

Network news

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Canadian HIV/AIDS Legal Network

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The long-awaited bill to amend the Patent Act and the Food and Drugs Act was brought to Parliament for final reading on 27 April 2004, ending nearly a year of wrangling over a piece of legislation aimed at allowing the export of desperately needed low-cost generic medicines to developing countries. *Network News* talks to Richard Elliott, the Network's Director of Legal Research & Policy, about what the passage of Bill C-9 will mean. Over the last months, Richard has spearheaded a coalition of Canadian activists fighting for expanded access to medicines by people in developing countries as a basic human right.

Network News: Why have the Network and other NGOs been so critical of this bill, which the federal government has said will save lives?

Richard Elliott: The federal government and the patented pharmaceutical industry have pushed for various elements in the bill that would undermine the likelihood of its success. People need to appreciate that this Canadian bill comes after a very long and bitter debate at the World Trade Organization, where countries finally reached a consensus last year on how to relax WTO patent rules to allow this kind of legislation. From the perspective of health and human rights activists, the WTO decision was already imperfect, but we made a commitment to try in good faith to make it work. The next step involved countries like Canada passing legislation based on the WTO decision, which is what Bill C-9 was supposed to do.

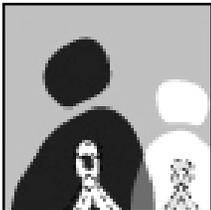
It's important that Canada not renege on the international consensus on how to relax patent

rules, particularly because Canada's bill is the first of its kind in the world. Unfortunately, from the outset, this is precisely what the government and the patented pharmaceutical industry tried to do, drafting various limitations into the bill that would make it less effective, even some that had already been explicitly proposed and rejected in WTO negotiations. So there was a real question as to whether the government entered into this process in good faith. And at the end of the day, we see a bill that falls short of what the Canadian government had previously endorsed internationally.

NN: What has the Legal Network achieved in the recent months, leading the coalition of organizations that worked hard to fix the bill's flaws?

RE: Our coalition has achieved an important precedent in that a G7 country has actually passed legislation to implement a deal for which people fought so hard at the WTO. We have demonstrated coalition-building in action, bringing together a broad range of civil society groups in a wealthy country – students, unions, AIDS activists, development organizations, faith-based groups, human rights advocates, and humanitarian organizations. We have managed to get a bill that sets a reasonably good precedent on keeping royalties low for this kind of initiative, which is important given the overall goal is to make medicines more affordable. We have established a positive precedent in that the legislation implements the WTO decision in a way that allows export of cheaper pharmaceuticals to developing countries that don't belong to the WTO. And very impor-

Strong response to Action Alert on Bill C-9



Over 1400 people from every region of Canada — and countries around the world — participated in our recent Action Alert campaign by sending an email from our website to urge the federal government to fix the flaws in Bill C-9. Many more joined the campaign by sending letters and faxes to the House of Commons.

We thank all those who demonstrated their concern and helped give momentum to our advocacy on Bill C-9.

tantly, we managed to keep proposals such as the so-called “right of first refusal” for patent-holding pharmaceutical companies — which would have set a terrible international precedent — from inclusion in the final text of the bill. Unfortunately, there are still several features of the final bill that are flawed, and so the bill cannot, in its entirety, be considered a model piece of legislation that should be copied elsewhere; rather, other countries need to make sure to avoid those errors.

NN: What impact will Bill C-9 have for people living with HIV/AIDS in developing countries?

RE: This remains to be seen. Bill C-9 has an impact in that it can contribute to the larger global effort to set aside strict patent rules in favour of the lives of poor people needing medicines. But it is too early to predict just how many pills may get to people in developing countries as a result of this legislation. There are lots of things that need to fall into place for that to happen; the bill makes it possible for Canadian generic pharmaceutical companies to make cheaper medicines for export, but that does not mean this will automatically happen.

NN: Why is this issue important to Canadians living with HIV/AIDS, and why has the Legal Network made it such a focus?

