



ON
POINT

Speaking of
Rights

INFORM ADVOCATE MOBILIZE

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Canadian
HIV/AIDS
Legal
Network

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“It is a privilege to have such a distinguished and diverse audience, and to be hosted by the Canadian HIV/AIDS Legal Network, whose meticulous professionalism and thoughtful activism have made it a world leader.”

Justice Edwin Cameron, Constitutional Court of South Africa, speaking at the Legal Network's 1st Annual Symposium on HIV, Law and Human Rights

THE PRESIDENT AND THE EXECUTIVE DIRECTOR

IN AN INCREASINGLY fast-paced and connected world, we are keenly aware of how much remains to be done to ensure that *all* people enjoy the fundamental human right, recognized in international law, to the highest attainable standard of health. With so many needs and so many possibilities for action, it's crucially important to be focused and strategic.

With this in mind, the Legal Network undertook to consult members, allies and other supporters in drafting a new strategic plan that would guide us during the next five years, from 2010 to 2015. There is a clear demand for more resources to help people understand the human rights dimensions of the epidemic, such as our info sheets on the criminalization of HIV transmission and our briefing papers on drug policy issues. Front-line organizations also told us of their desire to learn more through workshops and panels on legal issues, as well as hands-on training that will help them in their work — no surprise, given the ongoing stream of requests from around the country and beyond.

At the same time, members and allies recognized the importance of ensuring the Legal Network's expertise is used to engage policy-makers, and that pursuing legal change requires multiple approaches, including litigation where appropriate. Our consultation affirmed that the Legal Network has much to offer in overcoming HIV/AIDS, not only at home but also beyond our borders, and the organization should continue to pursue a balance of international and national work, each informing the other.

Most significantly, the strategic planning process highlighted the need for the Legal Network to focus its energy and resources in some specific core areas. To that end, we have identified four core areas of work as our priorities over the coming years, reflecting both existing strengths and community needs, and reflected in this annual report: **Drug Policy; HIV in Prisons; Women's Rights and HIV; and the Criminalization of HIV Non-Disclosure.** Just as our work in these areas involves both international and national activities, another key human rights challenge taken up by the Legal Network this past year highlighted another way in which the local and global are connected. As outlined in this report's first chapter, the Legal Network spearheaded efforts to reform **Canada's Access to Medicines Regime**, which is intended to increase access to affordable treatment in developing countries. This is a tangible example of the potential for law to help save lives — and, unfortunately, how inaction warrants our continued vigilance and redoubled efforts.

In facing the human rights challenges before us, we are grateful for the dedicated support of our members. This year, the Legal Network's membership numbers swelled back to levels not seen since 2001. Surely this bodes well for renewed interest in, and support for, human rights as a critical element of overcoming the global pandemic. In fact, this is one of the reasons human rights will serve as the theme for the AIDS 2010 conference in Vienna, where the Legal Network will be active in a range of human

rights activities, including again co-hosting the Human Rights Networking Zone in the Global Village.

People make our work possible, and it has been a year of change at the Legal Network. We thank outgoing board member Le-Ann Dolan, a past President and Vice-President, for her many years of service to the Legal Network. We also wished farewell to Legal Network staff members Gilleen Witkowski, former administrative assistant, and Eowynne Feeney, former outreach and development coordinator, who left to pursue graduate studies in political science and a law degree, respectively. We were very pleased to have Lindsey Amèrica-Simms join us as our dynamic new outreach coordinator. We thank Diana Lee, who replaced Gilleen during half a year. Patricia Allard joined the Legal Network in May 2009 as our new deputy director, bringing a decade's worth of experience on criminal justice policy and other human rights issues in the non-profit sector to her new role in the AIDS movement. Policy analyst Leah Utyasheva left us after completing various projects, including a major legislative review focussed on Central Asia (see page 11); we wish her well in new endeavours. Senior policy analyst Alison Symington began a maternity leave at the end of September 2009 and we are pleased to announce that baby Jacob arrived healthy and happy a few weeks later. We welcomed to our research team an accomplished young lawyer from France, Cécile Kazatchkine, who brings extensive international work

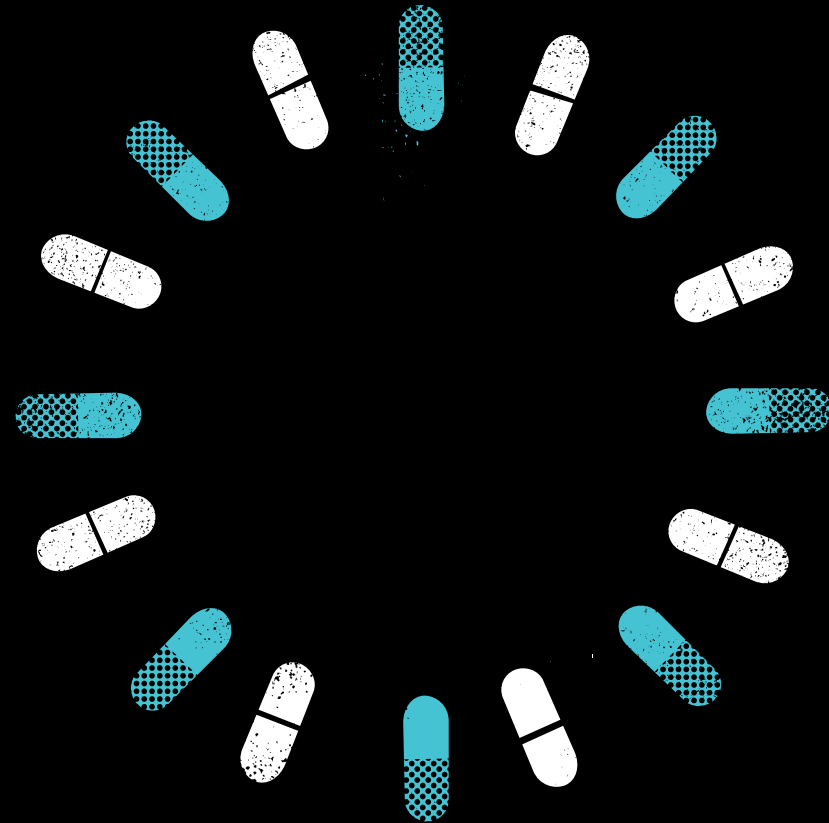
experience and has picked up many elements of our extensive, ongoing work on the criminalization of HIV exposure. We wish to thank our staff, past and present, for their many contributions to achieving our mission.

