



Mandatory Drug Treatment: Ethical, Legal and Human Rights Concerns



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Ethical, Legal and Human Rights Concerns**

By the
Alberta Civil Liberties Research Centre

**Alberta
Civil Liberties
Research Centre**
Mailing Address:
University of Calgary
2500 University Drive NW
Room 2350 Murray Fraser Hall
Calgary, Alberta T2N 1N4
p:(403) 220-2505
e:aclrc@ucalgary.ca
www.aclrc.com

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Acknowledgments



Dedication

This project is dedicated to the memory of Linda McKay-Panos, B.Ed., J.D., LL.M., Executive Director (1992-2024), whose vision, dedication, and contributions were integral to this report.

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Project Management

Sharnjeet Kaur, B.Ed, Administrator.

Amanpreet Singh, J.D., Legal Researcher.

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I- Introduction

Mandatory drug treatment remains a contentious issue worldwide. While it is often intended to protect individuals and communities, it frequently raises serious ethical, legal and human rights concerns particularly when implemented without consent, due process, or proven effectiveness. People who use drugs often face human rights violations, such as forced or involuntary treatment, cruel or degrading punishment, and unfairly long prison sentences.¹ Such practices raise critical concerns regarding the rights to liberty, health, informed consent, and protection from inhumane treatment.²

Mandatory treatment restricts a person's freedom and must be ethically and legally justified. This includes demonstrating that the treatment is not only necessary but also effective in preventing harm. However, evidence often shows forced treatment does not lead to better outcomes, making it difficult to justify its use, either to protect the person or the public. Denying individuals the right to choose treatment can undermine their fundamental freedoms, which are protected under various international human rights frameworks, including those of the United Nations (UN).³

In 2016, UN member states agreed that drug dependence is a complicated, long-term health condition that can be both prevented and treated. Protecting the right to health means helping people avoid the harmful effects of drugs, giving access to treatment and prevention programs.⁴

In 2020, thirteen UN agencies including the UN Human Rights Office, the World Health Organization (WHO), the UN Office on Drugs and Crime, and the UN Children's Fund (UNICEF) called for the closure of compulsory drug detention and rehab centers in the Asia-

¹ Addressing and Countering the World Drug Problem, United Nations, Office on Drugs and Crime, online: <<https://www.unodc.org/unodc/en/humanrights/areas/drugs.html>> [Addressing and Countering the World Drug Problem].

² Rick Lines, Julie Hannah & Giada Girelli, "'Treatment in Liberty' Human Rights and Compulsory Detention for Drug Use" (2022) 22:1 Human Rights L Rev 1, online: <<https://academic.oup.com/hrlr/article/22/1/ngab022/6369597?login=true>> [Lines, Hannah and Girelli].

³ D. Werb et al, "The effectiveness of compulsory drug treatment: A systematic review" (2016) 28 Intl J of Drug Pol'y 1, online: <<https://www.sciencedirect.com/science/article/pii/S0955395915003588>>.

⁴ Addressing and Countering the World Drug Problem, *supra* note 1.

Pacific region.⁵ This statement, made during the COVID-19 pandemic, repeated a similar call made by twelve UN agencies in 2012.⁶

The 2012 joint statement followed a series of investigations conducted by non-governmental organizations and human rights monitors, which revealed the involuntary detention of an estimated half a million people worldwide under the name of “drug treatment.” These individuals were often held without legal process or consent in facilities labeled as rehabilitation centers, but which were, in fact, operated by military or paramilitary forces, police, security services, or private contractors.

According to the joint statement:

The continued existence of compulsory drug detention and rehabilitation centres, where people who are suspected of using drugs or being dependent on drugs...are detained without due process in the name of “treatment” or “rehabilitation”, is a serious concern...

The UN entities which have signed on to this statement call on States that operate compulsory drug detention and rehabilitation centres to close them without delay and to release the individuals detained. Upon release, appropriate health care services should be provided to those in need of such services, on a voluntary basis, at community level.⁷

These practices have been documented in numerous countries, such as China, Vietnam, Cambodia, Thailand, Russia, Malaysia, Myanmar, Indonesia, the Philippines, and Singapore. In many of these cases, the so-called treatment centers also served as forced labor or “re-education through labor” camps, blurring the line between public health intervention and human rights abuse.⁸

⁵ Yazid Barhoush & Joseph J. Amon, “Research in compulsory drug detention centres in China: Characteristics and ethical considerations” (2025) 20:1 Global Public Health, online:

<<https://www.tandfonline.com/doi/full/10.1080/17441692.2024.2447795#abstract>>.

⁶ Joint statement on compulsory drug detention and rehabilitation centres, ILO, UN Office of the High Commissioner for Human Rights, UNDP, UNESCO, UNFPA, UN High Commissioner for Refugees, UNICEF, United Nations Office on Drugs and Crime, UN-Women, World Food Programme, WHO, Joint United Nations Programme on HIV/AIDS, 2012, UNAIDS/JC2310, online:

<<https://digitallibrary.un.org/record/3950265?ln=en&v=pdf>> [Joint Statement].

⁷ *Ibid* at 1.

⁸ Lines, Hannah and Girelli, *supra* note 2.

Involuntary treatment has been mainly used for mental illness in Canada. For substance use, it is usually only an option if the person also has a diagnosed mental illness when a person is likely at risk of harming themselves or others and cannot make decisions because of a mental illness. However, this type of treatment raises a lot of questions.⁹

According to the Canadian Centre on Substance Use and Addiction, the research on involuntary treatment for substance use disorders is limited and shows mixed results. Most studies are from other countries, and many do not compare different treatment types clearly. This makes it hard to say whether involuntary treatment is helpful or harmful.¹⁰

Some Canadian provinces have adopted secure care legislation, which refers to laws that allow the involuntary detention and treatment of individuals, usually youth, who are deemed to be at immediate risk due to substance use or mental health issues.¹¹

The primary objective of secure care legislation is to protect individuals from immediate harm and offer treatment to those unable or unwilling to seek help voluntarily.

In recent years, Canada's overdose crisis, especially related to opioids, has added urgency to these policy discussions. In Alberta alone, 1,414 people died from drug poisoning in 2024; 1,182 of them from an opioid overdose. The government in Alberta estimated that addictions issues cost the province \$7 billion annually, in terms of health care, lost productivity and justice-system costs.¹²

In response, in 2025, Alberta enacted a new law authorizing involuntary addiction treatment under the label of "compassionate intervention."¹³

⁹ Canadian Centre on Substance Use and Addiction, "Involuntary Treatment for Severe Substance Use Disorders" (February 2025) at 1, online: <<https://www.ccsa.ca/sites/default/files/2025-02/Involuntary-Treatment-Evidence-Brief-en.pdf>> [Canadian Centre on Substance Use and Addiction].

¹⁰ *Ibid* at 1.

¹¹ Andreas Pilarinos et al, "Secure care: more harm than good" (2018) 190:41 *cmaj* 1219, online: <https://www.cmaj.ca/content/190/41/E1219?utm_source=chatgpt.com>.

¹² Tyler Dawson, "Alberta tables new law for mandatory treatment for drug addicts", *National Post* (15 April 2025), online: <<https://aarc.ab.ca/sites/default/files/inline-files/National%20Post%20-%20Alberta%20tables%20new%20law%20for%20mandatory%20treatment%20for%20drug%20addicts%20%28Apr%202025%29.pdf>>.

¹³ Alberta, *Compassionate Intervention*, online: <<https://www.alberta.ca/compassionate-intervention>> [Compassionate Intervention].