RE: Getting people medicines that will save or prolong their lives is a question of basic human rights — the rights to life and to health in particular. There is not only a moral imperative to take action — Canada also has an obligation under international law to take this kind of measure and Canada has repeatedly affirmed on the world stage that access to medicines is, indeed, part of basic human rights. The Legal Network is an organization dedicated to ensuring that human rights are at the foundation of how we, as a world, deal with the HIV/AIDS epidemic. We are also an organization with an internationalist perspective — which necessarily follows if we believe that human rights truly are to be universally enjoyed.

Canadians living with HIV/AIDS, and Canadians who care about people living with HIV/AIDS, know what a difference access to treatment has made in many people’s lives. Canadians share a cultural norm — at least in theory — that insists people’s access to health care should depend on their need, not on their wealth. How can we not apply this basic ethic globally? The rights of people living with HIV/AIDS are as important in developing countries as in Canada. That is why we made this issue a priority. Without any doubt, the Legal Network, working with our partners, has achieved a lot. At the same time, we cannot be happy because Canada should have done better.

To learn more about Bill C-9, visit: www.aidslaw.ca/Maincontent/issues/cts/patent-amend.htm

Network News aims to keep readers up to date on activities undertaken by the Canadian HIV/AIDS Legal Network.

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The Canadian HIV/AIDS Legal Network is a charitable organization promoting the human rights of people living with and vulnerable to HIV/AIDS, in Canada and internationally. We accomplish this through research, policy analysis, education, advocacy and community mobilization.

“We Are Having an Impact”: An Interview with Ralf Jürgens

On 26 April, the Legal Network announced that Ralf Jürgens will move on from his position as Executive Director of the Canadian HIV/AIDS Legal Network effective 1 September 2004. Ralf was one of the Network's four founding members in December 1992, became its first President in 1993, and has been its first Executive Director since June of 1998. In a communication to the Network's members, Kevin Midbo, the Network's President, thanked Ralf “for his work, and for building a strong team that will be able to carry the work forward that he started.”

In this interview, we ask more about why Ralf has decided to move on at this point and about his future plans.

Network News: Obviously, many of us are sad to see you leave the Network. Why did you make what must have been a difficult decision for you?

Ralf Jürgens: Clearly, it was a difficult decision. The Network was a big part of my life for the last twelve years and I feel strongly about what it does and how it does it. Much remains to be done. But it was time to move on. I believe in change, and this change will be good for the Network and for me. The Network is a very strong organization with strong staff, a dedicated Board and membership, a new team structure, and a new strategic plan. The new Executive Director will be able to take it into new directions, while building on a strong foundation. Personally, I needed a break and look forward to a few months off.

NN: What do you see as the Network's main strengths?

RJ: The Network combines rigorous research and analysis with activism. Our work is authoritative, and cannot be easily dismissed by policy makers. We “put third first” [focus on the most marginalized populations], and con-

stantly push the agenda. And we are having an impact. For example, I am sure that Bill C-9 would not have passed in its current form had it not been for the work of the Network. This is why we are recognized as a leader in promoting the human rights of people living with and vulnerable to HIV/AIDS.

NN: What will you do when you leave in September?

RJ: Currently, I am planning to take at least three months off after I leave the Network, and to decide during that time what I want to do next. I cannot at this time think of any work that I would rather do than work on issues related to HIV/AIDS, so it is entirely possible that I will return to this type of work.

NN: What will the main priorities be for the Network until then?

RJ: Obviously, hiring the new Executive Director will be a priority. A Hiring Committee has already been established and the position has been posted. But the next months will be a very busy and exciting time for the Network for many other reasons. The Executive Director position will not be the only position that will be posted. We are also looking at further strengthening our Research & Policy Team. In addition, we will be releasing a number of important reports, including on drug pricing, confidentiality, prison needle exchange programs, and disability and income security. We will also launch an action plan against HIV/AIDS-related stigma and discrimination, which is particularly important in light of the recent outbreak of stigma and discrimination against people living with HIV in Québec. Finally, we are preparing for our satellite conference on “Human Rights at the Margin” in Bangkok, and for our September AGM, which for the first time we are organizing jointly with ICAD (the Interagency Coalition on AIDS and Development). I will be busy until my last day at the Network!





