



# A Moment of Breakthrough

## ANNUAL REPORT 2020-2021

Seizing the moment to push for concrete and lasting change.



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The Legal Network acknowledges that the land on which we live and work is traditionally known as Turtle Island and home to the the Haudenosaunee, the Wendat, and the Anishinaabe, including the Mississaugas of the Credit First Nation. We are all Treaty People. As settlers and as human rights advocates working for health and justice, we are called to honour the Calls to Action of the Truth and Reconciliation Commission in our work. We must do our part to address the ongoing injustices and resulting health inequities faced by Indigenous Peoples, which contribute to the disproportionate impact of the HIV epidemic on Indigenous communities. We are actively committed to this effort, working in collaboration with our Indigenous colleagues and others.

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# A HISTORY OF ACTION, A MOMENT OF BREAKTHROUGH

In last year's letter, we touched on the COVID-19 pandemic, then just bursting into our collective consciousness. A year later, much of the world is deep in another brutal wave, an outcome predicted by public health experts, and one that could and should have been prevented had political decision-makers been willing to act sooner and take human rights seriously.

This only underscores the lessons to be learned, many of them first imparted by the HIV pandemic, but too often ignored. COVID has demonstrated yet again that public health is fundamentally connected to human rights and that failing to respect and protect rights — and, especially, to take positive measures to *fulfill* rights — leads to more infection, illness, and death. Although COVID differs from HIV in important ways, they both travel along the fault lines of social inequities. The only way we will overcome both pandemics is if we act to respect, protect, and fulfill human rights.

This means ensuring freedom of expression: the silencing of health advocates leads to crucial delays in the response. It means realizing the right to health through equitable access to prevention tools including vaccines, to testing, and to treatment. It means ensuring workers' rights to a safe workplace and to just working conditions, including paid sick leave. It means ending poverty, which leaves people with fewer options to protect their health. It means addressing the systemic racism that impedes access to care and treatment. It means accountability for the ageism and ableism that left care homes chronically underfunded and understaffed, and left some of those most vulnerable to get sick and die of COVID.

The importance of human rights in an effective response to a public health crisis was seen at the beginning of the HIV pandemic in the early 1980s; what was true then is still the case today with COVID, 40 years later.

We highlighted these issues in our *Flatten Inequality* brief, which we released quickly in April last year as the inequities in the global COVID response were becoming apparent. Many of these concerns — including and especially the instances of often discriminatory policing of the pandemic, and equitable access to prevention, care, and treatment — persist. Yet there is also welcome movement on several related fronts. While COVID remains devastating, it has also shone a light on structural changes that are urgently needed.

We've seen movement on the drug policy front, with Vancouver applying for a local exemption that would effectively decriminalize simple possession — *if done right*. Other municipalities, or even provinces, may follow: in just this past year, British Columbia's government has officially stated its interest, Montreal City Council has endorsed decriminalization (as have many smaller municipalities), and so has Toronto's Board of Health (three times) while also urging the federal health minister to issue exemptions.



Demand for decarceration has been growing as overcrowded prisons become incubators for COVID. Canada’s correctional authorities have responded to some pressure here — but as we’ve seen with public health challenges such as HIV and HCV, their response remains too passive. Meanwhile, COVID has been cynically invoked as an excuse to stall further implementation of prison needle and syringe programs — one public health and human rights crisis being used to somehow justify continued inaction on another.

Equitable access to affordable medicines — a life-and-death issue that HIV activists put on the global agenda years ago — has again become a headline issue. Millions will die while vaccines are delayed for poorer countries, again showing the urgency of ensuring that patents and profits do not stand in the way of saving lives. Millions of preventable infections and deaths from HIV may not have yet been enough to break through this resistance, but COVID may finally do so.

It is fitting, therefore, that the theme of this year’s annual report is *A Moment of Breakthrough*. Our actions leading up to this moment have paved the way for changes that are long overdue. COVID may prove the magnifying lens that has shown the rest of society the importance of respecting, protecting, and fulfilling human rights in responding to a public health crisis. We cannot let this moment pass without pushing for more concrete and lasting changes.