Thirty years into the epidemic, we now regularly hear at least rhetorical commitment to human rights in the response to HIV. Yet governments often continue to pursue laws, policies and practices that ignore human rights, or that lead intentionally or predictably to their violation — and hence contribute to vulnerability to HIV and its consequences. Meanwhile, global economic turmoil provides the latest in a long line of excuses for failing to honour promises of resources invested in the public good, including helping those most vulnerable to HIV and the denial of human rights. Little wonder, then, that while we have undoubtedly made real progress on preventing HIV and treating people living with HIV, it has been uneven and limited at best. The Legal Network is committed to using the levers of law and public policy to change the course of the epidemic and of history. We welcome and invite your support and collaboration in this endeavour.

David Eby
PRESIDENT

Richard Elliott
EXECUTIVE DIRECTOR

OPEN CHANNELS



ACCESS TO
MEDICINES

“Reforming CAMR
is essential – and so
is everything the
Legal Network has
done to support us
in this fight.”

KATHLEEN WALLACE-DEERING, CO-CHAIR,
NATIONAL ADVOCACY COMMITTEE,
GRANDMOTHERS TO GRANDMOTHERS CAMPAIGN

Thanks to the sustained advocacy of thousands of postcards, hundreds of phone calls, and dozens of targeted in-person meetings with Senators and MPs, Bill C-393 to reform Canada’s Access to Medicines Regime passed second reading in the House of Commons and is now before a Parliamentary committee for detailed review.

6

YEARS AND COUNTING. That's how long it's been since Canada's Parliament, responding to intensive civil society campaigning in which the Legal Network played a key role, unanimously passed a law creating Canada's Access to Medicines Regime (CAMR). The objective was, and is, to make it easier to export lower-cost, generic medicines for AIDS and other public health needs to developing countries in need, under compulsory licences. Yet, in all that time, despite the ongoing efforts of many NGOs and a commitment from one manufacturer, there has been but *one* licence issued, leading to exports of *one* fixed-dose combination antiretroviral medicine to *one* country.

And as the months roll by with little prospect of further use of CAMR in its current, unwieldy form, the toll of preventable suffering and death mounts. It is no surprise, then, that one of the Legal Network's most significant campaigns during 2009–2010 — in terms of resources, staff time and legislative results — consisted in our efforts to reform and therefore improve Canada's law. The campaign to streamline CAMR was — and continues to be — a phenomenal undertaking, involving mobilizing and supporting grassroots advocacy partners, meeting with parliamentarians, raising funds to support the campaign, and engaging media and other potential allies — all to ensure that Canada lives up to its international commitments that will help save lives in developing countries. As part of our campaign, we secured a public commitment from Canada's largest generic drug-maker that if CAMR is fixed, they will produce a much-needed paediatric antiretroviral combination drug and supply it to treat children with HIV in developing countries.

While the campaign is ongoing at time of print, the accomplishments to date are significant. Within a single year, two legislative initiatives moved forward (Bill S-232 in the Senate and Bill C-393 in the House of Commons) thanks to grassroots advocacy spearheaded by the Legal Network. Furthermore, the Legal Network ensured the activation of a large-scale postcard campaign aimed at parliamentarians and, given the urgent need to use mechanisms such as CAMR to improve access to affordable paediatric medicines, held its first fundraising event on November 20 in Toronto to mark Universal Children's Day. The very successful event featured entertainment from singer-songwriter Jeffrey Straker, and an address by David Morley, President and CEO of Save the Children Canada.

As part of the campaign, we released a national public opinion poll showing 80 percent of Canadians support or strongly support fixing CAMR, and an open letter from 59 prominent Canadians calling on Parliament to act. Signatories included former Prime Minister Paul Martin (whose government moved forward with the original bill), former Lieutenant Governor of Ontario James Bartleman, former UN Special Envoy for HIV/AIDS in Africa Stephen Lewis, past International President of Médecins Sans Frontières Dr. James Orbinski, arts leader Karen Kain, and leading environmental activist David Suzuki, among many others. (To read the letter and view a full list of signatories, see our news release of December 1, 2009 at www.aidslaw.ca/media.)

Critical support for this work came from the Law Foundation of Ontario, which awarded Richard Elliott, our executive director, one of only three, province-wide Community Leadership in Justice Fellowships. Held at the University of Toronto's Faculty of Law, the fellowship has supported research, education and advocacy work on CAMR, as well as a series of university-based lectures and conference presentations.

30,000+

Number of postcards distributed in the “Children Can’t Wait!” campaign, calling on MPs and Senators to support reform of Canada’s Access to Medicines Regime

Important public information activities mirrored efforts on the legislative front. Numerous events were held to publicize CAMR, from a forum hosted by Residents Without Borders in Toronto to a community forum in Montréal hosted jointly with Universities Allied for Essential Medicines. The Legal Network produced “Fixing Canada’s Access to Medicines Regime (CAMR): 20 Questions & Answers,” a comprehensive and plain-language explanation of our current campaign to streamline CAMR, as well as a short video on why CAMR needs to be fixed. We mobilized supporters through a Facebook group, clocking almost 700 members at time of print. We produced over 30,000 postcards which were distributed through various partner groups, including the redoubtable Grandmothers to Grandmothers campaign, who reached out to Members of Parliament across the country.

The Legal Network’s message was heard repeatedly and widely in the media. We made our case for CAMR reform in *The Hill Times* and *Le Devoir*, among others, while other media shone light on this campaign in dozens of pieces, such as positive editorials in *The Toronto Star* and *The Globe and Mail* and an in-depth two-page spread in *The Ottawa Citizen*.

On the legislative front, the Legal Network worked with Senators Yoine Goldstein and Sharon Carstairs in order to push for Bill S-232’s

passage. The Bill was given second reading and then considered by the Senate’s Standing Committee on Banking, Trade and Commerce. The Legal Network presented a persuasive submission in October 2009, and the Committee also heard compelling testimony from international legal experts, UN agencies such as UNDP and UNICEF, and concerned Canadians. Sadly, the Government’s decision to prorogue Parliament in December signalled the end of the road for Bill S-232.

