



Canadian HIV/AIDS Legal Network | Réseau juridique canadien VIH/sida

L E G A L N E T W O R K N E W S

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September 29 and 30 — Public Forums on Criminalization of HIV

Save these dates in your calendar!

Ottawa event: On **Wednesday, September 29**, the AIDS Committee of Ottawa is hosting a public forum on the Criminalization of HIV Exposure (<http://www.aco-cso.ca/Criminalization%20Forum.pdf>) at the University of Ottawa; the Legal Network's executive director, Richard Elliott, will be among the panelists.

Toronto forum: The Legal Network will hold a similar public forum in downtown Toronto the following day, **Thursday, September 30, at Ryerson University's Oakham House (at 63 Gould St.) in downtown Toronto from 6:30 p.m. – 8:30 p.m.** The forum will address the increasing criminalization of HIV in Canada and will feature presentations by Richard Elliott, as well as:

- Edwin J. Bernard, a leading writer, editor, blogger and activist on AIDS (<http://criminalhivtransmission.blogspot.com>);
- Eric Mykhalovskiy, Associate Professor at York University and lead researcher on a recently completed study about trends in criminal cases in Canada and policy options for Ontario; and
- Leading AIDS activist Tim McCaskill, from the Ontario Working Group on Criminal Law and HIV Exposure.

The forum is co-sponsored with the HIV/AIDS Legal Clinic Ontario (HALCO) and the Ontario Working Group on Criminal Law and HIV Exposure, and will launch the Working Group's campaign for guidelines governing Crown prosecutors dealing with cases of alleged HIV non-disclosure. Please join us for this important event! More information on the event can be viewed at www.aidslaw.ca/events/#Sep10.

Admission is free, but please RSVP to Gennet Campbell at gcampbell@aidslaw.ca if you plan to attend.

Edmonton forum: The Legal Network's executive director will also be speaking at a public forum hosted by HIV Edmonton on the criminalization of HIV non-disclosure in **Edmonton on Monday, October 4 at 7:00 p.m. at the Jubilee Auditorium at the University of Alberta**, 11455 87 Ave. NW.

Rally for Treatment Access: Join us on Parliament Hill on September 29

Please note that the date of the rally in Ottawa for reforming Canada's Access to Medicines Regime (CAMR) in Ottawa has changed — the rally is now scheduled for **Wednesday, September 29 at 11:30 a.m. on Parliament Hill**.

The Legal Network has been leading a campaign to reform CAMR (see www.aidslaw.ca/camr). More than six years ago, Parliament unanimously committed to helping people in developing get access to more affordable, generic medicines — but since then, only one shipment of medicines has been sent and the red tape in CAMR is part of the problem. Private Members' Bill C-393 presents our best hope

to streamline the current legislation and make it easier for people to get the medicines they need to survive. The Industry Committee in the House of Commons should soon begin public hearings on the bill. This means that now is a crucial time to let Members of Parliament know that you want CAMR to work.

If you are in or near Ottawa on **Wednesday, September 29**, please join us on Parliament Hill at 11:30 a.m. for this important call for action. The rally is being organized by the Legal Network, the National Advocacy Committee for the Grandmothers to Grandmothers Campaign of the Stephen Lewis Foundation, Universities Allied for Essential Medicines (UAEM), and RESULTS Canada. If you are unable to attend, please help us by sharing the rally date and details with community members and the media. A flyer for the event can be found at www.aidslaw.ca/events/#Sep10.

The Legal Network has also recently posted an online petition to Industry Committee members on the importance of Bill C-393 and the need to reform CAMR (<http://www.gopetition.com/petition/38921.html>). Please take a moment to show your support and sign the petition. MPs need to hear from Canadians: the Committee has already received more than 6500 postcards from across the country, but the brand-name pharmaceutical lobby is actively seeking to kill or water down the bill. You can also help with the "Reform CAMR Campaign" by printing out copies of this petition and posting it at your work, community events or sharing it with your friends and colleagues. We can also send you postcards to Parliament that you can get signed by family members, friends or co-workers.