This is also a moment of change for us at the HIV Legal Network. After nearly 28 years of service to the Legal Network in one capacity or another, more than half of them as Executive Director, Richard will step down in July. But the work will continue under experienced new leadership. Our staff team will be led by Sandra Ka Hon Chu and Janet Butler-McPhee as co-Executive Directors and we are delighted the HIV Legal Network will be in such capable hands.

At the same time, Ron’s term as Chair of the HIV Legal Network will end. As he says, “I am incredibly proud of the work we do and always amazed at the collective energy required to ensure we do not rest until lasting change has been achieved. I may be leaving the Board but my commitment to the Legal Network remains undiminished.”

This coming fiscal year also marks the end of our current strategic plan, *Respect, Protect, Fulfill*. We are excited to be mapping out the next phase of our work against the backdrop of a new global AIDS strategy that has the strongest focus to date on addressing human rights as an essential part of the HIV response. Let this time in history be a **Moment of Breakthrough** after a strong **History of Action**.

Yours in solidarity,

**Ron Rosenes**  
Chair, Board of Directors

**Richard Elliott**  
Executive Director



# BREAKTHROUGH: BY THE NUMBERS

## Change-making Advocacy & Intervention



11 federal prisons in Canada where a needle exchange program was introduced



30+ court cases in Russia to help people who use drugs access their legal and human rights



1 new constitutional challenge to harmful sex work laws



1 amazing **Inter-American Commission of Human Rights decision censuring Jamaica for violating rights of LGBTQ people**



7 new **issues briefs** sent to Canadian parliamentarians on World AIDS Day 2020



28 focus group participants to inform a gender-based analysis of HIV criminalization



10 submissions to government bodies advocating for drug policy reform and decriminalization, including this **step-by-step primer** for local authorities



19 legal and policy briefs to the UN and other regional governments, including **this submission to the UN Working Group on Arbitrary Detention**



21 people who use drugs in Russia received previously denied legal documentation and access to HIV and other health services

# Building The Movement



new grants to partners in francophone Africa to challenge the criminalization of HIV



organizational signatories on our letter to Canada's Minister of Health urging her to immediately decriminalize personal drug possession



media interviews for TV, radio, online, and print



Twitter followers and 5,200+ on Facebook, spreading our human rights messaging far and wide

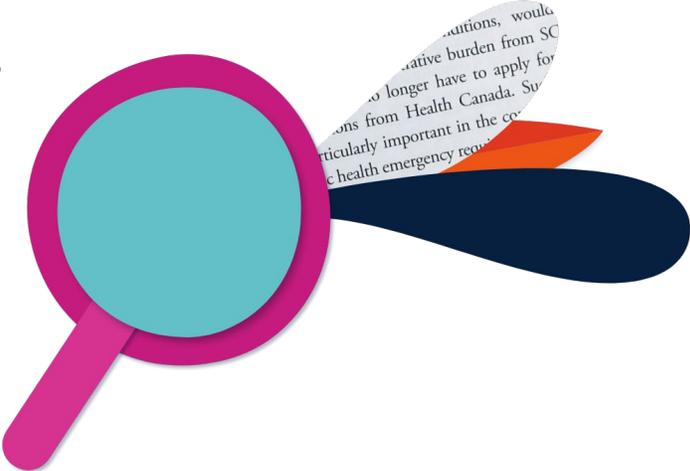


media releases and 9 published opinion editorials, including an **op-ed highlighting the impact of COVID-19 on the overdose crisis in Toronto**



donations to support our work, including 530 monthly donations

# Research and Analysis



**Our advocacy centers human rights principles and is always informed by careful analysis of the best available evidence. In this section, you'll find information about some of the research projects we undertook in 2020-2021.**

## GOOD SAMARITAN DRUG OVERDOSE ACT

The *Good Samaritan Drug Overdose Act* was introduced in May 2017 in response to a growing overdose crisis. It amended the *Controlled Drugs and Substances Act* to give immunity from prosecution to people who call 911 in the event of an overdose as well as anyone on the scene when emergency responders arrive.

But there can be a big difference between the intent of a law and how it actually affects people day to day. We wanted to know how well known the Good Samaritan law was among people who use drugs and their experience of its real-world effects.