II- Involuntary Drug Treatment in Alberta

Involuntary drug treatment refers to the admission of individuals with substance use or concurrent mental health disorders to treatment facilities without their consent, typically through court orders or legislative authority. This approach is generally used when a person is deemed a danger to themselves or others.¹⁴

Involuntary treatment often involves short-term hospitalization or psychiatric care, with interventions such as medication, therapy, or stabilization until the individual regains decision-making capacity. Discharge typically occurs when a physician determines that the person no longer poses a significant risk.¹⁵

A- Alberta Recovery Model

In 2019, the Government of Alberta began building a new system to help people struggling with addiction and mental health challenges. This system, known as the Alberta Recovery Model, focuses on helping people heal and recover.¹⁶

The Government of Alberta stated:

The Alberta Recovery Model is based on the belief that recovery is possible, and everyone should be supported and face as few barriers as possible in their pursuit of recovery.¹⁷

Traditionally, Alberta's approach to addiction focused heavily on emergency responses such as treating overdoses or managing acute mental health crises. While these services saved lives, they often failed to support sustained recovery. According to the Government of Alberta,

¹⁴ Canadian Public Health Association, Alberta's Proposed Involuntary Treatment Legislation a Threat to Public Health (27 February 2025), online: <https://www.cpha.ca/alberta-involuntary-treatment?utm_source=chatgpt.com> [Canadian Public Health Association].

¹⁵ Canadian Centre on Substance Use and Addiction, *supra* note 9.

¹⁶ Alberta, Delivering on compassionate intervention (15 April 2025), online: <<https://www.alberta.ca/release.cfm?xID=93154501A2C5D-FBF6-5B93-61AC004CAA0259A4>> [Delivering on compassionate intervention].

¹⁷ Alberta, Alberta Recovery Model, online: <<https://www.alberta.ca/alberta-recovery-oriented-system-of-care>>.

the Alberta Recovery Model changed that by offering more support at every stage, from prevention and early help to treatment and long-term recovery.¹⁸

A key component of the Alberta Recovery Model is compassionate intervention, which supports individuals who are too unwell to seek help on their own. For those at risk of serious self-harm or harm to others due to severe addiction, this approach provides a necessary and safety-focused pathway to recovery.¹⁹

Premier Danielle Smith explained the rationale behind Compassionate Intervention:

For those suffering from addiction there are two paths – they can let their addiction destroy and take their life or they can enter recovery. There is no compassion in leaving people to suffer in the throes of addiction and in Alberta we choose recovery. That’s why we’re introducing compassionate intervention – another tool in the Alberta Recovery Model – to help keep our communities safe while ensuring our most vulnerable can access much needed recovery supports.²⁰

According to Dan Williams, Minister of Mental Health and Addiction, the Alberta Recovery Model is part of a bigger system that helps people recover and stay well. It brings together different local services that are tailored to each person. These services don’t just focus on medical treatment, they also offer things like help finding a home, getting a job, and support from others who have gone through similar experiences.²¹

Civil commitment is increasingly being recognized by policymakers as a necessary measure for individuals at high risk who are unable to engage in voluntary care. In Alberta, this form of care is formalized under the Compassionate Intervention framework.²²

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ Delivering on compassionate intervention, *supra* note 16.

²¹ Dan Williams, “Op-ed: The Alberta Recovery Model is restoring hope to those suffering from addiction”, *rdnews* (20 April 2024), online: < <https://rdnewsnow.com/2024/04/20/op-ed-the-alberta-recovery-model-is-restoring-hope-to-those-suffering-from-addiction/>>.

²² Dr. N. Day, “Effective and Compassionate Intervention: Civil Commitment for Individuals with Severe Addiction in Alberta, Canada”, Canadian Centre of Recovery Excellence (18 March 2025), online: < <https://recoveryexcellence.org/research/effective-and-compassionate-intervention-civil-commitment-for-individuals-with-severe-addictionin-alberta-canada/>>.

B- Compassionate Intervention Act (CIA)

The *CIA*, formerly known as Bill 53²³, was passed and received Royal Assent on May 15, 2025. The *CIA* introduces a legal framework for involuntary addiction treatment, making Alberta the first province in Canada to adopt such legislation specifically focused on substance use among adults.²⁴

i- Purpose of the *CIA*

The *CIA* which is a key part of the Alberta Recovery Model, aims to improve mental health and addiction care across the province. This landmark legislation is a cornerstone of Alberta's strategy to address the worsening opioid crisis and expand access to addiction treatment.

According to the College of Registered Nurses of Alberta, the *CIA* establishes a structured approach to support the stabilization, assessment and treatment of individuals whose substance use or addiction poses a significant harm to themselves or others. It introduces a compassionate, health-focused alternative to address severe addiction while emphasizing public safety and individual well-being.²⁵

Under the *CIA*, designated individuals such as adult family members, guardians, healthcare professionals, or police or peace officers may petition the court for a treatment order when a person's addiction or substance use presents a danger to themselves or the public.²⁶

The *CIA* applies to both adults and youth but sets different thresholds for intervention:

²³ Compassionate Intervention Act, SA 2025, c C-21.5 [*CIA*].

²⁴ Alberta, Providing life-saving treatment for substance abuse and addiction, online: < <https://www.alberta.ca/providing-life-saving-treatment-for-substance-abuse-and-addiction>>.

²⁵ College of Registered Nurses of Alberta, "Bill 53: Compassionate Intervention Act – FAQs", online: < <https://nurses.ab.ca/protect-the-public/practice-guidance/bill-53-compassionate-intervention-act-faqs/#:~:text=On%20May%2015%2C%202025%2C%20the,added%20as%20it%20becomes%20available>>.

²⁶ ALIGN, "Bill 53: Compassionate Intervention Act Legislation Tabled" (17 April 2025), online: < <https://alignab.ca/resource/bill-53-compassionate-intervention-act/>> [Bill 53: Compassionate Intervention Act Legislation Tabled].

- Adults must be assessed as likely to cause substantial harm to themselves or others within a reasonable timeframe due to addiction.
- Youth face a lower threshold, allowing for earlier intervention before the situation escalates to imminent or life-threatening harm.²⁷

The *CIA* replaces the *Protection of Children Abusing Drugs Act (PChAD)*²⁸, which previously offered short-term stabilization and detox for youth. In contrast, the *CIA* introduces longer-term treatment opportunities, a simplified application process, and increased family involvement in recovery.²⁹

According to the Government of Alberta, compassionate intervention is meant to be one of several tools available to support someone on their recovery journey. Other treatment options should be attempted before resorting to this intervention.³⁰

ii- Provisions

The *CIA* outlines several important definitions:

Section 1(f):

"Capacity" means that a person is able to understand the information relevant to a treatment decision and appreciate the consequences of giving or refusing to give consent for a treatment.

Section 1(kk):

"Treatment" includes anything done for a therapeutic, preventive or other health-related purpose to treat substance use or addiction. This includes observation, monitoring, assessment, provision of clinical advice, and the prescribing or administering of a drug as defined in the *Pharmacy and Drug Act*.

²⁷ Compassionate Intervention, *supra* note 13.

²⁸ *Protection of Children Abusing Drugs Act*, SA 2005, c P-27.5.

²⁹ Delivering on compassionate intervention, *supra* note 16.

³⁰ Compassionate Intervention, *supra* note 13.

Section 1(t):

"Family member" means:

- (i) An individual's parent, guardian, spouse or adult interdependent partner, child, sibling, grandparent or grandchild, or
- (ii) An adult designated by the Commission under Section 18 as a family member.

Section 1(u):

"Guardian" includes:

- (i) A guardian under the *Adult Guardianship and Trusteeship Act*, and
- (ii) A guardian as defined in the *Child, Youth and Family Enhancement Act*.

Section 1(ii):

"Secure care plan order" means a care plan order to be carried out in a secure inpatient setting within a compassionate intervention facility.

The *CIA* permits three types of involuntary orders: apprehension orders, assessment orders, and care plan orders, but only under specific criteria.

Section 2(1):

An apprehension order, assessment order or care plan order may only be issued under this *Act* with respect to an individual who is likely to cause harm without intervention.

Section 2(2):

"Harm" means:

- (a) For a minor: Substantial harm to the minor or to others as a result of the minor's substance use or addiction.
- (b) For an adult: Substantial harm to the adult or to others within a reasonable time as a result of the adult's substance use or addiction.

According to section 3(1), whether an adult is likely to cause harm must be assessed by evaluating whether one or more specific factors indicate that harm is likely.

In addition, the *CIA* proposes the creation of a Compassionate Intervention Commission with both legal and medical oversight.