Network News Flashes

Update: 60th Session of the UN Commission on Human Rights

Resolutions on the right to health and on access to treatment in the context of pandemics such as HIV, tuberculosis and malaria were on the agenda for the 60th session of the UN Commission on Human Rights, held recently in Geneva. Proposals to strengthen language on sexual and reproductive health and rights were strenuously opposed by numerous countries belonging to the Organization of the Islamic Conference (OIC) and by the United States. Some countries also resisted references to the relevance of human rights norms to international trade and investment regimes.

However, modest improvements to both resolutions were achieved by the end of the process. Provisions were included in the resolution on the right to health that explicitly recognize gender equality and the empowerment of women and girls as crucial to reducing vulnerability to HIV/AIDS. The resolution also contains the first explicit reference to increasing investment in the development of effective HIV prevention methods, including methods that women can control such as microbicides; a new statement stressing the importance of monitoring and analyzing the pharmaceutical and public health implications of international agreements, including trade agreements; and a recommendation that States and international organizations (such as the WTO) take into account the human right to health.

The Commission's resolution on access to treatment contains several new provisions including an expanded reference to diseases beyond HIV, TB and malaria where global disparity in access to treatment must be addressed; a new reference to promoting the transfer of technology in the pharmaceutical sector to countries lacking capacity in this sector; new paragraphs welcoming the WHO and UNAIDS "3 by 5" initiative to make medicines and diagnostics more accessible to developing countries; a new provision calling on States to take into account the International Guidelines on HIV/AIDS and Human Rights, including the revised Guideline 6 on access to prevention, treatment, care and support; and a new paragraph urging States to adapt national legislation "to use to the full" the flexibilities found in WTO agreements on patents.

The Network provided technical advice to UNAIDS during the Commission hearings, assisting with the wording of a number of provisions. In addition, the Network submitted a statement to the Commission on "HIV/AIDS, Sexual Orientation, Gender Identity, and Non-discrimination" (see details in *Network News* 14) and on Canada's Bill C-9 (www.aidslaw.ca/Maincontent/issues/cts/patent-amend.htm), and was also able to assist in securing accreditation for several delegates from developing countries who attended the hearings to mobilize support for a resolution on human rights and sexual orientation.

The final text of resolutions from the Commission's 60th session can be found at:

www.unhcr.ch/html/menu2/2/60chr/index.html

**GLOBAL
HEALTH
IS A HUMAN
RIGHT!**

A Civil Society Common Platform for Action on HIV/AIDS and Global Health CALL FOR ENDORSEMENTS

Add your organization to the list of those from Canada and around the world endorsing this common statement on efforts to realize the human right to health. For full details and contact information, download a copy of the Common Platform at: www.aidslaw.ca/Maincontent/issues/cts/GTAGsummit.htm

Organizations wishing to add their endorsement may also contact Richard Elliott at relliott@aidslaw.ca or (416) 595-1666.

Progress on Joint Agenda for Microbicide, Treatment and Vaccine Advocates

In follow-up to the expert consultation organized by the Network in Montreal in November 2003 (see *Network News* 13), the development of a joint agenda among microbicide, vaccine, and treatment advocates has been the topic of recent presentations in India, South Africa, and the United Kingdom.

With the goal of accelerating research and development and increasing global access to HIV/AIDS treatments and new prevention technologies, the Network – in collaboration with a number of partners – will be completing and disseminating an Action Plan, a Statement of Commitment, and a background paper over the next few months. The Statement of Commitment will also be circulated for endorsement by organizations and experts from around

the world as part of an upcoming campaign that will highlight how treatment, vaccine, and microbicide activists can benefit from the pursuit of a joint agenda.

The Network is also collaborating on a cross-training workshop for microbicide, vaccine, and treatment advocates, to be hosted by ICASO as a satellite to the International AIDS conference in Bangkok this July. In addition, a workshop for Canadian treatment, microbicide, and vaccine activists, focusing on why adoption of a joint agenda can benefit Canadians, will be held at the Network's AGM in September 2004.