In our last annual report, we shared the results of our study, but our work didn't stop there. We've steadily built on the momentum from this research, speaking at various events, publishing an article in the *International Journal of Drug Policy*, and developing an informative comic strip on police presence at overdose scenes. The comic was published in *Briarpatch Magazine* and was very well received.

 [Read the comic](#)

## GLOBAL FUND MID-TERM ASSESSMENTS

The Global Fund to Fight AIDS, Tuberculosis and Malaria invests more than US\$4 billion every year to support programs designed to fight HIV, tuberculosis (TB), and malaria in more than 100 countries. Last year, we told you about our involvement in the Global Fund's Breaking Down Barriers initiative in 20 countries. This initiative is meant to improve national responses to remove human rights-related barriers to health services, coordinate action plans, and carry out a monitoring and evaluation of these efforts. This year, and despite complications from the global COVID-19 pandemic, we continued our work conducting critical mid-term assessments of progress in implementing the initiative in Botswana, Côte d'Ivoire, Indonesia, Kyrgyzstan, Senegal, Sierra Leone, and Ukraine. We have been asking important questions about how these countries have and must continue to ensure their national responses to HIV, TB, and malaria respect and protect human rights for all, including and especially for vulnerable populations, so that everyone can benefit from vital health services.

## FUNDING THE HIV RESPONSE

It's no secret that the federal funding to the HIV response has been declining for years, failing to keep up with what's needed and what was promised. We've written and advocated on this issue extensively, producing several [reports](#) and campaigns. This year, we again took the issue straight to the Government of Canada, and our analysis and advocacy contributed to the Senate passing a [motion](#) on World AIDS Day 2020, calling on the government to respond to earlier Parliamentary recommendations to increase HIV funding.

In early 2021, when the federal government was developing the budget, we submitted a pre-budget consultation highlighting the need to prioritize investing in public health and respecting, protecting, and fulfilling human rights as part of the response to a health crisis. We reminded the government that ending the HIV pandemic — which is one of the Sustainable Development Goals for 2030 pledged by all countries — is unfinished business that needs funding to complete. While much attention has been turned to COVID, it would be tragic to let this new public health challenge derail the work that is needed to sustain the HIV response. We encouraged the Government of Canada to learn from the history of HIV and from the current COVID situation — it's time for a much-needed moment of breakthrough in both pandemics, with real commitments to adequately funding the response and to end the inequities and other human rights infringements that fuel them.

[Read the submission](#)



# Litigation and Other Advocacy

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**In certain situations, one way to make positive change is to go to the courts. Although it can be costly and cumbersome, sometimes it's the only way to ensure legal change occurs — especially when policymakers refuse to heed the evidence and protect the human rights of all. Legal breakthroughs have the power to lift us all up and strengthen our societies.**



## SEX WORK CHARTER CHALLENGE

The HIV Legal Network is one of the members of the Canadian Alliance for Sex Work Law Reform, a coalition of 25 sex worker rights and allied groups from across the country, primarily led by and for sex workers. This year, one of our biggest contributions to the Alliance was related to a constitutional challenge to the laws that criminalize sex work — specifically those sections of the *Criminal Code* that prohibit impeding traffic, public communication, purchasing, materially benefitting, procuring, and advertising. We are proud to have worked alongside Alliance members to support this important challenge.

The Notice of Application was officially filed in March this year; it remains to be seen whether the courts will ultimately agree with our challenge. Getting rid of these misguided, harmful laws — whether through legislative reform or litigation — is a breakthrough we're still pursuing.

[Read the media release](#)

Sex workers have been calling for these sections to be repealed for years. Doing so would go a long way towards lessening the stigma associated with sex work and addressing the isolation and violence that sex workers endure because of the criminalization of their work. Yet the Government of Canada, while professing its concern for sex workers' health and safety, has refused to act, despite the ample evidence these laws replicate many of the same harms as the laws they replaced, which the courts already declared unconstitutional.

## HIV CRIMINALIZATION IN COURT

Although scientific facts about HIV transmission have long been established, courts continue to misinterpret and misapply these facts, resulting in unjust prosecutions and convictions. This is what happened in *R. v. N.G.*, a critical case in which we intervened.

