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LEGAL NETWORK NEWS

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## Rwanda first to use Canada's Access to Medicines Regime to buy affordable AIDS drug

In July, the Legal Network cautiously welcomed news of a possible breakthrough in the long-anticipated use of Canada's Access to Medicines Regime ("the Regime"). Rwanda notified the World Trade Organization (WTO) that it was considering importing over 15 million tablets of a generic drug named "ApoTriavir" from Canada over the next two years. ApoTriavir, which is manufactured by Ontario-based Apotex Inc., combines three patented brand-name drugs: zidovudine, lamivudine and nevirapine. This fixed-dose combination drug helps treat people living with HIV/AIDS.

The notification by Rwanda was the first step for Apotex to get a licence via the Regime that would allow it to produce and export this medicine. Originally passed in May 2004, the Regime was meant to allow generic drug companies in Canada to produce and export lower-cost versions of brand-name drugs to developing countries. To date, however, not a single pill has left Canada. Meanwhile, in numerous letters and briefs, the Legal Network has repeatedly urged Cabinet ministers and members of Parliament to deal quickly and effectively with this problem, and outlined specific steps to help solve it.

In August, some media reports suggested GlaxoSmithKline, Shire, and Boehringer Ingelheim — the companies holding the Canadian patents on the three brand-name drugs used in ApoTriavir — had granted voluntary licences to Apotex. However, this was not the case, and in early September Apotex filed an application with the Commissioner of Patents for a compulsory licence; the licence was granted on September 19.

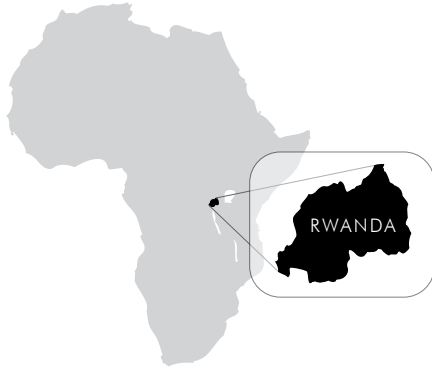
"This is big step forward in finally getting at least one affordable medicine from Canada to a developing country in need," said Executive Director Richard Elliott in a news release issued the following day. "But it's also a wake-up call to MPs to make the Regime work more quickly, efficiently and effectively. As it stands, the Regime is too full of red tape, and it's slowing down what should be a rapid response."

Now, if Apotex submits a competitive bid to supply the product and finalizes a contract with Rwanda, the first pills could finally be exported under the Regime.

"It's taken over three years just to get this close to filling a single order for >>

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a single drug. [But] even if this order goes through, there's clearly a lot that's wrong with the Regime. We've told MPs how to fix it. Now we need them to act," concluded Elliott.

*Looking for our publications on the Regime? Visit [www.aidslaw.ca](http://www.aidslaw.ca), select Publications > Publications Search, and type "access to medicines" in the keyword search field.* **LNN**

## Executive Director changeover

On August 1, Thomas Kerr, President of the Board of the Directors, announced the appointment of Richard Elliott as Executive Director of the Legal Network. Elliott succeeded Joanne Csete on August 30.

"Nobody is better qualified or experienced than Richard to take the helm of the Legal Network," said Kerr in a news release issued on August 1. "This is great news for AIDS activists and organizations across Canada and around the world."

"I know that I will never have more professional and accomplished colleagues than the staff of the Legal Network, who have made every day on the job a real privilege," said Csete in a letter to sent to members on the same day.

Csete headed the Legal Network for three years and, previous to that, served three years as a member of the Board. Her decision to return to her native United States, she explained, would allow her to spend more time with her family and to work on the funding (rather than the fund-seeking) side of AIDS work. She is now Director of Programs at the Firelight Foundation, an organization based in Santa Cruz, California, that supports small AIDS organizations in Africa.

Elliott joined the Legal Network staff in January 1999 as Director of Policy



*Executive Director Richard Elliott*

and Research, following a one and a half-year term as a member of the Board. He became Deputy Director in 2005.