For more information, or to request postcards, please contact Lindsey Amèrica-Simms at lsimms@aidslaw.ca. For further details about CAMR and the campaign to fix it, see www.aidslaw.ca/camr.

Bill S-10: Mandatory Minimum Sentencing is Back...

Before Parliament rose for the summer, the federal Minister of Justice reintroduced the government's bill to impose mandatory minimum sentences for various drug offences. Bill S-10 is very similar to its predecessor, Bill C-15, which died on the Order Paper when the government prorogued Parliament last December. With only minor cosmetic amendments, the new bill would impose more severe penalties for drug offences, including mandatory prison sentences, further escalating the failed "war on drugs".

In our view, Bill S-10 will not only undermine the health and well-being of our communities, but will also trample the human rights of Canadians, including those of people who use drugs. As Parliament resumes this fall, it is important for Members of Parliament to hear from individuals and community organizations about how misguided and damaging this approach is, and why we need to base our approaches to drugs and drug-related crime on measures that evidence has shown work to prevent and reduce harms rather than locking up yet more people. Provincial and territorial governments, who will bear much of the cost of imprisoning yet more people under Bill S-10, also need to hear why a broad cross-section of organizations and experts are opposed to mandatory minimum sentences.

In August, the Legal Network put out a call for endorsements for a letter outlining why legislation proposed under Bill S-10 is harmful to Canadians, and encouraging the adoption of evidence-based harm reduction policies. We have collected over 200 endorsements so far, including one from Conservative **Senator Pierre Claude Nolin**. The letter will be directed to the House of Commons Standing Committee on Justice and Human Rights and the Senate Standing Committee on Legal and Constitutional Affairs, as well as to provincial and federal ministries of health and attorneys-general. Please contact Gennet Campbell at gcampbell@aidslaw.ca to let us know you or your organization endorses the letter. Your support is welcome and encouraged!

Legal Network at AIDS 2010

AIDS 2010, the XVIII International AIDS Conference (www.aids2010.org), held in Vienna in July, proved to be a successful event not only for the Legal Network, but also in terms of advancing the cause of a human rights approach to combating the epidemic. Under the theme "Rights Here, Rights Now", the

gathering of over 20 000 delegates focused on the role human rights must play in supporting the work of advocates, policy-makers, scientists, health workers and others who work to support those affected by HIV/AIDS.

The Legal Network was active on many fronts (see www.aidslaw.ca/aids2010). Staff attending the conference had a full schedule of meetings, panel- and poster-presentations, and other speaking engagements. In addition, the Legal Network and the Open Society Institute (OSI) took the lead in organizing the Human Rights Networking Zone. Located in the Global Village, the venue was one of the more popular gathering-spots for delegates and the general public. The Networking Zone had on hand a selection of HIV and human rights-related material from the Legal Network, OSI and Human Rights Watch. There were also daily sessions on a range of key issues, such as drug policy, sex work, women's rights, criminalization of HIV transmission or exposure, and prisons. Visitors to the Networking Zone were also encouraged to pledge their support to the "Human Rights and HIV/AIDS: Now More Than Ever" campaign (www.hivhumanrightsnow.org).

In one such session, the Legal Network's former Executive Director, Joanne Csete, presented alongside Dr. Michel Kazatchkine, Executive Director of The Global Fund to Fight AIDS, Tuberculosis and Malaria, on the importance of the Global Fund's maintaining and expanding its support for human rights programs through public advocacy initiatives and funding for human rights programs. The Legal Network and the Open Society Institute also released a draft paper written by Joanne with recommendations to this end. The final version will be available on our website very soon so stay tuned.