N.G., a man living with HIV, had consensual sexual relationships with three women. Crucially, all parties agreed that condoms were used for all sexual encounters. There was no evidence of incorrect condom use and, unsurprisingly, there was no allegation of HIV transmission. Even so, N.G. was convicted of three counts of aggravated sexual assault because he didn't disclose his HIV status. In his appeal, we argued that condom use should suffice to protect against prosecution.

Sadly, last August, the Ontario Court of Appeal denied N.G.'s appeal. We strongly disagree with this decision, which underscores the urgent need for *Criminal Code* reform in Canada — without such change, people living with HIV remain at risk of unjust prosecution and conviction. We will continue to advocate for legislative amendments to limit any prosecutions to cases of actual, intentional transmission of HIV, in keeping with international recommendations.

[Read our statement](#)

## JAMAICA: A SETBACK AND A BREAKTHROUGH

Many readers will be familiar with our ongoing court cases in the Caribbean. One of them involves our colleague Maurice Tomlinson's challenge to a Jamaican TV station's refusal to air "Love and Respect," a 30-second ad calling for respect for the rights of LGBTQ+ people. In October 2020, the Jamaica Court of Appeal affirmed that the country's *Charter* means that private parties, like the TV station, are obliged to respect constitutionally protected rights. But this was a victory in theory only, as the Court declined to find that the TV station had breached those rights. Instead, the Court permitted the TV station to justify refusing to air the ad because the station said it could be seen as endorsing "criminal activity" (i.e. criminalized gay sex in Jamaica) and "could incite violence or breach of the peace." This absurd ruling is deeply unfair and yet another instance of LGBTQ+ people being silenced by institutions that are supposed to uphold rights for all.

But all is not lost in Jamaica. Late last year, the Inter-American Commission on Human Rights (IACHR) completed a long-awaited report declaring that Jamaica's *Offences Against the Person Act*, which criminalizes consensual sex between men, violates several of the individual rights protected by the *American Convention on Human Rights*. Disappointingly, Jamaica refused to respond to the report, resulting in a delay in the report's release. Finally, in February 2021, we and AIDS-Free World released the report in full.

Jamaica is not legally obliged to follow the IACHR recommendations. But even so, this is an encouraging breakthrough after many years of litigation and advocacy. The pressure from the IACHR boosts our other ongoing legal challenges not only in Jamaica, but also in Dominica and Barbados, challenging the criminalization of consensual same-sex sexual activity.

[Read our statement](#)

# Public Education

**A big part of our work is using public education as a tool for change. This past year, we had many public education initiatives, including our second *Intimate Conviction* conference and a series of policy briefs that were sent to all federal parliamentarians to educate them about our issues. This ongoing education is key to achieving breakthroughs — oftentimes by changing hearts, minds, and ultimately harmful policy.**



## INTIMATE CONVICTION 2

Our first *Intimate Conviction* conference was held in Jamaica in 2017 and was a big success. Speakers from around the globe gathered to discuss the role of the Church in establishing and maintaining homophobic laws criminalizing same-sex intimacy in the Commonwealth. But as excellent as that conference was, the work wasn't done.

Because of this, we decided to hold a follow-up conference in November 2020, this time with a particular focus on even more voices from the Global South. While lockdowns and travel restrictions made an in-person gathering impossible, we were able to convene online for *Intimate Conviction 2: Continuing the Decriminalization Dialogue*. Over the course of three days, we hosted 35 speakers from all around the world over Zoom for intense discussions about homophobia, religion, and law. The sessions were also streamed on our Facebook page, gathering more than 1,500 views.

Feedback from this virtual conference was overwhelmingly positive, with attendees sharing how the stories both touched and inspired them. As a follow-up resource, we are producing a second volume of the presentations so that the message of ending hate and colonial-era homophobic laws can continue to be shared and support the work of advocates globally.