Section 7 states:

- (1) The Compassionate Intervention Commission is established.
- (2) The Commission shall be composed of lawyer members, physician members and public members appointed by the Lieutenant Governor in Council.
- (3) A member of the Commission may be appointed for a term not exceeding 3 years.
- (4) The Lieutenant Governor in Council shall designate one of the lawyer members as the Commissioner of the Commission.
- (5) The Commissioner shall serve as the chair of the Commission and shall manage and lead the operations of the Commission.

Under Section 17(a)–(c), certain individuals and professionals are authorized to initiate applications for involuntary assessment if they believe a person is at risk due to addiction.

Authorized Applicants Include:

- Adult family members
- Registered health professionals:
 1. Nurses
 2. Physicians
 3. Psychologists
 4. Social workers
 5. Paramedics
 6. Addiction counsellors
- Police or peace officers

In addition, the Minister may appoint a statutory director to screen applications and a medical director (a physician certified in addiction medicine) to oversee clinical standards across designated compassionate intervention facilities. Community service providers (bed-based and non-bed) can also be designated, each requiring to name a designated supervisor responsible for reporting and client compliance.³¹

Furthermore, a lawyer member assesses, on a balance of probabilities, whether an individual is likely to cause harm without intervention. If satisfied, the Compassionate Intervention Commission (CIC) must issue an apprehension order and an assessment order.³²

Within 72 hours, a panel of one lawyer, one physician, and one public member will hear evidence from the statutory director, the medical doctor, and the individual (with counsel or advocate if requested). If criteria are not met, the person is discharged with voluntary referrals; if met, the panel issues a care plan.³³

One of two care plans may be imposed:

1. Secure Care Plan Orders (detention in a facility) effective for up to 3 months and may be renewed.

2. Community-Based Care Plan Orders (treatment in the community) effective for up to 6 months and may be renewed.³⁴

Section 48(5)(d) mentions that the client who is the subject of the order has the right to legal counsel and the right to refuse treatment among others.

According to section 50(3), clients can be transferred between care plans depending on progress.

³¹ *CIA*, *supra* note 23, ss 19-22.

³² *Ibid*, s 25.

Apprehension Order – Authorizes police to locate and transport the individual (*CIA*, s 30(1)).

Assessment Order – Authorizes detention for up to 72 hours for stabilization. (*CIA*, s 31(1)).

³³ *Ibid*, ss 41-47.

³⁴ *Ibid*, s 48.

Under Section 80 of the *CIA*, individuals with capacity may refuse treatment. However, refusal does not prevent:

Observation, monitoring, and assessment

Provision of clinical advice

Administration of Schedule 1 drugs.³⁵

Despite this, a regulated health professional may provide treatment without consent under certain circumstances.³⁶

iii- Implementation of the *CIA*

As part of budget 2025, the Government of Alberta allocated \$180 million over three years to support the implementation of the *CIA*. This investment will fund the development of new treatment infrastructure and expand services for both adults and youth struggling with addiction.³⁷

A significant portion of the funding will go toward the construction of two 150-bed Compassionate Intervention Centres, one in Calgary and one in Edmonton, with construction beginning in 2026. These centres will be operated by Recovery Alberta and will serve as centralized facilities for intake, assessment, stabilization, and treatment for adults who are mandated to receive intervention under the new legislation. According to the Government of Alberta, while these permanent facilities are in development, the province will also explore options to use temporary adult spaces in existing facilities in order to address the immediate need for compassionate intervention care.³⁸

In addition to adult services, Alberta is making substantial changes to youth addiction treatment. Existing protective safe houses, which were previously used under the Protection of Children Abusing Drugs program, will be converted into longer-term compassionate intervention spaces. Furthermore, the government plans to open the Northern Alberta Youth

³⁵ *Ibid*, s 80(2).

³⁶ *Ibid*, s 80(3).

³⁷ Delivering on compassionate intervention, *supra* note 16.

³⁸ *Ibid*.

Recovery Centre in 2026. Located at the Edmonton Young Offenders Centre, this new facility will more than double the province's current youth treatment capacity. It will also include dedicated spaces specifically for youth receiving care under the *CIA*.³⁹

III- Effectiveness of Involuntary Treatment

People disagree on whether forcing someone into treatment is helpful. Some believe it can save lives, while others think it can be harmful and take away a person's right to choose.

While its intent is to provide support to individuals struggling with addiction, the *CIA* raises significant concerns.

A- Critiques of Compulsory Drug Treatment

According to the WHO, there is no evidence that compulsory drug detention and rehabilitation centers provide a favorable or effective environment for treating drug dependence. In 2020, the WHO called for these centers to be closed and replaced with voluntary, evidence-informed, rights-based health and social services in the community.⁴⁰

According to the WHO and the United Nations Office on Drugs and Crime (UNODC), “[n]either detention nor forced labor have been recognized by science as treatment for drug use disorders.”⁴¹

According to the UNODC:

With respect to drug treatment, in line with the right to informed consent to medical treatment (and its “logical corollary”, the right to refuse treatment), drug dependence treatment should not be forced on patients. Only in exceptional crisis situations of high risk to self or others can compulsory treatment be mandated for specific conditions and for short periods that are no longer than strictly clinically necessary. Such treatment must be specified by law and subject to judicial review. . . .

³⁹ Bill 53: Compassionate Intervention Act Legislation Tabled, *supra* note 26.

⁴⁰ WHO, Compulsory drug detention and rehabilitation centres (2020), online: <<https://www.who.int/news/item/01-06-2020-compulsory-drug-detention-and-rehabilitation-centres>>.

⁴¹ Lines, Hannah and Girelli, *supra* note 2.

Under no circumstances should anyone subject to compulsory treatment be given experimental forms of treatment, or punitive interventions under the guise of drug-dependence treatment.⁴²

Some people believe that forcing someone into addiction treatment might not work well and could even be dangerous. In fact, research from the United States between 2010 and 2017 found that people who went through any kind of inpatient addiction treatment were more likely to overdose after they left.⁴³

Elaine Hyshka, Associate Professor at the University of Alberta's School of Public Health, asserted that forcing people to get treatment might make things worse for them. She pointed out a few important things: First, the most effective way to support people is through outpatient care combined with medication, which helps manage their condition while allowing them to remain in their communities. Second, forced treatment can be dangerous because it lowers a person's drug tolerance, increasing the risk of overdose after they leave the program. Finally, voluntary participation in treatment is the most successful approach, people are more likely to recover when they choose to engage in the process themselves.⁴⁴

Hyshka stated:

What happens is they have a short period of confinement where they're not using substances. That reduces their tolerance. When people relapse and their tolerance has gone down, they are far more likely to have an overdose. It actually can increase their risk of death... If you're just there because you have to be, there's little likelihood that you will engage in whatever treatment is being offered.⁴⁵

⁴² IHRA, Human Rights and Drug Policy 4 Compulsory Drug Treatment at 3-4, online: <https://www.hri.global/files/2010/11/01/IHRA_BriefingNew_4.pdf> [IHRA].

⁴³ Jake R. Morgan et al, "Comparison of Rates of Overdose and Hospitalization After Initiation of Medication for Opioid Use Disorder in the Inpatient vs Outpatient Setting" (15 December 2020), JAMA Network, online: <<https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2774168>>.

⁴⁴ Paula Tran, "Alberta's involuntary addictions treatment law violates Charter rights, expert says", Global News (19 April 2023), online: <<https://globalnews.ca/news/9633088/alberta-compassionate-intervention-act-ethical-concerns/#:~:text=The%20Compassionate%20Intervention%20Act%2C%20which,risk%20to%20themselves%20and%20others>>.

⁴⁵ *Ibid.*

Similarly, Euan Thomson, a harm reduction advocate, said that “compassionate intervention means forced addiction treatment.” He argued that what many people with substance use disorders actually need is access to housing and basic services, not coercion.⁴⁶

According to Thomson:

When people get pushed into treatment, what often happens is they're not ready in the first place, so they come back out and they're likely to use again but they've now lost all their tolerance that they built up to the drugs they were using. The drug supply may have shifted in that period. They might use again — quite likely will — and when they do, they're at a much higher risk for drug poisoning or overdose, in which case, they could end up in the hospital, an ambulance or dead.

...

Harm reduction is proven to save lives. It helps individuals stabilize, rebuild connections with their families, and, in many cases, re-establish their lives.⁴⁷

B- Support for Targeted Compulsory Intervention

Some people believe that in very serious situations, limited court-ordered or emergency help may be necessary.