"Over more than 14 years, I have had the privilege of working with and for two of the most brilliant, passionate and dedicated executive directors one could wish for," wrote Elliott to members in a letter dated September 12. "Ralf Jürgens and Joanne Csete created and strengthened an organization whose expert analyses and principled advocacy have contributed greatly to the response to HIV/AIDS in Canada and globally. As we build on their legacy, I hope that I can count on your continued support for the Legal Network." **LNN**

# LNN

LEGAL NETWORK NEWS

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The Canadian HIV/AIDS Legal Network 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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## Feature | False start — West Africa and the flawed model law on HIV

In 2004, AWARE-HIV/AIDS, an organization based in Accra, Ghana, and funded by the U.S. Agency for International Development (USAID), developed a model law on HIV/AIDS. Since then, it's been successful in influencing the laws of a number of countries in West Africa. So far, seven countries have passed national HIV laws based on the model law. But there's a problem: The model law isn't all that model.

The fact that flaws in the model law are being adopted by countries in West Africa is causing increasing concern to international organizations working in that region, including the

Pearshouse, the Legal Network's Director of Research and Policy, who attended a meeting in Dakar organized by UNAIDS to discuss the situation. "For example, the model law says that parents have the right of veto over educational curricula. So, chances are that children won't get education or information about HIV because the subject still remains taboo."

The model law also includes a very broad provision on criminalization of exposure to HIV, which says that willful HIV transmission is a punishable offence.

Yet another glaring omission from the AWARE model law is the issue of women's rights, he added.

Earlier this year, the UNAIDS Regional Office for West Africa invited the Legal Network to write a human rights analysis of the AWARE model law and the seven national laws that have since been passed. Pearshouse looked at existing human rights guidance on HIV legislation and examined how the model law, and national laws based on it, do and don't comply with those guidelines, before traveling to Dakar to present his conclusions.

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"If an HIV-positive mother . . . didn't have the necessary treatment to prevent mother-to-child transmission and transmission occurred, . . . would that be willful HIV transmission? There's no answer in the law."

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Joint United Nations Programme on HIV/AIDS (UNAIDS), the United Nations Development Fund for Women (UNIFEM) and the Open Society Institute for West Africa (OSIWA).

The AWARE model law has been used by seven countries — Benin, Guinea, Guinea Bissau, Mali, Niger, Sierra Leone and Togo — as the basis of their respective national HIV laws. Six other countries — Cameroon, Chad, Mauritius, Côte d'Ivoire, Senegal and Cape Verde — are now using the model law for the same purpose, though none of the bills have yet been passed into law.

"The model law has a number of problematic provisions," says Richard

"[But] there's no definition of what it means to be willful," explains Pearshouse. "There are none of the protections or limitations on that sort of a provision that you would want in such a law. For example, there's no provision that the person know about their HIV status. There's no provision that the person know anything about transmission to establish criminal guilt."

"If an HIV-positive mother, for whatever reason, didn't have the necessary treatment to prevent mother-to-child transmission and transmission occurred to the fetus *in utero*, or to the child during breastfeeding, would that be willful HIV transmission? There's no answer in the law."

Approximately 50 people attended the meeting, including parliamentarians from various countries in the region, some civil society representatives from throughout Africa and officials from international organizations, such as UNAIDS and OSIWA.

"I gave a presentation on women's rights and the laws that have been passed with the eventual view of understanding and strengthening the legislative responses in that region," said Pearshouse. "There's also a research paper that will be circulated, analyzing human rights concerns within these HIV laws. There will be discussion about the strengths and weaknesses of the model law; the question is open as to what happens next." [LNN](#)

## Profiles | New faces at the Legal Network

*Three new staff members joined the Legal Network this past quarter. Administrative Assistant Jessica Campbell-Thompson joined the Program Support Unit in June, and lawyers Sandra Chu and Alison Symington joined the Research and Policy Unit as senior policy analysts in September.*

*“I think we’re all eager to harness the energy and excitement that comes with change, and I think we’re off to a great start,” said Richard Pearshouse, who himself assumed a new role as Director of Research and Policy. “I know that all of our members will join us in welcoming our new colleagues.”*



**Jessica Campbell-Thompson**  
Administrative Assistant

Since joining the staff in June, Jessica has made herself indispensable in the day-to-day administrative needs of the Legal Network, as well as taking on special project work, such as helping to create a database on criminalization frequently used by the Research and Policy Unit, and organizing an expert consultation on women’s rights in Johannesburg.

