous people released in Alberta," CBC News, online: https://www.cbc.ca/news/canada/edmonton/statement-to-police-card-1.5997169

[141] Crepault, *supra* note 23 at 87.

[142] Daniel Weinstock, "Will Legalization Protect Our kids?" *High Time supra* note 7 67, at 70.

[143] Aaronson and Rothschild-Elyassi, "Symbiotic tensions" *supra* note 8, at 2.

[144] See, for example, Vanessa Romo "LA County DA Moves To Dismiss 66,000 Marijuana-Related Convictions" (14 February 2020) *NPR*, online: <https://www.npr.org/2020/02/14/806132895/la-county-da-moves-to-dismiss-66-000-marijuana-related-convictions>.

[145] See Government of California "Cannabis Equity Grants Program for Local Jurisdictions" (2021), online: <https://business.ca.gov/cannabis-equity-grants-program-for-local-jurisdictions/>.

[146] In this context, "social equity" refers to policy measures that aim to address the discriminatory enforcement of cannabis laws under prohibition, as exemplified by Owusu-Bempah and Luscombe, "Race, cannabis, and Canadian war on drugs", *supra* note 139.

[147] The federal government introduced a program to expedite pardons for people previously charged with simple cannabis possession, but the program has been widely criticized for keeping the onus on the individual rather than the government. See, for example, Chuka Ejeckam "Clearing pot charges from Canadians' records would be a good start—but it's not enough" (24 October 2018) *Maclean's*, online: <https://www.macleans.ca/opinion/clearing-pot-charges-from-canadians-records-would-be-a-good-start-but-its-not-enough/>. Initially, it was estimated that 250,000 Canadians would be eligible, but as of March 2021, the program had issued less than 400 pardons; see Patrick Cain

economically-marginalized people who rely on cannabis for therapeutic purposes. Of particular note is the concern already signalled that formulation of the resulting regulatory scheme omitted consideration of and adequate consultation with Indigenous communities, rendering them mere subordinated stakeholders rather than full partners.[148] Indigenous people have had uniquely negative experiences under the previous cannabis regime.[149] And, the consequences of past and ongoing colonialism have meant that the population of the DTES that struggles with poverty, substance use, homelessness, and racism is disproportionately Indigenous.[150]

There are many ironies to this tale. The Government's "public health" approach to cannabis legalization aimed to dissuade initiation among non-consumers and curb excessive consumption among current consumers by having the provinces and territories set strict controls on product pricing/taxing.[151] Yet, it is precisely public health concerns specific to a very disadvantaged group that have taken the hit from the new regime. This is not to say, necessarily, that the government should implement a blanket loosening of restrictions around cannabis pricing, but considerations should be made to support equitable access for marginalized populations. For example, the federal government recently distributed funding for "safe supply"[152] pilot initiatives to address the opioid

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"Fewer than 400 people pardoned under new system for erasing old weed convictions" (10 March 2021) *CTV News*, online: <https://www.ctvnews.ca/canada/fewer-than-400-people-pardoned-under-new-system-for-erasing-old-weed-convictions-1.5341579>

[148] Wesley, "Colonial Legacies", *supra* note 57 at 37.

[149] Wesley, *ibid*, at 46. Owusu-Bempah and Luscombe "Race, Cannabis, and the Canadian war on drugs", *supra* note 139.

[150] See, for example, Donna Schatz "Unsettling the politics of exclusion: Aboriginal activism and the Vancouver Downtown Eastside" (2010) Annual Meeting of the Canadian Political Science Association (Montreal, Canada), online: <https://www.cpsa-acsp.ca/papers-2010/Schatz.pdf>.

[151] Crepault, *supra* note 23, at 2.

[152] For a detailed description of "safe supply" and the proposed ways in which it can be provided, as outlined by PWUD, see Canadian Association of People who Use Drugs "Safe Supply Concept Document" (2019), online: <https://vancouver.ca/files/cov/capud-safe-supply-concept-document.pdf>

poisoning crisis.[153] The approval of these programs did not constitute a repeal from the prohibitive laws surrounding non-medical opioids, but they allowed regulated access to opioids for a small subset of the population who met a specific set of criteria for overdose risk. Local government officials in Vancouver[154] and Victoria[155] have voiced their support for low- and no-cost alternative cannabis distribution models to be integrated into the legal framework. In Vancouver, Council directed city staff to research and propose low-barrier models that could act as a viable alternate regulated cannabis access point for marginalized PWUD.[156] With regard to fitting into the existing policy framework, a donor-subsidized gift card program was the sole identified option.[157] However, a community-run medical cannabis co-operative (similar to a compassion club) with a sliding cost scale was heavily favoured among PWUD. The Mayor of Vancouver requested support from the federal government in establishing such a site, including an integrated clinical research program.[158] Yet, at present, this type of distribution model would not be permissible under the province's licensing and pricing regulations.[159]

Insofar as the studies presented above point to the use of cannabis as a method of harm reduction, we wish to highlight an important caveat: legal access to a regulated supply of cannabis for marginalized PWUD is not a solitary or comprehensive solution to the current overdose crisis.