For the latest news on these initiatives, see: www.aidslaw.ca/Maincontent/issues/vaccines.htm

Canadian Strategy on HIV/AIDS: Failure to Boost Funding Sparks Cross-Canada Day of Protest

HIV/AIDS organizations from coast to coast will call for a long overdue increase in funding to the federal government's Strategy on HIV/AIDS (CSHA) in a series of demonstrations scheduled for 14 May 2004.

Federal HIV/AIDS funding has not seen an increase since 1993, even though the number of HIV infections in Canada has more than doubled. Although several ministers, including Deputy Prime Minister Anne McLellan, have publicly declared their support for more funding, an increase failed to materialize in the government's most recent budget.

In a speech on "*Deadly Public Policy: HIV/AIDS and Government Inaction*" given at Carleton University in January 2004 – and more recently at a press conference held on Parliament Hill on 8 April – the Network's Executive Director Ralf Jürgens pointed out the costs of the government's deadly public policy: "Those who do not care for the lost lives and other consequences of HIV may start caring when they realize that governments that fail to invest appropriately in the fight against

HIV/AIDS are not only morally irresponsible, but also fiscally irresponsible."

The 14 May protests will highlight the federal government's failure to adequately fund the Canadian Strategy on HIV/AIDS, and highlight that Canada is spending less, and has a higher number of new HIV infections, than other comparable countries. As Ralf Jürgens says: "In 2006, when the International AIDS Conference will take place in Toronto, the entire world will be judging Canada's response to HIV/AIDS. Thus far, we are failing. We need more funding, more leadership, and more commitment NOW."

Demonstrations are being planned in Montreal, Edmonton, Vancouver and other cities. Coinciding with the start of the 2004 Canadian Conference on HIV/AIDS Research, the Montreal demonstration will kick off at 11:30 am in front of the Centre Sheraton (1201 René-Lévesque Blvd. West) and proceed to Complexe Guy-Favreau at 12 noon for a "die-in" and press briefing.

Members of the Legal Network are strongly encouraged to participate in the day of protest on 14 May 2004.

For more details about the Montreal event or information about activities happening in other cities, contact Elana Wright at ewright@aidslaw.ca

Legal Network Pushes for Harm Reduction in Ukrainian and Russian Prisons

Thomas Kerr, the Network's Director of Health Policy & Research, and Ralf Jürgens spent ten days in March in the Ukraine and Russia, as part of the Network's project to assist with the implementation of harm reduction measures in prisons in Eastern Europe and Central Asia (see details in *Network News* 12).



View from prison interior in Eastern Europe (Photo: R. Jürgens)

The Ukraine portion of the trip was successful. "We were able to conclude an agreement with the Ukrainian prison system under which we will assist them, over the next two years, with implementation of pilot studies on methadone maintenance treatment (MMT) and needle exchange," said Kerr. "We will produce two technical background documents on the experience with MMT and needle exchange in prisons worldwide, to be translated into Ukrainian and Russian, and will host a prison study tour in Canada for senior officials from the Ukrainian prison system, focused on the experience with MMT in Canadian prisons and in the community. The Ukraine seems committed to tackling a serious epidemic of HIV/AIDS

among injection drug users, including in prisons, and is open to receiving technical assistance from the Network."

The experience in Russia was less positive, although Ralf Jürgens says that there is reason to hope: "We spent three days in Penza, a city 12 hours by train from Moscow. A local community organization provides a needle exchange program in the community, and has done a lot of great education work in the prison system to the point where the local authorities asked us to push for implementation of needle exchange programs in the prisons in the Penza region." The medical director of the Russian prison system, however, did not show any interest in receiving assistance with implementation of MMT and needle exchange. The Network is now re-assessing whether it will continue work in Russia, or focus on other countries, such as Ukraine, where we can have a bigger impact.

Notes from the 2nd Canadian Conference on Hepatitis C

Ralf Jürgens gave a presentation entitled "Ethical, legal, and human rights issues in hepatitis C" at the 2nd Canadian Conference on Hepatitis C in Vancouver on 28 March 2004. The presentation is available at www.aidslaw.ca/Maincontent/issues/other.htm.