“Before I started, I thought I would just be answering the phone and doing basic administrative work — but having the chance to get involved in these larger international projects has been a really pleasant surprise,” she says.

Growing up in Iroquois Falls, Ontario, Jessica had an early sense that she would make a career of service and support: “My mother was a nurse, and

she instilled in me a real respect for helping people in need.”

During high school, Jessica volunteered for the Canadian Red Cross. After graduation, she entered the Social Service Worker Program at the Sheridan Institute of Technology and Advanced Learning in Oakville, Ontario, while continuing her volunteer work at Grace House, an adult group home providing support to people with mental disabilities.

“It was a valuable experience in so many ways,” recalls Jessica, “especially because it helped me to realize just how challenging front-line service can be — and that my sensibilities might be better suited to some other aspects of the work.”

Jessica continued her post-secondary studies at McMaster University in Hamilton, Ontario, graduating with an Honours Bachelor of Arts in Anthropology, while working part-time with the Halton Lighthouse Shelter, an emergency shelter run by the Salvation Army and the Region of Halton.

“The work was more focused on the administrative side of things,” she says. “It was really an ideal mix of program support and social services work, and it was the perfect stepping stone to my work here at the Legal Network.”



**Alison Symington**  
Senior Policy Analyst

“In my work on women’s rights, HIV was in everything,” remembers

Alison Symington, thinking back to 2005, when, after the birth of her daughter, Olivia (“A whole new set of challenges!”), HIV became increasingly prominent in her research and consultancy work for Amnesty International.

“It didn’t matter what aspect you were looking at, clearly HIV was becoming *the* issue of our time — and whether because of political will, or discrimination, or any number of other reasons, we just weren’t doing anything about it,” she explains.

Throughout her education, Alison has dedicated herself to volunteering and consulting on numerous projects devoted to women’s rights and poverty eradication.

“By the middle of high school,” says the native of North Bay, Ontario, “I knew I wanted to do something in international development or poverty — what exactly I wasn’t sure.”

An honours degree in international studies at the University of Guelph helped focus her interest on human rights law, and she went on to earn her LL.B. at the University of Toronto, where she also helped to create the Women’s Human Rights Resources on-line database, before continuing her studies at New York University. After graduating with an LL.M. in International Legal Studies, Alison returned to Toronto to work at the Association for Women’s Rights in Development (AWID), where she worked to establish the Women’s Rights and Economic Change program, which she subsequently maintained for four years as Manager of Research.

At the Legal Network, one of Alison’s projects will be the model-law resource on women’s rights — a project that brings together many of her passions.

“I can see why people are so





desperate to get their hands on a tool like that,” she says. “I can see how it can be used in so many different ways, from advocacy to policy-making to education and mobilization. I’m definitely *very* keen to get going on it!”



**Sandra Ka Hon Chu**  
Senior Policy Analyst

In her relatively short career, Sandra Ka Hon Chu has worked in East Timor with the Serious Crimes Investigation Unit and UNICEF’s Juvenile Justice section; in Libya as part of a project reviewing the legal institutional framework of the ministries of health and education; and most recently in The Hague with Women’s

Initiatives for Gender Justice, a non-governmental organization promoting gender-inclusive justice at the International Criminal Court.

“My experience at Women’s Initiatives was amazing — really stimulating work, wonderful people,” says Sandra, “but in my heart, I knew I needed to bring my work closer to home. Being at the Legal Network allows me to do that while still contributing to the issues I care about.”