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[153] See Camille Bains "Feds provide $15M to fund 4 B.C. pilot projects looking into a safer drug supply" (1 February 2021) *CBC News*, online: <https://www.cbc.ca/news/canada/british-columbia/feds-provide-15-million-for-safer-bc-drug-supply-1.5896659>

[154] See City of Vancouver "Cannabis as an Alternative to Opiates and More Dangerous Drugs on the Downtown Eastside: Report" (6 October 2020), online: <https://council.vancouver.ca/20201020/documents/r1.pdf> [City of Vancouver "Cannabis as an alternative"].

[155] See Roxanne Egan-Elliott, "Harm-reduction group wants permission to give free cannabis to opioid users" (3 September 2020) *Times Colonist*, online: < https://www.timescolonist.com/news/local/harm-reduction-group-wants-permission-to-give-free-cannabis-to-opioid-users-1.24196929>

[156] City of Vancouver "Cannabis as an alternative", *supra* note 154.

[157] *Ibid.*

[158] *Ibid.*

[159] *Ibid.*

While cannabis reform tailored to PWUD is a necessary measure, it is merely a supportive one in the growing movement towards decriminalization and legalization of all currently illicit drugs.[160] Thus, our argument in no way detracts from the immediacy and urgency with which a safe and regulated supply of opioids is required to curb the rate of overdose deaths resulting from fentanyl contamination of the drug supply.

Conclusion

If left unchecked, cannabis legalization in Canada is likely to perpetuate existing inequalities, where groups most marginalized in society will not enjoy the societal liberties cannabis legalization is proclaimed to offer. The resulting (in)equity landscape is complex and intersectional. Those who were targeted by the enforcement of previous cannabis laws—disproportionately Black and Indigenous communities—will have fewer opportunities to profit off of the legalization of cannabis.[161] And those without financial means of accessing legal cannabis will be forced to continue engaging with the illicit cannabis market. Using a case study of cannabis use among PWUD during an intensifying drug poisoning crisis, we argue that marginalized communities stand to benefit the most from legalization, yet they were largely left behind in the design of the legal framework. The old adage is true: "[w]hen you focus on the law in action, often

[160] See, for example, Travis Lupick "Decriminalization is just the start of real reform—and drug users need to be part of the conversation" (21 August 2020), *The Globe and Mail*, online: <https://www.theglobeandmail.com/opinion/article-on-decriminalization-lets-hear-from-drug-users/>. See also Anna Mehler Paperny "Canada considering drug decriminalization to fight overdose crisis (29 January 2021) *Reuters*, online: <https://www.reuters.com/article/us-health-coronavirus-canada-drugs/canada-considering-drug-decriminalization-to-fight-overdose-crisis-idUSKBN29Y2FM>.
[161] Centre on Drug Policy Evaluation, "How Diverse is Canada's Legal Cannabis Industry," online: https://cdpe.org/wp-content/uploads/dlm_uploads/2020/10/How-Diverse-is-Canada's-Legal-Cannabis-Industry_CDPE-UofT-Policy-Brief_Final.pdf.; Chuka Ejeckam "The Unbearable Whiteness of Weed: Canada's booming cannabis industry has a race problem," The Globe and Mail, August 2, 2019. online: https://www.theglobeandmail.com/opinion/article-the-unbearable-whiteness-of-weed/.

we discover important theoretical and policy problems."[162] This vantage point then asks us to look beyond the "hegemonic sight conventions of visuality:"[163] to comprehend the experiences of those at the margins of Canadian society. Canada took a big step forward in repealing cannabis prohibition, but it has much work to do in amending the laws to allow for equitable access, capacity, and opportunity.

[162] Stewart Macauley, "Wisconsin's Legal Tradition," (1994) 24 Gargoyle 6 – 10, 9.
[163] Rob Nixon, *Slow Violence and the Environmentalism of the Poor*, (Cambridge: Harvard University Press, 2011) at 15