## **POLICY BRIEFS: TAKING OUR MESSAGE TO PARLIAMENT HILL**

Not only do we convene people to learn about HIV and human rights, sometimes we take our educational materials straight to policymakers. This is exactly what we did last year, with a new series of policy briefs outlining our areas of work and identifying key actions for governments to take to better protect human rights and strengthen the response to HIV. We delivered them as a package to all federal members of parliament and senators in Canada as a way of bringing our issues to their attention. We highlighted the links between human rights and HIV, the need to restore funding to the HIV response, and the need to reform laws and policies concerning drugs, sex work, and HIV criminalization.

We timed the delivery carefully, getting the package on their desks just before World AIDS Day. The response was positive, with many reaching out to us to express their thanks, ask additional questions, and set up meetings. Briefing the people who have the power to implement the changes we want to see is always complemented by our ongoing advocacy to get them to act. This important combination is how breakthroughs can ultimately happen.

[Read the policy briefs](#)



# Community Mobilization

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**Bringing people together can be an effective way to make change. When people come together, their collective voice can be far louder than any one person's, forcing those in charge to listen. This year has proven the power we can wield by standing — and sometimes shouting — as a community.**



## EASTERN EUROPE AND CENTRAL ASIA

Much of our effort in Eastern Europe and Central Asia involves work at the community level — which in turn creates change on a larger scale. One such change happened this year, thanks to our work with community organizations responding to unjust drug laws and enforcement practices in Russia.

Since 2010, we've been supporting initiatives to monitor human-rights violations in the region. Part of our work is to support lawyers who in turn provide pro bono assistance to people who've had their rights violated by drug enforcement agencies.

One case this year was *Kuzmina and Others v. Russia*, in which four people who use drugs appealed their convictions, claiming they'd been entrapped by corrupt police practices. They reached out to our partner Hand-Help.ru, a community-led website that connects people whose rights have been violated with lawyers who can provide a free consultation. In this instance, the applicants were connected with Irina Khrunova, a

long-time friend of the Legal Network, who took the case all the way to the European Court of Human Rights (ECHR). Ultimately, the ECHR agreed with our position that the tactics used by police in these four cases violated the claimants' rights and overturned the convictions.

By connecting people in need with the right people to help them, communities are coming together to fight these injustices. And with every victory, we move closer to much-needed breakthroughs.

## SUPERVISED CONSUMPTION SERVICES: CANADIAN CONSULTATIONS

One of the best ways to mobilize communities is to encourage and enable others to take action themselves. In late 2020, the Government of Canada opened a consultation on the development of new rules under the *Controlled Drugs and Substances Act*, specifically regarding supervised consumption sites and services (SCS). Oftentimes, these types of consultations fly under the radar or just don't get the volume of submissions needed to make real change.

With the future of Canada's SCS at stake, we quickly organized to produce our own legal analysis and circulate it widely to our friends, supporting likeminded organizations to join with their own submissions. We focused on the urgent need to scale up SCS, and to streamline and simplify the application process for SCS so that more life-saving operations are mounted — with no time to waste.

[Read the submission](#)

## HIV CRIMINALIZATION, WOMEN, AND GENDER-DIVERSE PEOPLE

The issue of HIV criminalization is one that has been well studied, by us and by some amazing colleagues. But we wanted to know more about how the criminalization of alleged non-disclosure plays out for women and gender-diverse people. What issues specifically affect them and what could or should be done to improve the situation?

To answer these questions, we held a focus group with 28 people including women living with HIV, frontline service providers for women and gender-diverse people, and researchers to inform a gender-based analysis of HIV criminalization. From these groups, we developed a new policy brief and released it on our website this spring. Bringing new stakeholders together to mobilize around HIV criminalization is one important way to stimulate a breakthrough.