Born in Vancouver, Sandra credits her close-knit family with inadvertently leading her into the work she does today.

“My parents and grandparents were immigrants from Hong Kong,” she says, “and witnessing the sacrifices they made, as well as the discrimination they faced as newcomers to Canada, had a significant effect on my view of the world.”

Sandra’s sensitivity to the plight of

marginalized communities increased during her undergraduate work in sociology at the University of British Columbia, as well as in her subsequent volunteering for Vancouver Rape Relief. She came away from graduation with the conviction that working in the law would be one way for her to contribute to bringing about concrete social change. She relocated to the University of Toronto for her LL.B., but returned to British Columbia to article and be called to the provincial bar in 2003.

It was back again to Toronto for her LL.M. — this time at Osgoode Hall Law School at York University, where her thesis focussed on feminist legal theory in the context of the Chinese Head Tax.

“These are the things that inspire and motivate me,” says Sandra. “Whether it’s my grandmother’s struggle in a new country or survivors of domestic violence, for example — it’s about being firmly committed to opposing any sort of oppression.” **LNN**

## MEDIA SCAN

The following facts and figures provide a snapshot of the Legal Network’s media activities from July 1 to September 30.

**53** Total number of media requests from outlets including CTV, CBC Radio, CBC Television, Global Television, the Canadian Press and *The Walrus* magazine

**11** Number of French-language media requests from outlets including Radio-Canada (Télévision), Radio-Canada (Première Chaîne), and RDI (Le Réseau de l’information)

**9** Number of international media requests from news organizations based in France, Italy, Rwanda, Switzerland, the United Kingdom, and the United States

**30+** Total number of news reports and programs in which Legal Network staff were cited, seen and heard, including *CTV News with Lloyd Robertson*, *CBC News: Today — Weekend Edition*, *The Globe and Mail*, *National Post*, *Toronto Star*, *The Ottawa Citizen*, *The Gazette* (Montréal) and *The Chronicle Herald* (Halifax)

**6** Number of news releases issued by the Legal Network, including one joint release with New York-based Human Rights Watch, on issues ranging from the termination of the City of Ottawa’s safer crack-use kits program to Rwanda’s attempt to import a generic AIDS drug from Canada

## IN BRIEF

## New board members

Two new members were elected to the Legal Network's board of directors at the 2007 Annual General Meeting in June.

Our new president, **Thomas Kerr**, needs little introduction to Legal Network members — he served a previous term on the board from 2001 to 2003, and was on staff from 2003 to 2004 as Director of Health Policy and Research. His groundbreaking work as a research scientist with the Vancouver-based British Columbia Centre for Excellence in HIV/AIDS — particularly his research on injection drug use and the scientific evaluation of Insite, North America's first officially sanctioned supervised injection facility (SIF) — continues to significantly influence academic, public, and government thinking on SIFs across the world.

**David Eby**, a lawyer with Pivot Legal Society, has contributed to important human rights-based reforms in Vancouver's Downtown Eastside. His research and advocacy — most notably on such issues as low-income housing and police oversight in HIV/AIDS harm reduction initiatives — has led to notable improvements in this community.

As ever, our thanks go to outgoing board members **Denise Becker** (who served from 2005–2007), **David Barr** (2004–2007) and **Stefan Matiation** (1999–2007) for their dedicated service over these years.

*For more information on our board of*

## READER FEEDBACK

We welcome your feedback on our stories. Send your letters to the editor by e-mail to [LNN-NRJ@aidslaw.ca](mailto:LNN-NRJ@aidslaw.ca).

*directors, including biographies, please visit [www.aidslaw.ca](http://www.aidslaw.ca) > Who We Are > Board of Directors.*

## Ottawa cancels safe crack kits program

In July, the City of Ottawa cancelled its two-year-old Safer Crack Use Initiative, a public health program that included the distribution of safer inhalation equipment. A surprise motion was introduced and passed by a majority of councillors and Mayor Larry O'Brien by a vote of 15 to 7.

The decision, said the Legal Network, was both irresponsible and short-sighted.