According to Dr. Keith Humphreys, a psychiatry professor at Stanford University, forcing someone to get help can be an act of kindness if they are in immediate danger to themselves or others. However, the treatment must respect the person's rights. Once the person is able to understand, their consent should be asked. There also need to be strong rules in place to stop the system from being misused.⁴⁸

"If someone gets to the point where they're doing great harm to other peoples' well-being and other peoples' freedom, or they're in a situation where they're in acute danger to

⁴⁶ Emily Mertz, “Alberta premier’s addictions mandate includes controversial involuntary treatment law”, Global News (2 August 2023), online: < <https://globalnews.ca/news/9873164/alberta-addiction-mandate-involuntary-treatment/>>.

⁴⁷ *Ibid.*

⁴⁸ Joel Dryden, “Is mandatory treatment 'compassionate' to people with addictions? Not everyone agrees”, CBC News (18 May 2023), online: < <https://www.cbc.ca/news/canada/calgary/alberta-mandatory-treatment-monty-ghosh-keith-humphreys-1.6846730>>.

themselves if they are not helped, then there is a compassionate case to say there needs to be some intervention," Humphreys said.⁴⁹

In addition, Dr. Monty Ghosh, an addictions specialist, noted that intervention may be justified in life-threatening situations. But he underscored the importance of obtaining consent once the individual is alert.⁵⁰

For Ghosh, the debate centres around one's capacity. If someone is in imminent danger of dying right away, someone has to intervene. But once that individual is alert and oriented, consent needs to be obtained. "One of the big principles in our human rights is honouring our autonomy as individuals. By forcing mandated treatment, that autonomy is taken away. And that's the risk," he stated.⁵¹

Furthermore, Earl Thiessen, a recovered addict and advocate at Oxford House, believes both voluntary and involuntary treatment may have a role. "Is it more compassionate just to watch somebody die on the street, maybe commit crime and take someone else's life? You're going to have an argument there either way," said Thiessen. "Giving that person the choice might make a difference. Taking that choice away could save someone's life," he added.⁵²

C- Medical and Ethical Concerns

Experts say that forcing someone to get medical treatment can make them lose trust in doctors and the healthcare system. It can also push them away from their families and communities because it feels like they're being controlled.⁵³

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² Tyson Fedor, "Alberta to move ahead with mandatory addiction treatment facilities this year", CTV News (5 February 2025), online: < <https://www.ctvnews.ca/calgary/article/alberta-to-move-ahead-with-mandatory-addiction-treatment-facilities-this-year/>>.

⁵³ Akshay Kulkarni, "B.C. premier's expansion of involuntary medical treatment infringes on human rights: advocates", CBC News (27 November 2022), online: < <https://www.cbc.ca/news/canada/british-columbia/david-ebby-involuntary-treatment-criticism-1.6664848>>.

The Canadian Centre on Substance Use and Addiction, in its 2025 report, stated:

There is limited evidence on the effectiveness of InvTx [involuntary treatment] for SSUD [severe substance use disorder]. Studies come from diverse settings and often lack rigorous comparisons, making it difficult to draw firm conclusions of its benefits. Research reviews have found that while some studies suggest InvTx can help people stay in treatment programs longer, most do not show significant improvements in reducing substance use or criminal reoffence. In some cases, InvTx has been linked to negative health outcomes, such as increased risk of overdose or death.⁵⁴

The 2025 report mentioned that “claims of involuntary treatment benefits are largely based on limited data, and there is a significant lack of high-quality research to determine its effectiveness compared to voluntary treatment or no treatment at all.”⁵⁵

The Alberta Medical Association echoed these concerns by stating:

The current evidence does not support that the benefits of involuntary treatment outweigh the risks and costs. In addition, there are questions around medical ethics, human rights, social justice, the role of lawyers as gatekeepers to care and potential harms. Many individuals who use substances have experienced significant trauma, and involuntary treatment carries a real risk of re-traumatization.⁵⁶

IV- Involuntary Treatment: International Models

Involuntary civil commitment for individuals with substance use disorders remains a controversial yet widely used policy approach in several countries. While intended to protect individuals and society from the immediate harms associated with addiction, such policies often raise many concerns particularly around patient rights, treatment effectiveness, and long-term outcomes.

⁵⁴ Canadian Centre on Substance Use and Addiction, *supra* note 9 at 4.

⁵⁵ *Ibid.*

⁵⁶ Alberta Medical Association, Compassionate Intervention Act - Our reaction (7 May 2025), online: < <https://www.albertadoctors.org/news/publications/presidents-letter/compassionate-intervention-act-our-reaction/>>.

A- Section 35 in Massachusetts

Massachusetts General Laws Chapter 123, §35, known as Section 35,⁵⁷ allows a qualified individual, such as a police officer, physician, spouse, relative, to petition a court to involuntarily commit someone to addiction treatment for an alcohol or substance use disorder, provided there is clear and convincing evidence that the individual poses a serious risk of harm to themselves or others. If the court finds the criteria are met, the person may be committed for up to 90 days. If the criteria are not met, the individual is released. A judge should only issue a commitment under Section 35 when less restrictive alternatives are unavailable.⁵⁸

If no treatment beds are available, the person may be placed in a correctional facility, often under conditions comparable to incarceration. The facility's superintendent must review the case at 30, 45, 60, and 75 day intervals, with the authority to approve early release if appropriate.⁵⁹

According to Sarah Wakeman, individuals who undergo involuntary treatment under Section 35 face a risk of fatal overdose that is twice as high as those who receive treatment voluntarily. This risk is even more pronounced among individuals released from correctional settings under Section 35, as they are 120 times more likely to experience a fatal overdose. This heightened vulnerability is largely attributed to reduced opioid tolerance and a lack of access to medication-assisted treatment, both of which significantly increase the likelihood of relapse and overdose.⁶⁰

A 2024 study examining the experiences of people subjected to Involuntary Civil Commitment (ICC) under Massachusetts' Section 35 revealed significant concerns about the effectiveness and consequences of the practice:

⁵⁷ General Laws Chapter 123 (Mass), s 35, online:

< <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVII/Chapter123/Section35>>.

⁵⁸ Joseph Silcox et al, "Views and experiences of involuntary civil commitment of people who use drugs in Massachusetts (Section 35)" (2024) 263 *isaje* 112391, online:

< <https://www.sciencedirect.com/science/article/pii/S0376871624013164>> [Silcox et al].

⁵⁹ Massachusetts, Section 35: The Process and criteria, online: < <https://www.mass.gov/info-details/section-35-the-process-and-criteria>>.

⁶⁰ Sarah E. Wakeman, "Why involuntary treatment for addiction is a dangerous idea" *STAT News* (25 April 2023), online: <<https://www.statnews.com/2023/04/25/involuntary-treatment-for-addiction-research/>>.

- Many participants felt that ICC was ineffective, particularly when individuals were not personally ready for recovery.
- Several returned to substance use immediately after discharge, viewing the process as coercive and emotionally harmful.
- ICC often did not align with the individual's readiness or motivation to change.⁶¹

Participants expressed that fear of coercion and surveillance discouraged them from calling 911 during overdoses or seeking help voluntarily. The involvement of police in the ICC process was seen as counterproductive, reinforcing stigma and contributing to the criminalization of addiction.⁶²

The study found that compared to voluntary treatment, involuntary treatment was associated with 1.4 times higher risk of non-fatal overdose and possibly increased risk of death following release.⁶³

While Section 35 was intended as a protective measure, its implementation raises serious public health, ethical, and legal concerns. Both experts and study participants emphasize the need for a shift toward voluntary, medicalized, and person-centered treatment approaches.

B- The Swedish *Care of Abusers (Special Provisions) Act (LVM)*

LVM⁶⁴ is a legal framework aimed at protecting adults⁶⁵ with severe substance use disorders by ensuring they receive necessary care and treatment. The law permits compulsory care when voluntary interventions have failed, and the individual's substance use poses a serious threat to their health or life. Its primary objective is to interrupt destructive behavior and

⁶¹ Silcox et al, *supra* note 58. Involuntary civil commitment (ICC) is a court-mandated process to place people who use drugs into substance use treatment.