However, virtually identical legislation in the House of Commons, Private Member’s Bill C-393, was also in play, having been introduced in May 2009 by Judy Wasylycia-Leis, Member of Parliament for Winnipeg-North. Following intense campaigning by her, the Legal Network and others, the bill passed at second reading by a narrow majority (143 to 127) on December 2, 2009 — a fitting sequel to World AIDS Day. As a private member’s bill, Bill C-393 survived the prorogation of Parliament, meaning it will go on to be debated by the House’s Standing Committee on Industry, Science and Technology. We are maintaining the campaign’s momentum in order to ensure that Bill C-393 is not watered down by the Committee and ultimately passes at third reading.

These encouraging results were achieved thanks to the efforts of our members and allies who sent thousands of postcards, letters and e-mails to parliamentarians. We are heartened by the support of the Grandmothers to Grandmothers Campaign, Universities Allied for Essential Medicines and Results Canada, the other member organizations of the Global Treatment Access Group, Residents Without Borders, the Canadian Labour Congress and many others. Together, we will continue the campaign to fix CAMR, as one aspect of what Canada should do to respond to the shameful inequity in access to AIDS treatment and other medicines between rich countries and the developing world.

DRUG POLICY

“Contrary to the rhetoric, Bill C-15 will not protect our communities from gangs and organized crime, but will instead put some of the most vulnerable people in our society behind bars.”

CANADIAN HIV/AIDS
LEGAL NETWORK

An open letter decrying Bill C-15 and mandatory minimum sentences for drug offences was delivered in April 2009 to the federal ministers of Justice and Health, endorsed by nearly 150 leading Canadian organizations and individuals.



FINE
POINTS

PROBLEMATIC DRUG USE

and addiction are public health concerns, and extensive evidence indicates that they are more productively dealt with as such rather than in prosecuting and punishing through the criminal law. Not only would this approach reduce the enormous financial and human costs associated with the ineffective over-reliance on criminal law enforcement, it would help reduce the spread of diseases like HIV and hepatitis C virus (HCV), among others. The Legal Network's efforts throughout the past year, both domestically and internationally, have been guided by this evidence and by our commitment to the principle of the universality of human rights — rights to which people who use drugs are equally entitled.

In keeping with these principles, the Legal Network was pleased to participate in discussions leading to the formation of the Canadian Drug Policy Consortium, which will bring together a range of organizations from across the country to press for more rational drug policy in Canada. We anticipate playing an active role in this new effort.

The Legal Network also again spoke out against mandatory minimum sentences for drug offences, as we did before Parliament the year before. This time, the proposal — Bill C-15, *An Act to Amend the Controlled Drugs and Substances Act* — is much more direct, and the opposition was larger and louder. We held a press conference on Parliament Hill with Canadian Students for Sensible Drug Policy,

highlighting how the proposed measure would not only fail to protect youth or decrease drug use — the stated goals of the bill — but in fact work to the detriment of young people in various ways.

The Legal Network presented a forceful case against Bill C-15 through its parliamentary submission to the House of Commons Standing Committee on Justice and Human Rights in April 2009. We outlined why this approach was not an effective response to drug offences and furthermore, raises constitutional concerns, particularly given that incarceration would be mandated for non-violent drug offences. Rather than penalizing those profiteers engaged in large-scale trafficking, such mandatory incarceration provisions will likely be directed primarily at the most marginalized people with addictions and/or living in poverty, those engaged in small-scale trafficking related to their drug dependence — in other words, people already at increased risk for HIV. This is ill-advised from the perspective of protecting against the spread of blood-borne pathogens such as HIV and HCV, including inside prisons. (See more about the experiences and perspectives of people who use drugs in prisons at page 18.)

We used the occasion of our appearance before the Committee to share with MPs some of the voices of people who use drugs, conveying a passionate plea against the bill from Alberta Addicts Who Educate and Advocate Responsibly (AAWEAR). The Legal Network also mobilized endorsements from 39 leading front-line organizations and more than 100 leading researchers and service-providers in an open letter to the federal Ministers of Justice and Health, outlining reasons why such a bill should be abandoned.

When the Government prorogued Parliament in December 2009, this piece of legislation did

180,683

Number of unique visits to www.aidslaw.ca

not survive. We know, however, that the current Government intends to reintroduce it and this could happen at any time. As jurisdictions in the United States reconsider mandatory minimum sentences for drug offences because they don't work and carry terrible consequences, Canada should also be questioning this approach rather than implementing it. However, in the face of the reasoned critique of such approaches, offered from almost all quarters, the Government has to date not offered any evidence in support of the effectiveness of such measures, instead simply repeating the claim that it believes a majority of Canadians want such sentences in order to be "tough on crime."

Our call for national drug policies based on evidence and human rights was also made off Parliament Hill. From June 12–14, 2009, in Toronto, the Legal Network held its 1st Annual Symposium and HIV, Law and Human Rights: "From Evidence and Principle to Policy and Practice". During the closing plenary on the issue of drug policy, Senator Pierre Nolin, who chaired the Senate Special Committee on Illegal Drugs in 2002, offered his observations about Canada's drug laws. He was joined by a roster of experts, including plaintiffs in the court case aimed at saving Insite, Vancouver's supervised injection site, from the federal government's attempts to shut it down.

Unfortunately, the misguided effort to achieve the impossible task of eradicating drugs and drug use — the so-called "war on drugs" that only contributes to disease and distress — is not

limited to Canada. Countries across the world consistently ignore the ample evidence about what works to make people and communities safer, including protecting public health by preventing the spread of HIV linked to risky drug use. This is why the Legal Network contributes to global efforts to address the problem, and continually makes the case that, in order to be truly effective in addressing problematic drug use and addiction, governments must adopt policies and program that are guided by evidence and respect and protect the human rights of people who use drugs.

In December 2009, the Legal Network's senior policy analyst Leah Utyasheva and executive director Richard Elliott completed an extensive assessment of national legislation in six former Soviet Union countries: Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan. Drafted with the participation of experts from each of the project countries, and produced for and in collaboration with the Regional office for Central Asia of the United Nations Office on Drugs and Crime (UNODC), the forthcoming report provides detailed recommendations for amending laws and policies to ensure consistency with international human rights standards and effective HIV treatment and prevention for people in prisons and people who use drugs. Already, the project has prompted modest legislative reforms in a few of the participating countries, and the final report will serve as a basis for further legal and policy reforms in Central Asia and Azerbaijan.