“The perception that this program somehow condoned or encouraged drug use is completely false,” said then-Deputy Director Richard Elliott in a July 11 news release issued shortly after the vote. “When the city started this program, it was aiming to prevent the spread of infectious diseases. Today's decision is a huge step backwards in terms of public health and human rights.”

Crack users commonly experience abrasions and cuts on their lips. Crack pipes are frequently shared, which exposes crack users to potentially infectious blood. While smoking drugs such as crack cocaine is generally thought to be a lower-risk practice than injection drug use, studies have shown that crack smokers are at risk of HIV and HCV infection.

In a July 16 letter to the Mayor, then-Executive Director Joanne Csete dispelled many of the myths surrounding the program and its ultimate demise. She underlined that the program did not contravene the *Criminal Code*, and that it met human rights obligations to protect and promote health.

Safer crack use initiatives have been

implemented in other Canadian cities, including Vancouver, Winnipeg, Toronto, Montréal, Guelph and Halifax.

*For more information, visit [www.aidslaw.ca/drugpolicy](http://www.aidslaw.ca/drugpolicy).*

## Law reform in Central Asia

In mid-July, Senior Policy Analyst Leah Utyasheva traveled to Almaty, Kazakhstan, as part of a project funded by the United Nations Office on Drugs and Crime (UNODC) on reforming legislation on harm reduction and access to HIV prevention and treatment. The project targets five Central Asian countries — Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan — as well as Azerbaijan.



*HIV experts from Uzbekistan — Mumtaz Khakimov (left) and Alisher Makhkamov — at the five-day training session organized by the Legal Network*

At the invitation of the UNODC Regional Office for Central Asia, around 60 people attended a five-day training session organized by Utyasheva. Participants included lawyers, elected officials, health care workers, and correctional services staff.

“These people were nominated by their governments to participate in the overall project of which these training sessions were a part,” explained Utyasheva. “They said that it was very useful to participate in the project and that now they knew what

they were supposed to do within the project. They also said that the training generally increased their awareness of human rights, the law, and the legal status of harm reduction measures in international law and in other countries. Now they have a better idea of how to carry out those reforms in their own countries.”

Project participants are now assessing the legislation in their respective countries to see if it complies with international standards, and how it compares with the Legal Network’s model-law resource on drug use and HIV/AIDS (available at [www.aidslaw.ca/modellaw](http://www.aidslaw.ca/modellaw)).

“After they compose their reports and recommendations, we will write a final report and suggest what they can change in their respective countries,” concluded Utyasheva.

## CMAJ commentary: “Deadly disregard”

In a commentary published in the July 31 issue of the *Canadian Medical Association Journal* (CMAJ), the Legal Network underlined the urgent need to reduce the risk of HIV and hepatitis C (HCV) transmission in Canadian prisons by introducing needle exchange programs and reopening safer tattooing rooms.

“Across Canada, federally funded needle exchange programs are successfully reducing the spread of infectious diseases — that’s a fact,” said then-Deputy Director Richard Elliott, who authored the commentary, in a July 30 news release. “But harm reduction programs like these don’t exist inside Canadian prisons. As a result, prisoners are at greater risk of blood-borne viruses such as HIV and HCV.”

And because most prisoners eventually return to the community, explained

Elliott, the health of prisoners is ultimately a public health concern.



*Needle exchange programs don’t exist inside Canadian prisons*

Two new studies related to the commentary and published in the same issue of the CMAJ echoed previous research findings that show the prevalence of HIV and HCV is much higher in Canadian prisons than in the general population. Prisoners end up fashioning makeshift injection tools that are reused and shared, increasing the risk of HIV and HCV transmission.

“From Switzerland and Spain to Moldova and Kyrgyzstan, countries around the world have implemented large-scale sterile syringe programs in prisons because they’ve seen how such measures reduce the spread of HIV and HCV,” said Elliott. “Other countries are progressive and pragmatic enough to do this — so why isn’t Canada doing the same?”