[Read the report](#)

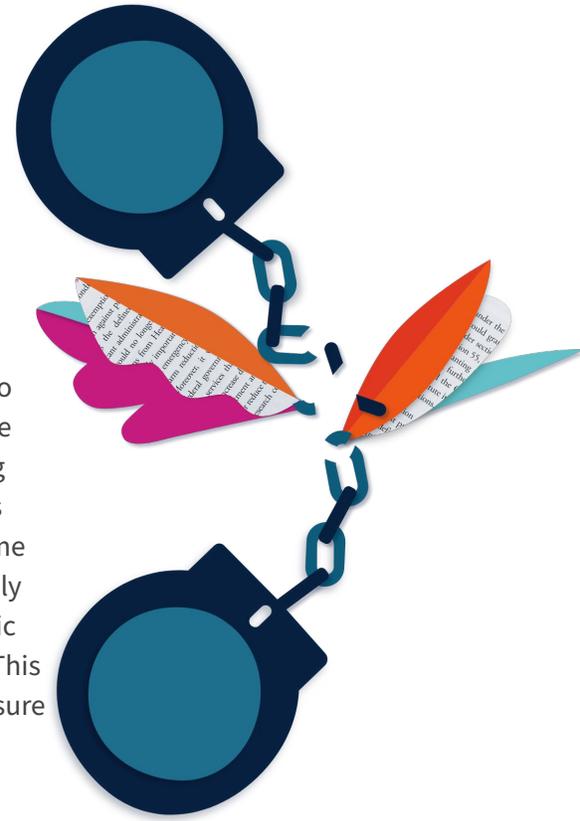


# Case Study:

## Drug Decriminalization

### BACKGROUND

The HIV Legal Network has been working on drug policy — and advocating for decriminalization — for decades. In Canada, overdose deaths have been rising sharply in recent years, thanks to a poisoned drug supply, punitive drug laws that enshrine stigma and discourage people from accessing harm reduction services, and a lack of leadership from those who hold the power to change those laws. Since the start of the COVID-19 pandemic, conditions have worsened exponentially and the situation is truly horrifying. People are dying from overdose more than ever before, as continued public health restrictions limit what services are available — and whether people can access them. Some supervised consumption sites that were key to helping people use drugs safely have been shuttered. People have been forced to use in isolation or risk public health fines, an added legal burden on top of long-standing criminalization. This year, the need to decriminalize drug use as a life-saving harm reduction measure was brought into sharp focus like never before.



### FROM ACTIVISM COMES CHANGE

One thing this heartbreaking situation makes even clearer: Canada’s drug laws need to change. We know this and our supporters know this, but how to make those in charge of shaping policy understand? We needed a strategy to make our collective voice heard, and we recommitted in earnest to our campaigning at national, provincial, and municipal levels.

Our first step was to collaborate with partners in spearheading an [open letter to the federal Minister of Health](#), who has the power to issue an exemption from the prohibition on possessing drugs for personal use in the *Controlled Drugs and Substances Act (CDSA)* if she considers it to be “in the public interest.” Issuing

a blanket exemption to all persons would effectively decriminalize simple possession across Canada. The open letter has now been signed by more than 190 civil society organizations across Canada — a clear indication of the desire and need for change.

Our call for an exemption was also endorsed by the Toronto Board of Health, who has now thrice urged the federal government to take action to save lives through decriminalization. Momentum also grew in Vancouver, where that city’s council unanimously endorsed the mayor’s motion to request an exemption from federal minister, decriminalizing personal possession of drugs within city boundaries — that request is

now before the federal government. The Province of British Columbia expressly called on the federal government to decriminalize and has stated its interest in seeking a province-wide exemption. Montreal soon followed suit, unanimously passing a motion calling on the Government of Canada to decriminalize simple possession.

Increasing demand for decriminalization locally can build pressure for action federally, so we developed our resource [\*Decriminalizing People who Use Drugs: A Primer for Municipal and Provincial Governments\*](#). This primer lays out how local governments can request an exemption from the federal Minister of Health and decriminalize drug possession in their jurisdictions. The primer received important media attention in a November 2020 [article](#) in *The Globe & Mail*, Canada's leading national newspaper.

Local exemptions are important stopgap measures if done properly; if there's the political will locally and federally, they can be done reasonably quickly, using the flexibility found in the current CDSA, and will undoubtedly save lives. But rather than a patchwork of case-by-case applications, a blanket Canada-wide exemption proactively issued by the federal Health Minister would do much more good. And to make real, long-lasting change, we need actual federal law reform. To get there, we liaised with parliamentarians in what ultimately became Bill C-22, which proposes amendments to the CDSA that would repeal mandatory minimum sentences for all drug offences, increase the availability of conditional sentences, and, at least in theory, encourage alternatives to criminal charges for people in possession of drugs for personal use. However, the bill doesn't go far enough: instead of just stating some principles that encourage police and prosecutors to avoid laying and pursuing charges for simple drug possession, what is needed is the full repeal of the underlying criminal prohibition.