⁶² *Ibid.*

⁶³ *Ibid.*

⁶⁴ LVM stands for "Law on the Care of Addicts in Certain Cases". See: ADVOKATFIRMAN SEGERSTROM, "100 Q&A – Compulsory Care for Substance Abusers in Sweden", online: < <https://advokatsegerstrom.se/100-qa-compulsory-care-substance-abuse-sweden/>>.

⁶⁵ If the addict is under 18 years of age, LVU (the Swedish *Care of Young Persons (Special Provisions) Act* is applied instead. See: ADVANTAGE General Law Social Law, online: < <https://advantage.se/en/social-law/>>.

offer individuals a path to rehabilitation and improved quality of life. The maximum duration of such care is six months.⁶⁶

Individuals placed under compulsory care have the right to appeal the decision to higher courts, such as the Administrative Court of Appeal or the Supreme Administrative Court. However, the compulsory care continues throughout the appeal process.⁶⁷

Each year, approximately 1,000 people are court-ordered into treatment. Those admitted tend to be younger, more socially disadvantaged, and have more severe substance use problems compared to those who seek voluntary treatment.⁶⁸

LVM enables the civil commitment of individuals deemed dangerous to themselves or others due to substance use. While intended to provide life-saving intervention, research has raised concerns about the long-term consequences of compulsory care, including increased mortality risk after discharge and higher likelihood of later imprisonment.⁶⁹

A 2022 study tracked clients for up to one year following discharge from LVM care and found:

- The risk of death was highest in the first two weeks after discharge.
- This increased risk was mainly due to external causes, especially overdose deaths among younger individuals.
- Many clients likely returned to previous substance use patterns, with reduced tolerance leading to fatal overdoses.⁷⁰

⁶⁶ Simone Scarpa, Robert Grahn & Lena M Lundgren, “Compulsory care of individuals with severe substance use disorders and alcohol- and drug-related mortality: A Swedish registry study” (2023) 14 Front Psychiatry 1106509, online: < <https://www.frontiersin.org/journals/psychiatry/articles/10.3389/fpsy.2023.1106509/full> > [Scarpa, Grahn & Lundgren].

⁶⁷ Kliently, Do you need help with LVM matters?, online: < <https://kliently.se/en/services/care-of-abusers-act-lvm/> >.

⁶⁸ Scarpa, Grahn & Lundgren, *supra* note 66.

⁶⁹ Anders Ledberg & Therese Reitan, “Increased risk of death immediately after discharge from compulsory care for substance abuse” (2022) 236 *isaje* 109492, online: < <https://www.sciencedirect.com/science/article/pii/S0376871622002290?via%3Dihub> >.

⁷⁰ *Ibid.*

Another study found that individuals who underwent compulsory care under LVM were more likely to face imprisonment later in life, raising critical questions about the long-term efficacy and unintended consequences of the policy.⁷¹

V- Involuntary Drug Treatment and Human Rights Principles

Drug dependence treatment is a type of medical care, so it must follow the same ethical and legal standards as other health services. This means that people have the right to the best possible physical and mental health, must give informed consent and be allowed to stop treatment if they choose, and have their health information kept private. They also have the right to see their own health records, be treated fairly without discrimination, and be protected from abuse or cruel treatment. These rights are supported by international law and are also backed by medical ethics⁷².

A- International Law and Human Rights Standards

International human rights standards require that medical treatment be based on free and informed consent, which includes the right to refuse medical treatment. The right to informed consent to treatment is integral to the rights to health, to privacy and bodily integrity, and freedom from torture and cruel, inhuman and degrading treatment or punishment.⁷³

Article 9 of the Universal Declaration of Human Rights⁷⁴ states:

No one shall be subjected to arbitrary arrest, detention or exile.

Article 9(1) of the *International Covenant on Civil and Political Rights (ICCPR)*⁷⁵ reads:

⁷¹ Scarpa, Grahn & Lundgren, *supra* note 66.

⁷² IHRA, *supra* note 42 at 2-3.

⁷³ *Ibid* at 3.

⁷⁴ *Universal Declaration of Human Rights*, UNGA, 3rd Sess, UN Doc A/810 (1948) GA Res 217A (III).

⁷⁵ *International Covenant on Civil and Political Rights*, 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976, accession by Canada 1976) [ICCPR].

Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

This is reinforced by article 37 of the *Convention on the Rights of the Child*⁷⁶ which reads:

States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Additionally, article 14(1) of the *Convention on the Rights of Persons with Disabilities*⁷⁷ states:

⁷⁶ *Convention on the Rights of the Child*, 20 November 1989, GA Res 44/25 (entered into force 2 September 1990, accession by Canada 1991).

⁷⁷ *Convention on the Rights of Persons with Disabilities*, 12 December 2006 (entered into force 3 May 2008, accession by Canada 2010).

States Parties shall ensure that persons with disabilities, on an equal basis with others:

- a. Enjoy the right to liberty and security of person;
- b. Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.

Detaining someone solely for drug use, without imminent risk or due process, is considered arbitrary and a violation of international law.

According to some scholars, fundamental rights and human dignity must be respected, access to justice must always be guaranteed and the decision on whether to detain a person must be taken on a case-by-case basis. Detention on the basis of drug use or drug dependence alone based on a court, administrative or police decision without a thorough medical assessment to indicate imminent risk of harm to oneself or others, such as in the case of compulsory drug detention, is not acceptable within the framework of the *ICCPR*⁷⁸.

These scholars identify several safeguards against arbitrary detention:

- a) Detention must be necessary and proportionate for the purpose of protecting the individual from serious harm or prevent injury to others. From the necessity requirement it also follows that it must be employed as a measure of last resort, and for the shortest possible time.
- b) It must be accompanied by adequate procedural and substantive safeguards established by law, including access to effective legal representation and to judicial review.
- c) Its necessity must be re-evaluated periodically by a judicial body, and independent monitoring mechanisms should be in place.
- d) Adequate remedies must be available and accessible in case of a rights violation.⁷⁹

⁷⁸ Lines, Hannah and Girelli, *supra* note 2.

⁷⁹ *Ibid.*

The Human Rights Committee has affirmed that article 9 of the *ICCPR* applies broadly. This affirms that people who use drugs are fully entitled to protections against arbitrary detention and have the right to liberty, security of person, and informed consent regardless of substance use status⁸⁰.

If involuntary commitment is to be permitted at all, strict legal and procedural safeguards must apply:

- The decision must be made case-by-case by a qualified medical professional.
- The commitment must not be based on a real or perceived disability.
- It must be necessary and proportionate, used only to prevent imminent harm.
- Detention must be for the shortest time necessary.
- Periodic independent judicial reviews must be conducted.
- The individual must have access to immediate legal challenge.
- Conditions of treatment must not be inhuman or degrading.⁸¹

The Committee on Economic, Social and Cultural Rights (CESCR) stated:

The right to health contains both freedoms and entitlements. The freedoms include the right to control one's health and body... and the right to be free from interference, such as the right to be free from torture, nonconsensual medical treatment and experimentation... obligations to respect [the right to health] include a State's obligation to refrain (...) from applying coercive medical treatments, unless on an exceptional basis for the treatment of mental illness or the prevention and control of communicable diseases. Such exceptional cases should be subject to specific and restrictive conditions, respecting best practices and applicable international standards.⁸²

While some argue that addiction compromises free will—suggesting that individuals with substance use disorders are incapable of making autonomous decisions—international human rights law maintains that drug dependency does not justify the suspension of

⁸⁰ Human Rights Committee, General Comment No 35: Article 9, Liberty and security of person, 16 December 2014, CCPR/C/GC/35.

⁸¹ Lines, Hannah and Girelli, *supra* note 2.

⁸² IHRA, *supra* note 42 at 3.

fundamental rights. Legal scholar Takahashi, for example, has claimed that drug use “destroys—or at least suspends—the free will of the addict.” However, this perspective is not supported by prevailing international legal standards, which affirm that individuals struggling with addiction still retain their basic human rights and must be treated accordingly.⁸³

B- Involuntary Treatment and the *Charter of Rights and Freedoms* (*Charter*)

The Government of Alberta maintains that involuntary treatment under the *CIA* should be used only as a last resort. However, concerns remain about potential violations of different sections of the *Charter*⁸⁴.