“We were so inspired by the extraordinary presentation of the affidavits in *Under the Skin*. It’s accessible, touching, and as someone said in our staff meeting yesterday, ‘it knocks you in the gut’.”

Anna-Louise Crago, Coordinator of clinical and outreach services,
Stella Montréal, By and For Sex Workers

Given the Legal Network's expertise and the detailed analysis developed in part through this project, we were well-positioned to comment on HIV-related human rights concerns in some of those countries when the UN Human Rights Council conducted its Universal Periodic Review (UPR). At the Eighth Session of the UPR's Working Group, we made a submission for the UPR regarding both Kazakhstan and the Kyrgyz Republic (endorsed by a number of Kazakh and Kyrgyz NGOs, and numerous other organizations from around the world), as well as a separate submission regarding Armenia. Our submission described several key human rights priorities and provided recommendations for these states to better respect, protect and fulfill human rights, consistent with their international legal obligations, in areas of particular relevance to effective response to HIV.

Still on the international level, in response to Kazakhstan's initial report on the implementation of the International Covenant on Economic, Social and Cultural Rights, the Legal Network also contributed to an Alternative Report to the Committee on Economic, Social and Cultural Rights, prepared jointly with the International Harm Reduction Association, the Eurasian Harm Reduction Network and a number of Kazakh NGOs. In our report, we outlined that people who use illicit drugs are vulnerable to a wide range of negative health consequences as a result of that use. In addition to the health risks related to HIV and HCV infections, opiate overdose has been reported as the leading cause of death among people who use drugs in those Central Asian states for which any data are available.

The following facts provide a snapshot of the Legal Network's media activities from April 1, 2009 to March 31, 2010:

19

NUMBER OF NEWS RELEASES, PRESS STATEMENTS AND MEDIA ADVISORIES issued by the Legal Network on a variety of human rights issues

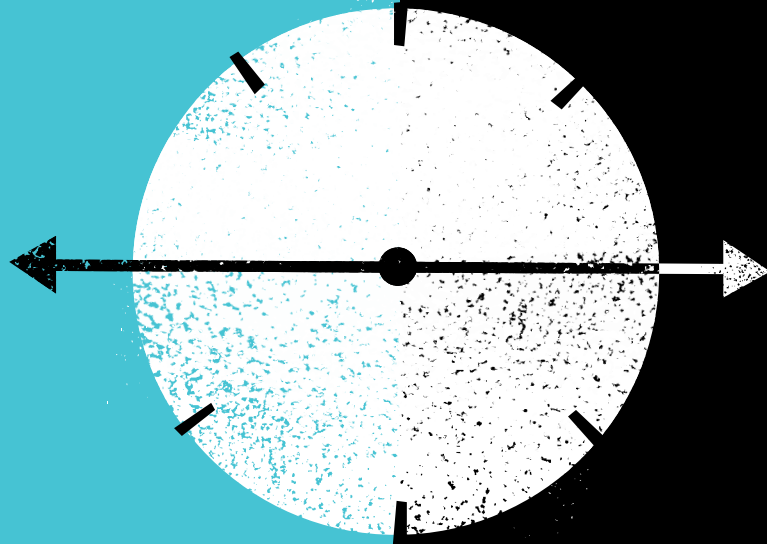
160+

NUMBER OF MEDIA REQUESTS received by the Legal Network

800+

NUMBER OF JOURNALISTS directly receiving Legal Network news releases, press statements and media advisories

EQUAL TIME



WOMEN'S RIGHTS AND HIV

“The fact that the Legal Network is making HIV and women’s rights a priority shows that you have not forgotten about women such as me — we are so lucky to have you on our side.”

DENISE BECKER, BOARD MEMBER,
BRITISH COLUMBIA PERSONS WITH AIDS SOCIETY

Ms. Becker joined leading Canadian HIV and women’s rights activists at a February 2010 consultation convened by the Legal Network to guide and inform our work on women’s rights and HIV over the coming years.

BUILDING

on the expertise of the lawyers on our Research and Policy Unit, and the extensive research done in recent years, the Legal Network's new strategic plan aims to enhance our activities with respect to women's rights in the coming years.

Coinciding with the 16 Days of Activism Against Gender Violence Campaign, the Legal Network released *Respect, Protect and Fulfill: Legislating for Women's Rights in the Context of HIV/AIDS*. This two-volume legislative resource offers rights-based reforms to laws tackling sexual and domestic violence, and family and property issues, particularly for countries within sub-Saharan Africa. It tangibly supports legislators and human rights activists who seek to draft legislative provisions on key human rights issues affecting women's vulnerability to HIV infection, in areas such as domestic and sexual violence, women's property rights, and equality in marriage and divorce laws. This extensive resource is available on-line at www.aidslaw.ca/womensrights.

The Legal Network made another contribution to women's rights internationally by applying this legislative resource to a specific case. We prepared an *amicus curiae* brief to support Women and Law in Southern Africa (WLSA) in challenging the inequitable division of marital property under Malawian law that economically disadvantages women. In addition, the Legal Network subsequently prepared a critique of

dangerous provisions in Malawi's draft HIV law. We focused on the impact the bill will have on women and also commented on issues related to criminalization of exposure to HIV and on privacy concerns.

In February 2010, senior policy analyst Sandra Ka Hon Chu met with legal and community-based women's rights and HIV organizations in Johannesburg and Harare to learn more about their work and to discuss possibilities for Legal Network support in their advocacy efforts, applying the rich research featured in *Respect, Protect and Fulfill*. The visit was generously supported by Oxfam Canada and coordinated by Oxfam Canada and the Southern Africa HIV and AIDS Information Dissemination Service (SAfAIDS).

For International Women's Day on March 8, Sandra joined Priti Patel, HIV/AIDS Project Manager for the Southern Africa Litigation Centre in Johannesburg, for an ask-the-expert session on AIDSLEX, the on-line portal for information and ideas on HIV, the law and human rights. (For more on AIDSLEX, see page 26.) They responded to questions about promoting women's rights in the context of HIV, results of which are posted at www.aidslex.org.

“The Legal Network is wonderful; nationally, I think your organization is one of the most honourable and ethical.”