Coming back from the conference, Ralf noted that "the issues related to most people living with hepatitis C - injection drug users - were nearly absent from the agenda. Instead, the focus was on treatments that only a very small number of people with hepatitis C will be able to benefit from."



Awards for Action on HIV/AIDS and Human Rights 2004 CALL FOR NOMINATIONS

Nomination Deadline: **extended to 28 May 2004**

Co-sponsored by [Canadian HIV/AIDS Legal Network](http://www.aidslaw.ca) and [Human Rights Watch](http://www.humanrights.org), the Awards for Action on HIV/AIDS and Human Rights highlight outstanding contributions that decrease vulnerability to HIV/AIDS and protect the rights and dignity of those infected and affected. An award is presented annually to one Canadian and one international recipient. Nominations are accepted for any individual or non-profit organization, from Canada or another country, whose work has directly contributed to addressing HIV/AIDS and human rights issues. Anyone may submit a nomination. The 2004 recipients will be announced at the Network's AGM in Montreal in September. For more information about the Awards and how to submit a nomination, visit: <http://www.aidslaw.ca/Maincontent/awards.htm>

Promoting Healthy Public Policy

**2004 AGM and Skills Building Workshops
and Presentation of Awards for Action on HIV/AIDS and Human Rights**

Montréal, 10-12 September 2004



CANADIAN	R É S E A U
HIV • AIDS	JURIDIQUE
L E G A L	CANADIEN
NETWORK	VIH • SIDA



We are very pleased to announce that the Legal Network's 2004 AGM will be held jointly with that of the Interagency Coalition on AIDS and Development (ICAD).

The full programme of workshops and presentations will be available soon at: www.aidslaw.ca/Maincontent/events/future.htm



Theo de Bruyn Accepts Teaching Position

Following a year as a part-time staff member at the Legal Network, Theo de Bruyn has recently accepted a teaching position in religious studies at the University of Ottawa.

Theo's work at the Network has focused on mobilizing action to combat HIV/AIDS-related stigma and discrimination: "It has been encouraging to connect with people around the country who are doing similar work. Most of this happened by email; sometimes in person. These encounters helped me to understand better what people experience as a result of stigma and discrimination, and what we can do about it."

In reflecting on his experience at the Network, he notes: "Before I joined the staff, I already knew how committed the Legal Network is to the human rights of people affected by HIV/AIDS. But in the past year I've seen that commitment in the day-to-day work of all the staff at the Network. I've always come away from meetings with other staff with new energy for my own part of the task."

Theo's involvement with the Network will continue as a volunteer, and he looks forward to participating in the Annual General Meeting this September.

New Challenges for René Lessard

René Lessard has recently moved on to pursue a new career opportunity in the private sector. René spent seven months at the Network, during which he implemented new accounting software. "I was astonished by the dedication of the staff at the Network, a dedication I felt

at all levels of the organization. There are heroes at the Network," says René. "I was glad to be part of the team, even though my time was short. I wish the Network, its staff and board of directors every success in achieving your goals."

Researcher Ian Malkin on Sabbatical at the Network

Ian Malkin, Associate Professor of Law at the University of Melbourne and long-time Network collaborator (Ian was one of the co-authors of the Network's report on safe injection facilities), spent part of his most recent sabbatical in our Montreal office assisting with research for UNAIDS on the use of litigation in developing states and states in transition and how "best practices" in litigation might be used as models for other jurisdictions.

Says Ian: "I'd like to thank everyone at the Network for giving me the opportunity to con-

tinue my association with it. As always, it has been a pleasure working here - an enormously enjoyable workplace environment. I'd also like to take this opportunity to applaud the Network itself, for undertaking the kind of work it does, and for the efforts it makes in advocating legal and policy reform, both domestically and internationally. The Network is a force to be reckoned with, and a voice to be listened to, producing accessible, authoritative work that provides a first port-of-call, worldwide, for political and legal advocates for change.