The Canadian Public Health Association (CPHA) has expressed concerns that the *CIA* could violate human rights by expanding involuntary treatment to individuals who may not meet the criteria for addiction. Instead, the CPHA supports evidence-based harm reduction strategies and voluntary treatment options.⁸⁵

i- Sections 7 and 9 of the *Charter*

The *CIA* raises significant concerns under sections 7 and 9 of the *Charter*.

Section 7 states:

Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

Section 9 reads:

Everyone has the right not to be arbitrarily detained or imprisoned.

Section 7 of the *Charter* guarantees that everyone has the right to life, liberty, and security of the person, and may not be deprived of these rights except in accordance with the

⁸³ Lines, Hannah and Girelli, *supra* note 2.

⁸⁴ *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

⁸⁵ Canadian Public Health Association, *supra* note 14.

principles of fundamental justice. The right to liberty safeguards individual autonomy and free choice. A violation arises when government action interferes with a person's physical freedom or the ability to make fundamental personal decisions.⁸⁶

Involuntary detention has been described as “the most significant deprivation of liberty without judicial process that is sanctioned by our society.” In addition, critics have argued that the *CIA* authorizes arbitrary detention and coerced treatment based on vague or speculative predictions of harm, raising serious concerns about compliance with fundamental justice.⁸⁷

In *Fleming v Reid*⁸⁸, the Ontario Court of Appeal held that the common law right to bodily integrity and personal autonomy is deeply entrenched in Canadian law “and deserving of the highest order of protection.”

In *Rodriguez v British Columbia (Attorney General)*⁸⁹, the Supreme Court of Canada (SCC) held that the right to security of the person includes “a notion of personal autonomy involving, at the very least, control over one's bodily integrity free from state interference and freedom from state-imposed psychological and emotional stress.”

In *Starson v Swayze*, the SCC⁹⁰ affirmed that individuals, including those with mental illness, have the right to refuse medical treatment if they possess the capacity to understand the relevant information and appreciate the consequences of their decision, even if they do not acknowledge their illness.

This ruling underscored that the decisive factor is not whether medical professionals believe treatment is in the person's best interest, but whether the individual has the capacity to make an informed choice.

⁸⁶ Ruby Dhand & Kerri Joffe, Involuntary Detention and Involuntary Treatment Through the Lens of Sections 7 and 15 of the *Canadian Charter of Rights and Freedoms*, CanLiiDocs 2561 (2020) at 226, online:

< [⁸⁷ *Ibid* at 208.](https://www.canlii.org/en/commentary/doc/2020CanLII2561#!fragment/zoupio-Tocpdf_bk_1/BQCwhgziBcwMYgK4DsDWszIQewE4BUBTADwBdoAvbRABwEtsBaAfX2zhoBMAzZgI1TM_AjAEoANMmylCEAlqJCuAJ7QA5KrERCYXAnmKV6zdt0gAynlIAhFQCUAogBI7ANQCCAOQDC9saTB80KTsliJAA>.</p></div><div data-bbox=)

⁸⁸ *Fleming v Reid*, 1991 CanLII 2728 (ON CA)

⁸⁹ *Rodriguez v British Columbia (Attorney General)*, 1993 CanLII 75 (SCC), [1993] 3 SCR 519.

⁹⁰ *Starson v Swayze*, 2003 SCC 32 (CanLII), [2003] 1 SCR 722.

In addition, section 9 of the *Charter* which protects against arbitrary detention may be at risk, as the *CIA* grants broad discretion to police and other non-judicial actors to detain individuals deemed likely to cause substantial harm.

The Canadian Centre on Substance Use and Addiction asserted:

InvTx [involuntary treatment] raises ethical concerns, as it may violate individual rights by detaining and treating people without consent. Critics argue that non-emergency SUD [substance use disorder] treatment without explicit consent breaches standards of human rights and medical ethics. While related issues are complex in the specific contexts of SSUDs [severe substance use disorders] as described, there are concerns about infringements on peoples' autonomy and right to consent as well as privacy, beyond the limited evidence supporting its benefits for patients. The counter argument to this is that InvTx is a process in which autonomy is being returned to individuals through the provision of emergency care.⁹¹

In conclusion, the *CIA* raises serious constitutional concerns under sections 7 and 9 of the *Charter* by potentially infringing on individual autonomy, liberty, and protection against arbitrary detention. The broad discretionary powers it grants, combined with the potential for coercive treatment without consent, challenge fundamental principles of justice and personal rights upheld by Canadian courts.

ii- Section 12

Section 12 states:

Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.

This includes torture, excessive or abusive use of force by law enforcement officials. Elements of supposed “treatment” and “rehabilitation” may also constitute torture or cruel, inhuman or degrading treatment or punishment.⁹²

⁹¹ Canadian Centre on Substance Use and Addiction, *supra* note 9 at 9.

⁹² IHRA, *supra* note 42 at 3.

In *Canada (Minister of Employment & Immigration) v Chiarelli*⁹³, the SCC noted that the broad dictionary definition of treatment is “a process or manner of behaving towards or dealing with a person or thing...”

In *Quebec (Attorney General) v 9147-0732 Québec inc.*⁹⁴, the SCC stated that the purpose of section 12 is “to prevent the state from inflicting physical or mental pain and suffering through degrading and dehumanizing treatment or punishment. It is meant to protect human dignity and respect the inherent worth of individuals.”

In *R v Bissonnette*⁹⁵, the SCC cited *Quebec (Attorney General) v 9147-0732 Québec inc.* and elaborated as follows:

Although dignity is not recognized as an independent constitutional right, it is a fundamental value that serves as a guide for the interpretation of all *Charter* rights (*Blencoe v. British Columbia (Human Rights Commission)*, 2000 SCC 44, [2000] 2 S.C.R. 307, at para. 77). Generally speaking, the concept of dignity evokes the idea that every person has intrinsic worth and is therefore entitled to respect (*Ward v. Québec (Commission des droits de la personne et des droits de la jeunesse)*, 2021 SCC 43, [2021] 3 S.C.R. 176, at para. 56; *Quebec (Public Curator) v. Syndicat national des employés de l’hôpital St-Ferdinand*, 1996 CanLII 172 (SCC), [1996] 3 S.C.R. 211, at para. 105). This respect is owed to every individual, irrespective of their actions.⁹⁶

Also, in *R v Hills*⁹⁷, the SCC, quoting *Quebec (Attorney General) v 9147-0732 Québec inc.* and *R v Bissonnette*, reaffirmed that “dignity evokes the idea that every person has intrinsic worth and is therefore entitled to respect, irrespective of their actions.”⁹⁸

iii- Section 15

Section 15(1) states:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without

⁹³ *Canada (Minister of Employment and Immigration) v Chiarelli*, 1992 CanLII 87 (SCC), [1992] 1 SCR 711.

⁹⁴ *Quebec (Attorney General) v 9147-0732 Québec inc.*, 2020 SCC 32 (CanLII), [2020] 3 SCR 426 at para 51.

⁹⁵ *R v Bissonnette*, 2022 SCC 23 (CanLII), [2022] 1 SCR 597.

⁹⁶ *Ibid* at para 59.

⁹⁷ *R v Hills*, 2023 SCC 2 (CanLII).

⁹⁸ *Ibid* at para 32.

discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

This section guarantees that all individuals in Canada regardless of race, religion, national or ethnic origin, sex, age, or disability must be treated with equal respect, dignity, and consideration. Governments are required to ensure their laws and programs do not discriminate, either directly or systemically.⁹⁹

Statistics have showed severe inequalities in opioid-related harms. In Alberta, the opioid poisoning death rate among First Nations people was 8.4 times higher than among non-Indigenous populations in 2022.¹⁰⁰ Although First Nations people represent only 3.4% of Alberta's population, they accounted for 20% of all unintentional opioid deaths from 2016 to 2022.¹⁰¹

These figures reflect systemic inequities and raise significant concerns about how current government policies respond to the opioid crisis, especially regarding the *CIA*.