Marliss Taylor,
Boyle Street Community Services,
Edmonton, Alberta

215+

NUMBER OF NEWS STORIES — IN PRINT,
ON-LINE, AND ACROSS THE AIRWAVES —
IN WHICH WE WERE QUOTED

That same month, at the UN Commission on the Status of Women that took place in New York, the Legal Network co-hosted side events on the intersection of HIV/AIDS and the property and inheritance rights of women with the Open Society Institute (OSI), the Huairou Commission, UNDP, WLSA (Malawi), and the Centre on Housing Rights and Evictions (COHRE). The following month, policy analyst Cécile Kazatchkine had the chance to present the resource at the 5th Francophone HIV/AIDS Conference in Casablanca and heard from a range of NGOs of their interest in having such a resource, as well as a number of possibilities for future collaboration.

Recognizing that there are many ways in which women in Canada continue to be made vulnerable to HIV and women living with HIV lack access to needed services, the Legal Network hosted a national consultation in February, led by deputy director Patricia Allard, to inform how the Legal Network can contribute to and support the

realization of women's rights. Through discussion, invited HIV and women's rights activists helped identify key priorities for domestic women's rights research and advocacy; current work in this area; opportunities for collaboration and support; and how best the Legal Network's resources can be used to facilitate advocacy initiatives that underline the human rights of women, including such issues as: 1) criminalization of HIV non-disclosure; 2) HIV policies and laws that threaten the safety of women in Canada; and 3) social and economic policies that increase women's vulnerability to HIV.

In the month following this consultation, Patricia was able to meet with policy-makers, including elected officials, to get their views on the most pressing issues facing women as they relate to HIV. Having gathered the community perspective and feedback from policy-makers, this should help ensure that our approach regarding women's rights is both grounded and ultimately successful.

HIV IN PRISONS

“Disease is not just going
to stay in prison.
We are all going home.
We are going out
to our families.
It affects society.”

HAROLD (“BUCK”) GRIFFIN,
LA MACAZA INSTITUTION, QUÉBEC

Mr. Griffin and 49 other Canadians — all directly endangered by the lack of comprehensive HIV-prevention services in prisons — provided affidavits on their experience of using drugs or sharing needles while incarcerated, as published in the Legal Network’s *Under the Skin: A People’s Case for Prison Needle and Syringe Programs*.

CLOSED CAPTIONS



IN JUNE 2009,

one of the major topics addressed at the 1st Annual Symposium on HIV, Law and Human Rights was addiction and drug use in prisons. Long-time prisoners' rights activists James Motherall and Greg Simmons shared their personal perspectives based on their own years spent in prison. Expert Ralf Jürgens, former executive director of the Legal Network, gave an overview of the evidence regarding effective HIV prevention programs in prisons, as recently published by the World Health Organization (WHO). The Legal Network's senior policy analyst, Sandra Ka Hon Chu, delved into the legal arguments in favour of introducing needle and syringe programs in Canada's federal prisons, while advocate Giselle Dias outlined other actions needed.

The panel was timely, complementing the Legal Network's efforts to ensure that the issue of prison-based needle and syringe programs was raised at the House of Commons Standing Committee on Public Safety and National Security, as it undertook a study of how the Correctional Service of Canada (CSC) is addressing mental health and addictions in federal prisons. Meetings and correspondence with Committee members, as well as with other key witnesses appearing before the Committee, put the issue on the agenda. In April 2010, after a delay imposed by the prorogation of

Parliament, the Committee continued hearing testimony and the Legal Network was able to present its own submission. We made a strong case that providing access to sterile injecting equipment to people in prison would reduce the risks of harm associated with injection drug use, including the transmission of HIV and HCV.

The action related to prisoners' health that attracted the most attention was the launch in early February of our report *Under the Skin: A People's Case for Prison Needle and Syringe Programs*. Written by senior policy analyst Sandra Ka Hon Chu, this report sought to convey the voices of people currently or formerly in prison, as their first-hand knowledge of the realities of prison drug use is too easily and frequently lost behind prison walls.

Often visceral reading, *Under the Skin* draws on affidavits and testimonies from a diverse group of 50 people across Canada with experience using drugs or sharing needles inside a federal prison, and puts a human face to the following harsh statistics, long known to prison system administrators:

- HIV prevalence in Canadian prisons is from 10 to 15 times higher than among the population as a whole, while HCV infection is 20 to 40 times higher;
- According to CSC's own research, roughly half of people in federal prisons report sharing injection equipment to inject drugs, often with people known to have HIV or HCV or whose serostatus was unknown to them;
- Costly efforts by CSC to prevent drug use are not effective in reducing the spread of blood-borne diseases like HIV and HCV; and
- The vast majority (more than 90 percent) of people in prison eventually return to the community, facilitating the spread of diseases transmitted and exacerbated in prison.

The full report is available at www.aidslaw.ca/undertheskin.

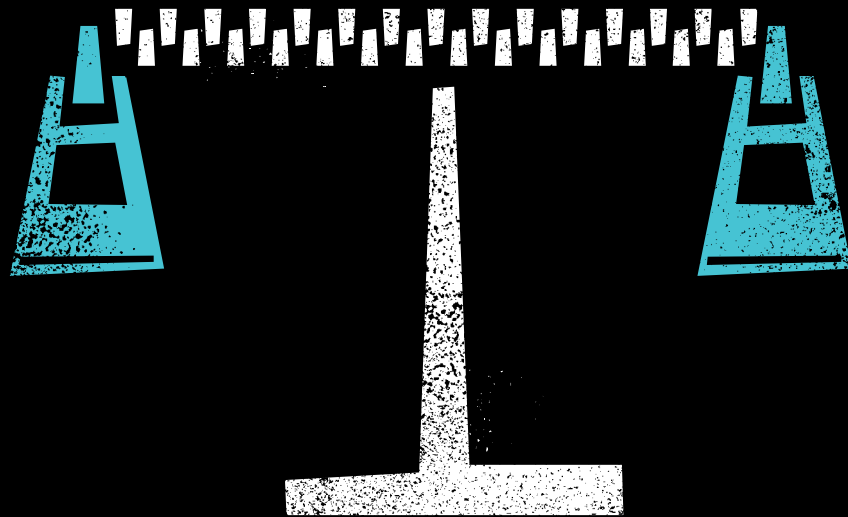
Under the Skin's release received widespread media attention across the country, including coverage on the CBC, in *The Toronto Star*, *Canadian Press*, *The Winnipeg Free Press*, *Halifax's Chronicle-Herald*, *The Edmonton Journal* and various SunMedia outlets, among others.