13th Annual Canadian Conference on HIV/AIDS Research (CAHR), Montreal (13-16 May 2004)

The Legal Network will make a number presentations on legal and ethical issues related to HIV/AIDS, including an oral presentation by Ralf Jürgens on "Prison Needle Exchanges: A Review of International Evidence and Expertise" (Saturday, May 15th, 2004 at 3:30 pm). Network researchers will also be presenting posters (Friday 14 May from 5 to 6:30 pm, and on Saturday 15 May from 4:45 to 6:15 pm) on a variety of topics including: privacy protection and the disclosure of health information; HIV treatment, vaccine and microbicide advocacy; civil society joint advocacy on global access to treatment; an action plan to reduce HIV-related stigma and discrimination; and rights-based approaches to HIV/AIDS. The complete CAHR program is available at:

www.symposiumsida.ca/CAHR04_En/index.html

Harm reduction among drug users: Two experiences, two presentations Montreal (3 June 2004)

In collaboration with the Centre Hospitalier de l'Université de Montréal (CHUM), the Legal Network, the Programme National de Mentorat sur le VIH-sida, and the Canadian Association of Nurses in AIDS Care (CANAC) invite nurses, people who work with drug users, and others with an interest in harm reduction to attend presentations by Legal Network board member Alan Wood, B.Sc.N., ACRN (community nurse at INSITE, Vancouver's safe injection site), and Daniel La-Roche, Assistant Director, Mental Health, Integration, and Social Adaptation, for the Québec City region. 3 June 2004, 7:30 pm, Salle Lucien Lacosse, Pavillon Mailloux, 1st floor, Hôpital Notre-Dame (Sherbrooke St. East, at the corner of Papineau St.)

HUMAN RIGHTS AT THE MARGINS: HIV/AIDS, Prisoners, Drug Users and the Law (Bangkok, 9 July 2004)

If you are attending the XV International AIDS Conference in Bangkok, Thailand, there is still time to register for this one-day satellite conference taking place just prior to AIDS 2004 on Friday, July 9, co-organized by the Canadian HIV/AIDS Legal Network, the [Lawyers Collective HIV/AIDS Unit](#) (India), [International Harm Reduction Development](#), and the Thai Drug Users Network, with financial assistance from UNAIDS, the International Harm Reduction Development Program, Health Canada's International Affairs Directorate, and the Canadian International Development Agency (CIDA). For more information and to register, visit:

www.aidslaw.ca/bangkok2004/e-bangkok2004.htm.



Feedback

Dear Richard Elliott:

Just a short note to congratulate you on this morning's powerful, elegant, and important article in the Globe and Mail. I can't think of more timely or pressing subject to address; I cannot imagine anyone in the country right now who could better make these consequential arguments than you. Well done.

All the best,

David L. Clark

Comments from participants in the national consultation on Sex Work, Canadian Criminal Law & HIV/AIDS, held in Montreal on 21 – 22 February 2004:

- *Very, very good attempt at creating a safe and open space for discussing an extremely*

contentious issue with a very diverse group. Thank you, it is the start of something really wonderful and I know your organization will produce a sensitive and informative document.

- *The participation of sex workers, former sex workers and allies from across the country was very useful.*

- *I learned a lot more about the political issues than I even knew and I am looking forward to going back to my community and sharing.*

- *The opportunity to network on national issues was very useful. Sex workers never get this opportunity.*



New Resources

Canadian HIV/AIDS Policy & Law Review 9(1)

www.aidslaw.ca/Maincontent/otherdocs/Newsletter/vol9no12004/issue.htm

Global Health is a Human Right! A Civil Society Common Platform for Action on HIV/AIDS and Global Health

www.aidslaw.ca/Maincontent/issues/cts/GTAGsummit/GHHR_Platform.pdf

Stories of Community Mobilization Against HIV/AIDS-related Stigma and Discrimination

www.aidslaw.ca/Maincontent/issues/discrimination/Stories_Community_Mobilization.pdf

Ethical, Legal and Human Rights Issues in Hepatitis C (slide presentation)

www.aidslaw.ca/Maincontent/issues/other/hepC/HCV_slides.pdf

Law & the Human Rights of Sex Workers in the Age of HIV/AIDS (slide presentation)

www.aidslaw.ca/Maincontent/issues/prostitution/law&HR_sexwork_slides.pdf