Legal experts argue that the *CIA* may violate Section 15 of the *Charter*. According to these experts, the *CIA* imposes discriminatory and dignity-denying treatment on Indigenous and racialized communities. In addition, the *CIA* targets populations already suffering from disproportionately high overdose rates, increasing their vulnerability to state intervention.

Critics argue that this approach fails to treat all individuals with equal respect, dignity, and protection under the law. They contend that instead of addressing root causes such as colonialism, intergenerational trauma, poverty, and lack of access to healthcare, the *CIA* risks reinforcing existing systemic injustices.¹⁰²

⁹⁹ Canada, Guide to the Canadian Charter of Rights and Freedoms, online: < <https://www.canada.ca/en/canadian-heritage/services/how-rights-protected/guide-canadian-charter-rights-freedoms.html#a2e>>.

¹⁰⁰ Danielle Paradis, "New statistics on opioid poisonings paint a grim picture for First Nations people in Alberta", aptn News (24 May 2024), online: < <https://www.aptnnews.ca/national-news/new-statistics-on-opioid-poisonings-paint-a-grim-picture-for-first-nations-people-in-alberta/>>.

¹⁰¹ *Ibid.*

¹⁰² Paula Tran, "Alberta's involuntary addictions treatment law violates Charter rights, expert says", Global News (19 April 2023), online: < https://globalnews.ca/news/9633088/alberta-compassionate-intervention-act-ethical-concerns/?utm_source=chatgpt.com>.

Margot Young a professor at the University of British Columbia noted:

The legacy of colonialism, residential schools, the over-incarceration of Indigenous people, and the extreme poverty in so many Indigenous communities will be subject to this so-called compassionate intervention.¹⁰³

Young and other advocates emphasize that the toxic drug crisis is rooted in long-standing inequality. Policies like the *CIA*, if not grounded in equity and human rights, risk causing harm rather than delivering compassion.¹⁰⁴

iv- Justification Under Section 1 of the Charter

The Government of Alberta may attempt to justify the *CIA* under Section 1 of the *Charter* arguing that any limitations on individual rights are reasonable and demonstrably justified in the interest of public health. However, critics argue that the government has not adequately considered less intrusive alternatives, such as harm reduction initiatives, safe-supply programs, and voluntary treatment options.

They also contend that the infringement on personal freedoms may not be proportional to the goals of the *CIA*. Civil liberties groups assert that the government's rationale is insufficient, especially when less restrictive and evidence-based public health strategies are available.¹⁰⁵

¹⁰³ *Ibid.*

¹⁰⁴ *Ibid.*

¹⁰⁵ Maddi dellplain, “Involuntary drug treatment: ‘Compassionate intervention’ or policy dead end?”, *healthydebate* (19 June 2024), online: <<https://healthydebate.ca/2024/06/topic/involuntary-drug-treatment-compassionate-intervention-policy-dead-end/>>.

VI- Recommendations

Based on current evidence and ethical considerations regarding involuntary treatment for substance use disorder, the Alberta Civil Liberties Research Centre urges the Government of Alberta to take into consideration the following recommendations:

1- Prioritize Voluntary, Evidence-Based Care

- Expand access to community-based, integrated voluntary treatment services.
- Recognize that voluntary treatment consistently results in better outcomes and engagement than involuntary approaches.
- Avoid reliance on involuntary treatment due to its association with higher risks of overdose, mortality, and trauma.

2- Restrict Involuntary Treatment as a Last Resort

- Limit involuntary treatment to individuals posing immediate risk to themselves or others who lack decision-making capacity due to substance use disorder.
- Ensure involuntary treatment is never used as a substitute for accessible, voluntary, person-centered care.
- Avoid using involuntary treatment for public order concerns or as a punitive measure.
- Define objectives for involuntary treatment such as stabilization, connection to ongoing care, and harm reduction.

3- Ensure Compliance with Human Rights and Public Health Ethics

- Align all treatment policies with international and national human rights standards, medical ethics, and evidence-based practices.
- Prohibit forced treatment practices that violate these fundamental norms.

4- Safeguard Patient Rights and Autonomy

Individuals who are subjected to involuntary treatment should be guaranteed access to legal representation; independent case reviews; and respectful, humane, and medically appropriate care.

5- Address and Mitigate Risks of Harm and Trauma

- Acknowledge the potential psychological trauma, stigma, suicide risk, and disruptions in care caused by involuntary treatment.
- Implement strict safeguards to prevent misuse of involuntary treatment and protect patient dignity.

6- Support Independent Research and Evaluation

- Mandate independent, transparent research on any involuntary treatment programs within Alberta.
- Evaluate both short and long-term outcomes, including mortality, relapse rates, treatment retention, and patient well-being.

7- Include People with Lived Experience

Involve individuals with lived or are living experience of substance use disorder in all stages of policy development, program design, and evaluation.

8- Invest in Prevention and Community Supports

Redirect funding toward:

1. Early intervention before substance use problems worsen,
2. Harm reduction tools,
3. Social supports including housing, education, and job training to promote recovery and sustained health.

Bibliography

Legislation

Canadian Charter of Rights and Freedoms, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

Compassionate Intervention Act, SA 2025, c C-21.5.

Protection of Children Abusing Drugs Act, SA 2005, c P-27.5.

Jurisprudence

Canada (Minister of Employment and Immigration) v Chiarelli, 1992 CanLII 87 (SCC), [1992] 1 SCR 711.

Fleming v Reid, 1991 CanLII 2728 (ON CA)

Quebec (Attorney General) v 9147-0732 Québec inc., 2020 SCC 32 (CanLII), [2020] 3 SCR 426.

Rodriguez v British Columbia (Attorney General), 1993 CanLII 75 (SCC), [1993] 3 SCR 519.

R v Bissonnette, 2022 SCC 23 (CanLII), [2022] 1 SCR 597.

R v Hills, 2023 SCC 2 (CanLII).

Starson v Swayze, 2003 SCC 32 (CanLII), [2003] 1 SCR 722.

Secondary Materials: International Documents

Addressing and Countering the World Drug Problem, United Nations, Office on Drugs and Crime, online:

<<https://www.unodc.org/unodc/en/humanrights/areas/drugs.html>>.

Convention on the Rights of the Child, 20 November 1989, GA Res 44/25 (entered into force 2 September 1990, accession by Canada 1991).

Convention on the Rights of Persons with Disabilities, 12 December 2006 (entered into force 3 May 2008, accession by Canada 2010).

Human Rights Committee, General Comment No 35: Article 9, Liberty and security of person, 16 December 2014, CCPR/C/GC/35, online:

<<https://docs.un.org/en/CCPR/C/GC/35>>.

IHRA, Human Rights and Drug Policy 4 Compulsory Drug Treatment at 3-4, online: <https://www.hri.global/files/2010/11/01/IHRA_BriefingNew_4.pdf>.

International Covenant on Civil and Political Rights, 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976, accession by Canada 1976).

Joint statement on compulsory drug detention and rehabilitation centres, ILO, UN Office of the High Commissioner for Human Rights, UNDP, UNESCO, UNFPA, UN High Commissioner for Refugees, UNICEF, United Nations Office on Drugs and Crime, UN-Women, World Food Programme, WHO, Joint United Nations Programme on HIV/AIDS, 2012, UNAIDS/JC2310, online: <<https://digitallibrary.un.org/record/3950265?ln=en&v=pdf>>.

Universal Declaration of Human Rights, UNGA, 3rd Sess, UN Doc A/810 (1948) GA Res 217A (III).

Secondary Materials: Books and Articles

Barhoush, Yazid & Joseph J. Amon, “Research in compulsory drug detention centres in China: Characteristics and ethical considerations” (2025) 20:1 *Global Public Health*, online: <<https://www.tandfonline.com/doi/full/10.1080/17441692.2024.2447795#abstract>>.

Dawson, Tyler, “Alberta tables new law for mandatory treatment for drug addicts”, *National Post* (15 April 2025), online: <<https://aarc.ab.ca/sites/default/files/inline-files/National%20Post%20-%20Alberta%20tables%20new%20law%20for%20mandatory%20treatment%20for%20drug%20addicts%20%28Apr%202025%29.pdf>>.