The Legal Network's long-standing call for implementing needle and syringe programs in prisons is echoed not only by front-line organizations such as the Prisoners' HIV/AIDS Support & Action Network (PASAN), but by a growing number of leading health and human rights organizations such as the Canadian Medical Association, the Ontario Medical Association, the John Howard Society, WHO, UNAIDS, UNODC, the Correctional Investigator of Canada and the Canadian Human Rights Commission. Furthermore, a 2006 review of the scientific evidence, prepared by the Public Health Agency of Canada for CSC, concluded that prison-based needle and syringe programs have largely positive outcomes for the health of people in prison. The Legal Network has shared the extensive body of evidence and legal analysis supporting such programs with prison authorities and relevant ministers across the country, and has requested that the federal Government clarify the reasons for its refusal to implement them. To date, authorities have simply reiterated the Government's "zero tolerance" for drugs in prisons — even as proposed legislative changes will lead to growing numbers of people who use drugs being incarcerated and spending on prisons is expected to increase significantly.

“I think it is a good idea to have a prison needle exchange. If they are doing it on the outside, why wouldn't they do it on the inside?”

Brigitte Martin, Montréal, Quebec
in *Under the Skin*

SILENCE IN COURT



CRIMINALIZATION OF HIV NON-DISCLOSURE

“My client is effusive in his praise for the support the Legal Network and HALCO have given him. For me, too, as his defence lawyer, your input has been invaluable.”

CYNTHIA FROMSTEIN,
FROMSTEIN LAW

The Crown dropped the charge of aggravated sexual assault for exposure to HIV against Ms. Fromstein’s client, confirming that, in the circumstances, there was no solid basis for finding a significant risk of transmission.

THE LEGAL NETWORK remains deeply concerned about the increasingly expansive use of criminal law in cases of HIV non-disclosure. The Supreme Court of Canada's landmark judgment in *R. v. Cuerrier* left many questions unanswered about how far the law can or will go in prosecuting people, and the twelve years since have seen a significant and sustained "criminalization creep."

It is therefore unsurprising that this was a key issue discussed at the 1st Annual Symposium on HIV, Law and Human Rights. This was apparent in the choice of our keynote speaker, Justice Edwin Cameron from the Constitutional Court of South Africa, who delivered a public lecture entitled "The Criminalization of HIV Transmission" to a packed auditorium at Osgoode Hall. (Justice Cameron's lecture was printed in full in the December 2009 issue of the *HIV/AIDS Policy & Law Review*, available at www.aidslaw.ca/review.)

While it is encouraging to note the high level of interest in the issue of criminalization, much of the work of containing the law will, of course, be focused on proceedings within courtrooms. During this past year, the first cases to address some of these questions began to make their way to appellate courts across the country. At the end of the year, the Legal Network had intervened or was intervening in four cases in three provinces, jointly with partners such as the British Columbia Persons With AIDS Society (BCPWA) and the Coalition des organismes communautaires québécois de lutte contre le sida (COCQ-sida), urging appellate courts to articulate some clear limits on the scope of the criminal law — including ruling out sexual assault charges for HIV non-disclosure in cases of condom use or similar safer sex practices.

In addition to intervening directly in a number of appellate court cases, the Legal Network continues to respond to inquiries from people living with HIV concerned about criminal

“Your team at the Legal Network is both accomplished and dynamic!”

Laura M. Bisailon, Doctoral candidate,
Institute of Population Health,
University of Ottawa

charges and to assist defence lawyers seeking information and advice about handling such cases. In fact, recognizing this ongoing need, we delivered a number of training workshops on this issue, including, for the first time, sessions in northern Ontario, as part of a larger project funded by the Ontario Trillium Foundation. The Legal Network is also producing an extensive resource kit for defence lawyers. Informed lawyers can challenge the “HIV panic” and related stigma and discrimination that are prevalent in many cases where criminal charges are pursued. Lawyers who are better equipped can better represent their clients, advance arguments based on the best available evidence, and ultimately contribute to a strictly limited, fair and evidence-based use of criminal law. Yet relatively few lawyers have experience handling such cases; they often lack access to the latest scientific developments or other relevant research that could be useful in representing people with HIV and arguing cases that influence the scope of the criminal law as it applies to HIV transmission or exposure.

400 +

Number of inquiries, by e-mail, phone and fax, to which Legal Network staff responded

This resource kit will offer comprehensive information on HIV, including a detailed and fully referenced synopsis of the available scientific evidence regarding per-act risks of HIV transmission (generously contributed by a research team funded by the Ontario HIV Treatment Network) and international and national legal materials and policy documents, including key court judgments related to criminalization of HIV transmission or exposure. The kit is being developed as one element of a new partnership with the Paris-based organization AIDES and a Swiss counterpart Groupe sida Genève.

The Legal Network was also pleased to collaborate with HALCO, the HIV & AIDS Legal Clinic (Ontario), and the National Judicial Institute to deliver the first-ever training session for Canadian judges on HIV/AIDS. We organized materials and presenters for a half-day session at the end of March 2010 at which more than 60 judges from across the country heard legal argument in a simulated criminal case and heard from people living with HIV, a medical expert, a front-line AIDS worker and a social science

researcher about the realities of HIV stigma, the science of HIV and its transmission, and concerns for HIV-positive people in prisons. The goal of the session was to expose judges, some of whom have heard or certainly will hear criminal cases for alleged HIV non-disclosure, to the broader social context and to provoke some critical reflection about how and why the use of the criminal law in this area should be limited.

In summary, the Legal Network believes the best way to address the increasing use of criminal law in cases of HIV non-disclosure is to pursue a three-pronged approach: challenge overzealous judicial conclusions in the courts by equipping counsel and intervening where appropriate; advocate for the introduction of prosecutorial guidelines to prevent the unwarranted pursuit of criminal charges in the first place; and ensure that accurate information is available so the community can try to reframe the public debate about the issue and provoke sophisticated, rather than simplistic, consideration of a complex issue.

CONNECTING, COMMUNICATING, COMMUNITY-BUILDING

In addition to the issues at the core of our work, the Legal Network also continues to address a number of other HIV-related legal and policy concerns — from supporting research and litigation to chip away at restrictive Canadian immigration policy, to organizing international support for Ukrainian sex workers facing police abuse; from mobilizing support from AIDS organizations for ratification by Canada of the UN Convention on Rights of Persons with Disabilities (CRPD), to speaking out at the UN Human Rights Council for women’s rights and the rights of lesbian, gay, bisexual and transgender people.