In the courts

In addition to keeping community organizations informed about legal developments, and equipping lawyers representing people living with HIV, the Legal Network is also resisting the criminalization of HIV in the courts. Most recently, the Legal Network and Montréal-based COCQ-sida jointly intervened in September in the "DC" case before the Quebec Court of Appeal, with excellent representation by Stéphanie Claivaz-Loranger, COCQ-sida staff lawyer. We argued that there is no "significant risk" of HIV transmission — and hence no basis for criminal prosecution for not disclosing HIV-positive status to a sexual partner — in situations where a condom is used or, similarly, where there is an undetectable viral load (unless the prosecution can prove other factors that would establish beyond a reasonable doubt the existence of a significant risk). It will likely be a few months before the Court issues its decision.

This month, the Legal Network and the Committee for Accessible AIDS Treatment jointly applied to intervene before the Federal Court in a case involving the deportation of an HIV-positive woman. The woman had been convicted of criminal negligence causing bodily harm and aggravated assault for failing to disclose her HIV-positive status to her then-husband prior to having unprotected sex with him. She was subsequently deemed inadmissible to Canada on the basis of "serious criminality" and the Immigration Division of the Immigration and Refugee Board of Canada made a deportation order against her. In May 2010, the Immigration Appeal Division dismissed the woman's appeal of her deportation order and she was deported in August 2010. This case raises considerable concerns for HIV-positive people, given that a conviction for HIV non-disclosure may result in deportation as well as incarceration for those without Canadian citizenship. At this time, the Federal Court has yet to make a decision about our application to intervene.

We are also still awaiting a decision on the Legal Network's intervention before the Manitoba Court of Appeal in the *Mabior* case, argued this past February.

Transitions...

Last month, the Legal Network said goodbye to our Director of Communications, **Gilles Marchildon**. Gilles is now working as Director of Programs for one of the Legal Network's Toronto-based member organizations, **Action positive : VIH/sida** (www.actionpositivevihsida.org). The group provides services for the over 100 000 French-speakers in the country's largest city. We wish him well and are pleased

Gilles will continue to devote his skills to the cause of HIV/AIDS in a new capacity.

Our policy and research team welcomes the arrival of a new Senior Policy Analyst, **Mikhail Golichenko**. Mikhail will be leading our human rights research and advocacy work in Russian-speaking countries, with a particular focus on drug policy issues. Prior to his appointment with the Legal Network, Mikhail was a Legal Officer with the UNODC Country Office for the Russian Federation in Moscow, where his work focused on promotion of human rights and addressing legal barriers for access of people who inject drugs and prisoners to effective HIV/AIDS prevention and care programs. His experience also includes working for the UN Peacekeeping in West Africa and the Russian police service in different positions, including as instructor. Mikhail has a post-graduate degree in Russian civil law. He has authored several publications on issues in civil litigation in Russia. He has been a member of the Russian Bar Association since 2007.

We would also like to extend a warm welcome-back to Gilleen Witkowski, our former Administrative Assistant, who is back working on a short-term contract with the Legal Network as Communications Assistant. Gilleen recently completed her MA in political science in a collaborative international relations program at the Munk School of Global Affairs at the University of Toronto. Gilleen is passionate about political advocacy and legislative change, and we are thrilled to have her back working with us again on a number of projects.

And in closing...

The Legal Network relies on multiple sources of funding in order to carry out its work promoting the human rights of people living with HIV and of communities vulnerable to HIV. Individual donations are a key source of funding that help ensure our independence. Please consider making a tax-deductible donation at www.aidslaw.ca/donate.

If you no longer wish to receive any messages from the Legal Network, please reply to this message with "Unsubscribe" in the subject line.

About the Canadian HIV/AIDS Legal Network

The Canadian HIV/AIDS Legal Network (www.aidslaw.ca) promotes the human rights of people living with and vulnerable to HIV/AIDS, in Canada and internationally, through research, legal and policy analysis, education, and community mobilization. The Legal Network is Canada's leading advocacy organization working on the legal and human rights issues raised by HIV/AIDS.

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