*To read the commentary, entitled “Deadly disregard: government refusal to implement evidence-based measures to prevent HIV and hepatitis C virus infections in prisons,” and the two related studies, please visit [www.cmaj.ca](http://www.cmaj.ca). To find out more about prisons and HIV, go to [www.aidslaw.ca/prisons](http://www.aidslaw.ca/prisons).*

## Ottawa to host 2008 AGM

The Legal Network’s annual general meeting and skills-building workshops will return to the National Capital

Region in 2008. The two-day event, to be held jointly with the Ottawa-based Interagency Coalition on AIDS and Development (ICAD) and the Canadian Working Group on HIV and Rehabilitation (CWGHR), will take place in the nation’s capital on June 16 and 17.


“We had a great joint AGM with ICAD in Gatineau in 2006, and now that we’re partnering with both them and CWGHR again, Ottawa was the obvious and best choice,” said Legal Network Executive Director Richard Elliott, noting that many members of all three organizations will already be in Ottawa for the Canadian AIDS Society’s AGM.



*The 2008 AGM will be held in Ottawa, June 16–17*

“We’re hoping that giving our members the chance to attend two events in one trip will make it easier and more convenient for them,” added Elliott. “We really want to have the chance to introduce our new lawyers and staff, to renew our ties with as many organizations as possible, and to catch up with people face to face.”

This will be the fourth joint AGM the Legal Network has held with ICAD, and the second with CWGHR.

*More information on the 2008 Annual General Meeting will be posted to [www.aidslaw.ca/agm](http://www.aidslaw.ca/agm) as it becomes available.* 

## NEW THIS QUARTER

**Reports**

- Sticking Points: Barriers to Access to Needle and Syringe Programs in Canada  
[www.aidslaw.ca/drugpolicy](http://www.aidslaw.ca/drugpolicy) > Publications
- Dependent on Rights: Assessing Treatment of Drug Dependence from a Human Rights Perspective  
[www.aidslaw.ca/drugpolicy](http://www.aidslaw.ca/drugpolicy) > Publications

**Booklets**

- Undue Force: An Overview of Provincial Legislation on Forced Testing for HIV  
[www.aidslaw.ca/testing](http://www.aidslaw.ca/testing) > Publications

**Journal articles**

- Dangerously Out of Step: The International Narcotics Control Board and HIV/AIDS — *Global AIDSLink* #105  
[www.aidslaw.ca/drugpolicy](http://www.aidslaw.ca/drugpolicy) > Publications
- Deadly disregard: government refusal to implement evidence-based measures to prevent HIV and hepatitis C virus infections in prisons — *Canadian Medical Association Journal* 177 (3)  
[www.cmaj.ca](http://www.cmaj.ca) > Past Issues

**Advocacy**

- A Human Rights-based Commentary on UNAIDS Guidance Note: HIV and Sex Work (April 2007)  
[www.aidslaw.ca/sexwork](http://www.aidslaw.ca/sexwork) > Publications

**News releases**

Available at [www.aidslaw.ca/media](http://www.aidslaw.ca/media)

- September 27, 2007 — Civil Society Key to Defeating AIDS in China — International groups, global leaders press UNAIDS to convene NGO meeting [joint release with Human Rights Watch]
- September 27, 2007 — Canada Misses Opportunity to Show Leadership on HIV/AIDS, TB and Malaria at Global Fund Replenishment in Berlin [GTAG news release]
- September 21, 2007 — First-ever Compulsory Licence Issued Under Canada's Access to Medicines Regime — But MPs must simplify law to make it truly effective, says Legal Network
- August 1, 2007 — Canadian HIV/AIDS Legal Network Announces Richard Elliott as Its New Executive Director
- July 30, 2007 — CMAJ Commentary Calls for Needle Exchange and Safer Tattooing Programs in Canadian Prisons
- July 20, 2007 — Rwanda First to Try Buying Affordable AIDS Drug from Canada Using Access to Medicines Regime
- July 11, 2007 — Cancellation of Safe Crack Kits by Ottawa City Council Irresponsible and Short-sighted