But policy research and human rights advocacy is only part of our work. From our own experience, and from communications with allies and like-minded organizations and individuals, we know the value of access to information and the importance of supporting each other in the face of hostility to human rights. We therefore undertake a whole range of activities aimed at strengthening our collective capacity for realizing human rights, from the individual case to the global effort.

LAWYERS’ REFERRAL DATABASE

Although our work focuses on ensuring that laws and policies promote human rights and effective responses to HIV, we are keenly aware that individuals often need advice and representation in their personal legal matters. To that end we have been recruiting a growing number of lawyers registered in our national Lawyers’ Referral Database, which helps us connect people living with HIV in need of legal services with lawyers across the country. The database is one attempt to address this need, complementing the many info sheets and other publications available on our website.

For more on the database, or to sign up as a participating lawyer, see www.aidslaw.ca/lawyers.

AIDSLEX

While the Legal Network’s website receives almost 200,000 visits a year, the other website we are continually enhancing is the multilingual www.aidslex.org. Launched in October 2009, and fully navigable in four languages, AIDSLEX (the AIDS and Law Exchange) has attracted thousands of visitors from dozens of countries interested in HIV-related legal and human rights issues. The searchable electronic library now has close to 3000 documents in English, French, Spanish and Russian, with more being added all the time. AIDSLEX offers a wealth of information and features that promote sharing and learning about HIV, the law and human rights, and will serve as a valuable tool globally for activists and policy-makers striving to ensure that human rights are at the centre of the global response to the epidemic. We were very pleased to host

168

NUMBER OF COUNTRIES
accessing AIDSLEX, the
AIDS and Law Exchange

question-and-answer sessions featuring, among others, Justice Edwin Cameron of the South African Constitutional Court — who provided us with his insights on the controversial topic of criminalization of HIV exposure — and Anand Grover, UN Special Rapporteur on the Right to Health. Access is open to all, but users are encouraged to register so they can contribute to on-line discussions and add documents to the extensive collection of materials from around the world on HIV, law and human rights.

To find out more, and to see how this tool can be useful for your work, visit www.aidslex.org.

ANNUAL SYMPOSIUM ON HIV, LAW AND HUMAN RIGHTS

We were pleased this year with the phenomenal success of this first-ever Annual Symposium on HIV, Law and Human Rights, held in Toronto in June 2009. Close to 200 activists, policy-makers, researchers and lawyers from across Canada (and a number of international participants) attended panel discussions on a range of legal and policy issues and a number of skills-building workshops. Each panel included a mix of lawyers and leading Canadian researchers and policy-makers, as well as people speaking from their personal experience living with HIV or as members of an affected community. Rave reviews from participants indicated a clear demand for more such sessions, and we are well into planning for what we anticipate will become an annual, signature event of the Legal Network calling attention to HIV and human rights issues in Canada.

For more on the Annual Symposium, see www.aidslaw.ca/symposium.

AWARDS FOR ACTION ON HIV/AIDS AND HUMAN RIGHTS

Each year, the Legal Network and Human Rights Watch jointly honour both a Canadian and an international individual or organization for their activism on behalf of people living with HIV/AIDS or those vulnerable to HIV. The Awards seek not only to recognize important contributions, but also to support human rights defenders and call attention to their cause and communities. This year's recipients, selected by a jury of past recipients, were honoured in June 2009 at a ceremony held in Toronto in conjunction with the 1st Annual Symposium on HIV, Law and Human Rights. The International Award went to Michaela Clayton, founding director of the AIDS Legal Unit at the Legal Assistance Centre in Namibia, the first public interest legal organization in the country, and co-founder of the AIDS and Rights Alliance of Southern Africa (ARASA), a regional network of 35 organizations working in partnership across southern Africa to defend and promote human rights in the response to HIV/AIDS and tuberculosis. The recipient of the Canadian Award, Viviane Namaste, co-founded Action Santé: Transvi(e)s et Transsexuel(le)s du Québec (ASTT(e)Q), and set up one of the first HIV prevention organizations in Canada by and for trans sex workers. She currently holds the Research Chair in HIV/AIDS and Sexual Health at the Simone de Beauvoir Institute at Concordia University in Montréal.

For more on the Awards and the recipients, visit www.aidslaw.ca/awards.

OUR PEOPLE

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VOLUNTEERS AND INTERNS

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THANKS

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Institutions

Adair Morse LLP
AIDE
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Canadian Institutes of Health Research
Department of Canadian Heritage
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Human Resources and Skills Development Canada
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Guangchun Yan

And everyone who supported our November 20 CAMR fundraising event

For more information on how you can support our work, please visit www.aidslaw.ca/donate.

PUBLICATIONS

REPORTS, JOURNALS, BRIEFS AND Q & As

- 2008–2009 Annual Report
- Bill S-232: Key features and compliance with Canada's WTO obligations — Supplementary submission to Senate Standing Committee on Banking, Trade and Commerce
- Canada's Law on Compulsory Licensing for Export — Update: 3 December 2009
- Clean Switch: The Case for Prison Needle and Syringe Programs in Canada
- Fixing Canada's Access to Medicines Regime (CAMR): 20 Questions & Answers
- *HIV/AIDS Policy & Law Review*, Volume 14, Numbers 1 and 2
- Making CAMR Work: Streamlining Canada's Access to Medicines Regime — Brief to the Senate Banking, Trade and Commerce Committee regarding Bill S-232
- Misleading and Misguided: Mandatory Prison Sentences for Drug Offences — Brief to the House of Commons Standing Committee on Justice and Human Rights regarding Bill C-15, *An Act to amend the Controlled Drugs and Substances Act and to make consequential amendments to other Acts*
- Respect, Protect and Fulfill: Legislating for Women's Rights in the Context of HIV/AIDS — Volume One: Sexual and Domestic Violence
- Respect, Protect and Fulfill: Legislating for Women's Rights in the Context of HIV/AIDS — Volume Two: Family and Property Issues
- Under the Skin: A People's Case for Prison Needle and Syringe Programs