These incremental measures are important indicators of the building momentum for decriminalization, but they ultimately fall short. The Legal Network is committed to working with partners across the country to demand — and ultimately — achieve bolder, lasting change. While policymakers don't always have a strong vision for decriminalization, civil society certainly does. We have a clear view of the possibility that decriminalization offers, and this year we have been working with partners — including people who use drugs — to develop a civil society platform outlining decriminalization done right. We expect to launch this critical work in the coming months.

## CONCLUSION

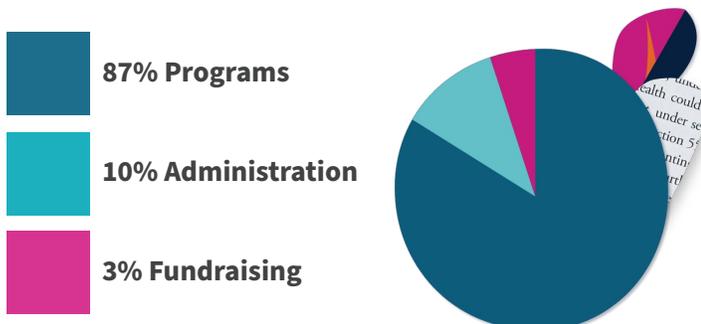
Ample research has demonstrated that punitive drug laws undermine an effective response to HIV among people who use drugs. Decriminalizing drugs and removing penalties for personal possession is also a crucial reform for addressing the overdose crisis — and while COVID has clearly exacerbated the overdose crisis, it has also provided an opportunity to make change that will outlast this pandemic. We are on the verge of something much bigger than seemed possible a few short years ago. From convening with civil society to educating local governments about exemptions to engaging parliamentarians on law reform to making the case in the media, our advocacy hasn't stopped. This is the moment to keep fighting for the breakthrough that makes full decriminalization a reality.

# Financial Overview

## Summary from Audited Financial Statements

FISCAL YEAR ENDING MARCH 31	2021	2020
<b>REVENUE</b>	<b>\$</b>	<b>\$</b>
Grants	1,328,681	1,655,934
Consulting Fees	176,269	79,734
Donations	161,289	143,606
Membership	4,320	4,415
Interest & Other	6,414	12,400
<b>Total Revenue</b>	<b>1,676,973</b>	<b>1,896,089</b>
<b>EXPENSES</b>		
Personnel Costs & Professional Fees	1,353,417	1,412,293
Rent & Maintenance	93,088	98,885
Outreach Activities	64,911	64,017
Office Equipment & Expenses	46,755	40,304
Strategic Litigation	37,860	53,164
Communication & Information	22,384	24,178
Travel Expenses	7,124	132,093
Events Expenses	1,336	48,975
Other	39,135	9,707
Amortization	1,552	3,104
<b>Total Expenses</b>	<b>1,667,562</b>	<b>1,886,720</b>
<b>Net Assets</b>	<b>138,042</b>	<b>128,631</b>

## Where Our Money Goes



# Thank You!

## Dedication

This annual report is dedicated to the memory of long-time Legal Network supporter, David Garmaise, who passed away in 2020. David was a dedicated friend, former editor of our *HIV/AIDS Policy & Law Review*, and a committed advocate for gay rights and people living with HIV. We are grateful that David recognized our organization with a generous bequest and we pledge to continue advocating for the human rights to which he dedicated his life.

## Acknowledgements

2020 was a difficult year, full of challenges brought on by the COVID-19 pandemic, which highlighted the inequalities and injustices faced by people living with or affected by HIV and AIDS, both in Canada and around the world. We would like to extend a heartfelt thank-you to all our many volunteers, supporters, and partners. Thanks to your generosity, we were able to ensure that our work could continue during this challenging time.

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 City of Toronto, Investing in Neighbourhoods Program  
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