Dellplain, Maddi, “Involuntary drug treatment: ‘Compassionate intervention’ or policy dead end?”, *healthydebate* (19 June 2024), online: <<https://healthydebate.ca/2024/06/topic/involuntary-drug-treatment-compassionate-intervention-policy-dead-end/>>.

Dhand, Ruby & Kerri Joffe, *Involuntary Detention and Involuntary Treatment Through the Lens of Sections 7 and 15 of the Canadian Charter of Rights and Freedoms*, *CanliiDocs* 2561 (2020) at 226, online: <https://www.canlii.org/en/commentary/doc/2020CanLIIDocs2561#!fragment/zoupio-Toepdf_bk_1/BQCwhgziBcwMYgK4DsDWszIQewE4BUBTADwBdoAvbRABwEtsBaAfX2zhoBMAzZgI1TMAjAEoANMmylCEAIqJCuAJ7QA5KrERCYXAnmKV6zdt0gAynlIAhFQCUAogBI7ANQCCAOQDC9saTB80KTsliJAA>.

Dryden, Joel, “Is mandatory treatment ‘compassionate’ to people with addictions? Not everyone agrees”, *CBC News* (18 May 2023), online:

< <https://www.cbc.ca/news/canada/calgary/alberta-mandatory-treatment-monty-ghosh-keith-humphreys-1.6846730>>.

Fedor, Tyson, “Alberta to move ahead with mandatory addiction treatment facilities this year”, CTV News (5 February 2025), online:

< <https://www.ctvnews.ca/calgary/article/alberta-to-move-ahead-with-mandatory-addiction-treatment-facilities-this-year/>>.

Kulkarni, Akshay, “B.C. premier's expansion of involuntary medical treatment infringes on human rights: advocates”, CBC News (27 November 2022), online:

< <https://www.cbc.ca/news/canada/british-columbia/david-eby-involuntary-treatment-criticism-1.6664848>>.

Ledberg, Anders & Therese Reitan, “Increased risk of death immediately after discharge from compulsory care for substance abuse” (2022) 236 isaje 109492, online:
<

<https://www.sciencedirect.com/science/article/pii/S0376871622002290?via%3Dihub>>.

Lines, Rick, Julie Hannah & Giada Girelli, “‘Treatment in Liberty’ Human Rights and Compulsory Detention for Drug Use” (2022) 22:1 Human Rights L Rev 1, online:

<<https://academic.oup.com/hrlr/article/22/1/ngab022/6369597?login=true>>.

Mertz, Emily, “Alberta premier’s addictions mandate includes controversial involuntary treatment law”, Global News (2 August 2023), online:

< <https://globalnews.ca/news/9873164/alberta-addiction-mandate-involuntary-treatment/>>.

Morgan, Jake R. et al, “Comparison of Rates of Overdose and Hospitalization After Initiation of Medication for Opioid Use Disorder in the Inpatient vs Outpatient Setting” (15 December 2020), JAMA Network, online:

<<https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2774168>>.

Paradis, Danielle, “New statistics on opioid poisonings paint a grim picture for First Nations people in Alberta”, aptn News (24 May 2024), online:

< <https://www.aptnnews.ca/national-news/new-statistics-on-opioid-poisonings-paint-a-grim-picture-for-first-nations-people-in-alberta/>>.

Pilarinos, Andreas, et al, “Secure care: more harm than good” (2018) 190:41 cmaj 1219, online: <https://www.cmaj.ca/content/190/41/E1219?utm_source=chatgpt.com>.

Scarpa, Simone, Robert Grahn & Lena M Lundgren, “Compulsory care of individuals with severe substance use disorders and alcohol- and drug-related mortality: A Swedish registry study” (2023) 14 Front Psychiatry 1106509, online:

<<https://www.frontiersin.org/journals/psychiatry/articles/10.3389/fpsy.2023.1106509/full>>.

Silcox, Joseph, et al, “Views and experiences of involuntary civil commitment of people who use drugs in Massachusetts (Section 35)” (2024) 263 *isaje* 112391, online: < <https://www.sciencedirect.com/science/article/pii/S0376871624013164>>.

Tran, Paula, “Alberta’s involuntary addictions treatment law violates Charter rights, expert says”, *Global News* (19 April 2023), online: < https://globalnews.ca/news/9633088/alberta-compassionate-intervention-act-ethical-concerns/?utm_source=chatgpt.com>.

Wakeman, Sarah E. “Why involuntary treatment for addiction is a dangerous idea” *STAT News* (25 April 2023), online: < <https://www.statnews.com/2023/04/25/involuntary-treatment-for-addiction-research/>>.

Werb, D. et al, “The effectiveness of compulsory drug treatment: A systematic review” (2016) 28 *Intl J of Drug Pol’y* 1, online: < <https://www.sciencedirect.com/science/article/pii/S0955395915003588>>.

Secondary Materials: Government Documents

Alberta, Alberta Recovery Model, online: < <https://www.alberta.ca/alberta-recovery-oriented-system-of-care>>.

Alberta, Compassionate Intervention, online: < <https://www.alberta.ca/compassionate-intervention>>.

Alberta, Delivering on compassionate intervention (15 April 2025), online: < <https://www.alberta.ca/release.cfm?xID=93154501A2C5D-FBF6-5B93-61AC004CAA0259A4>>.

Alberta, Providing life-saving treatment for substance abuse and addiction, online: < <https://www.alberta.ca/providing-life-saving-treatment-for-substance-abuse-and-addiction>>.

Canada, Guide to the Canadian Charter of Rights and Freedoms, online: < <https://www.canada.ca/en/canadian-heritage/services/how-rights-protected/guide-canadian-charter-rights-freedoms.html#a2e>>.

General Laws Chapter 123 (Mass), s 35, online: < <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVII/Chapter123/Section35>>.

Williams, Dan, “Op-ed: The Alberta Recovery Model is restoring hope to those suffering from addiction”, *rdnews* (20 April 2024), online: < <https://rdnewsnow.com/2024/04/20/op-ed-the-alberta-recovery-model-is-restoring-hope-to-those-suffering-from-addiction/>>.

Secondary Materials: Other (Websites)

ADVOKATFIRMAN SEGERSTROM, “100 Q&A – Compulsory Care for Substance Abusers in Sweden”, online: < <https://advokatsegerstrom.se/100-qa-compulsory-care-substance-abuse-sweden/>>.

Alberta Medical Association, Compassionate Intervention Act - Our reaction (7 May 2025), online:
< <https://www.albertadoctors.org/news/publications/presidents-letter/compassionate-intervention-act-our-reaction/>>.

ALIGN, “Bill 53: Compassionate Intervention Act Legislation Tabled” (17 April 2025), online:
< <https://alignab.ca/resource/bill-53-compassionate-intervention-act/>>.

Canadian Centre on Substance Use and Addiction, “Involuntary Treatment for Severe Substance Use Disorders” (February 2025) at 1, online:
<<https://www.ccsa.ca/sites/default/files/2025-02/Involuntary-Treatment-Evidence-Brief-en.pdf>>.

Canadian Public Health Association, Alberta’s Proposed Involuntary Treatment Legislation a Threat to Public Health (27 February 2025), online:
<https://www.cpha.ca/alberta-involuntary-treatment?utm_source=chatgpt.com>.

College of Registered Nurses of Alberta, “Bill 53: Compassionate Intervention Act – FAQs”, online:
< <https://nurses.ab.ca/protect-the-public/practice-guidance/bill-53-compassionate-intervention-act-faqs/#:~:text=On%20May%2015%2C%202025%2C%20the,added%20as%20it%20becomes%20available>>.

Dr. N. Day, “Effective and Compassionate Intervention: Civil Commitment for Individuals with Severe Addiction in Alberta, Canada”, Canadian Centre of Recovery Excellence (18 March 2025), online:
< <https://recoveryexcellence.org/research/effective-and-compassionate-intervention-civil-commitment-for-individuals-with-severe-addictionin-alberta-canada/>>.

Kliently, Do you need help with LVM matters?, online:
< <https://kliently.se/en/services/care-of-abusers-act-lvm/>>.

WHO, Compulsory drug detention and rehabilitation centres (2020), online:
<<https://www.who.int/news/item/01-06-2020-compulsory-drug-detention-and-rehabilitation-centres>>.