LETTERS

- Bill C-15: Mandatory minimum sentences for drug offences — An open letter to the federal Ministers of Justice and Health (April 27, 2009)
- Canada's Access to Medicines Regime: An open letter to Canada's Parliamentarians from concerned Canadians (December 1, 2009)
- Canada's HIV Vaccine Initiative: An open letter from Canadian organizations fighting HIV/AIDS (March 29, 2010)
- Collective response re: Bill C-15 on Mandatory Minimum Sentences — Organizations and Experts Across the Country Decry a Damaging Step in the Wrong Direction (June 10, 2009)
- Leading Together: What we can do to overcome AIDS at home and abroad — A message from leading Canadian organizations published in *The Hill Times* (January 18, 2010)
- Open letter to the Government of Malawi: Civil society organizations call for the repeal of discriminatory laws and the dismissal of charges in Malawi same-sex case (January 28, 2010)

UNITED NATIONS SUBMISSIONS

- Joint Statement to Commission on the Status of Women, 54th Session re: Criminal Legislation that Contravenes the Beijing Platform for Action
- Joint Statement to UN Human Rights Council, 10th Session re: Follow-up and implementation of the Vienna Declaration and Programme of Action (Item 8)

- Joint Statement to UN Human Rights Council, 12th Session re: Update by High Commissioner for Human Rights
 - Joint Statement to UN Human Rights Council, 13th Session re: Item 2: Interactive Dialogue with High Commissioner
 - Submission to the UN Human Rights Council Universal Periodic Review Working Group, Eighth Session (2010) re: Review of Armenia
 - Submission to the UN Human Rights Council Universal Periodic Review Working Group, Eighth Session (2010) re: Review of Kyrgyz Republic
 - Submission to the UN Human Rights Council Universal Periodic Review Working Group, Seventh Session (2010) re: Review of Kazakhstan
- For more information, please visit www.aidslaw.ca/publications.

NEWS RELEASES, STATEMENTS AND MEDIA ADVISORIES

- March 24, 2010 — Campaign for "Universal Access" to Medicines Goes Global
- March 8, 2010 — No Celebration for HIV-Positive Women on International Women's Day
- February 2, 2010 — Clean Needles Behind Bars Long Overdue
- December 2, 2009 — Important Step Forward in Vote on Bill C-393 (Statement)
- December 1, 2009 — Former Prime Minister Among 59 VIPs Calling for Changes to Access to Medicines Regime
- November 26, 2009 — New Poll Reveals 80% of Canadians Want Changes to Canada's Access to Medicines Regime
- October 21, 2009 — Groups Call for Effective Law on Access to Medicines for Developing Countries
- October 20, 2009 — Expert Panel before Parliament to Discuss Reforming Access to Medicines Regime (Media Advisory)
- October 7, 2009 — Senate to Deal with Life-or-Death Issue
- September 17, 2009 — Old Regime Dies; Will There Be a Second Life for CAMR?
- June 12, 2009 — Time for Canada to "Grow Up" About Drugs
- June 12, 2009 — Namibian Lawyer and Canadian Academic Honoured for HIV/AIDS Work
- June 9, 2009 — Focus on Criminalization
- June 4, 2009 — New Report Outlines Legal Case for Prisoners' Access to Clean Needles
- May 25, 2009 — Move to Reform "CAMR" Gains Momentum
- May 14, 2009 — Dying for Lack of Medicines in Developing Countries (Statement)
- April 24, 2009 — Bill C-15 Falls Short of Its Goals
- April 20, 2009 — "Patients, Not Criminals"?: Compulsory drug dependence treatment in Thailand must be reviewed (English and Thai)
- April 1, 2009 — Students and Community in Six Cities Echo Senator's Call to Reform Access to Medicines Regime

For more information, please visit www.aidslaw.ca/media.

STATEMENT OF FINANCIAL POSITION ÉTAT DE LA SITUATION FINANCIÈRE

As at March 31, 2010 / Au 31 Mars 2010

	2010	2009
	\$	\$
ASSETS / ACTIF		
CURRENT ASSETS / ACTIF À COURT TERME		
Cash / Encaisse	506,345	576,565
Short-term investments / Placements à court terme	216,252	216,233
Amounts receivable / Comptes clients	176,882	116,932
Prepaid expenses / Dépenses payées d'avance	18,249	12,075
	917,728	921,805
Leasehold improvements / Améliorations locatives	7,379	1,998
	925,107	923,803
LIABILITIES AND NET ASSETS / PASSIF ET ACTIF NET		
CURRENT LIABILITIES / PASSIF À COURT TERME		
Accounts payable and accrued liabilities / Comptes fournisseurs et charges à payer	58,514	67,169
Deferred grants / Subventions reportées	778,621	769,984
	837,135	837,153
NET ASSETS / ACTIFS NETS		
Invested in leasehold improvements / Placé dans des améliorations locatives	7,379	1,998
Unrestricted / Non affecté	80,593	84,652
	87,972	86,650
	925,107	923,803

STATEMENT OF OPERATIONS ÉTAT DES RÉSULTATS

For the year ended March 31, 2010 / Pour l'exercice terminé le 31 mars 2010

	2010	2009
	\$	\$
REVENUE / REVENUS		
Grants / Subventions	1,599,346	1,530,058
Service fees / Frais de service	11,216	38,795
Membership / Cotisations	10,864	10,644
Donations / Dons	9,789	10,284
Interest and other / Intérêt et autres	22,934	13,991
	1,654,149	1,603,772
EXPENSES / DÉPENSES		
Personnel / Personnel	864,446	703,781
Professional fees / Honoraires professionnels	277,262	328,663
Travel / Déplacements	121,343	165,211
Rent and maintenance / Loyer et entretien	84,763	84,385
Information and publications / Information et publications	80,362	59,105
Facilities and equipment / Équipement	56,704	19,321
Foreign country activities / Activités à l'extérieur du pays	50,317	128,284
Communication / Communications	46,171	70,349
Office equipment / Matériel de bureau	24,005	17,428
Office support and maintenance / Soutien et entretien du bureau	16,172	8,399
Awards / Prix	5,653	
Other / Autres dépenses	24,066	13,154
Amortization / Amortissement	1,563	1,332
	1,652,827	1,599,412
EXCESS OF REVENUE OVER EXPENSES FOR THE YEAR / EXCÉDENT DES REVENUS SUR LES DÉPENSES POUR L'EXERCICE	1,322	4,360