

In June 1981,
a rare pneumonia
diagnosed in five
Los Angeles gay
men was reported.

This report is dedicated to the memory of Dr. Robert Carr (1963–2011)
— friend, colleague and real-life hero.

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Canadian
HIV/AIDS
Legal
Network

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VIH/sida

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These were
the first
documented
cases of
what would
later become
known as
AIDS.

AIDS:

could it happen to me?

AIDS
IS EVERYONE'S PROBLEM



1991 400,000 INHABITANTS A MONTH 1/4 MILLION INFECTED

- WHAT YOU CAN DO**
- Get tested and share the results with family and friends
 - Know your partner
 - Ask questions about past and present drug use
 - Be honest about your past



FUN WITH CONDOMS



When you share needles you could be shooting up AIDS.



People who shoot drugs can get AIDS from sharing needles. If the needle or cooker has been contaminated, you could be infected. There is no cure for AIDS. It's a slow, painful, ugly way to die.

STOP SHOOTING UP AIDS.
CALL 1-800-662-HELP

THIRTY YEARS TOWARDS AIDS

Prénétration toujours avec préservatif

The story of HIV/AIDS is one of deplorable loss, but it is equally a story of courage and determination, triumphs both large and small against seemingly insurmountable obstacles. Marking the 30th year of the HIV epidemic, we look back to the defining moments of our movement, and look ahead to the work that still needs to be done. As long as the rights of the most vulnerable continue to be threatened, and access to life and health is drawn along economic lines with disregard for science and common humanity, the Canadian HIV/AIDS Legal Network remains committed to ensuring that law and rights are never incompatible.

Dans le Nord de l'Ontario, ce vêtement peut vous protéger du virus de la grippe.

Toutefois, seul ce survêtement saura vous protéger d'un virus mortel.



Un seul vêtement garantit de vous protéger du virus de la grippe. Toutefois, seul ce survêtement saura vous protéger d'un virus mortel. Pour plus d'informations, contactez le Centre de santé communautaire de votre région. Les condoms sont disponibles gratuitement dans les pharmacies et les centres de santé communautaire. © 1991, AIDS-Info.



...et s'embrasse amoureuxment

Most babies with AIDS are born to mothers or fathers who have shot drugs.



AUS LOSER
Fotoausstellung Schwule im Kampf gegen AIDS seit 1983



A MESSAGE FROM

THE PRESIDENT AND THE EXECUTIVE DIRECTOR

THIRTY YEARS AGO, the world witnessed the first diagnoses of what later came to be called AIDS. Since then, the AIDS movement worldwide has repeatedly challenged long-standing assumptions, deep-rooted prejudices and conventional wisdom about how best to respond to a public health challenge. There has been a growing insistence by civil society advocates on redressing the denial and violation of human rights that are fundamental drivers of the epidemic in every country and region.

Yet the gains made, such as the millions of people worldwide now receiving treatment, remain tenuous. Our knowledge of what works in preventing HIV, and our options for treating those living with HIV, are greater than ever before. We have seen what is possible, domestically and globally, when resources are mobilized and when policies and programs seek to protect and realize the rights and dignity of those living with or vulnerable to HIV. So it is particularly cruel and indefensible that, in too many instances, decision-makers are renegeing on commitments and, in some cases, mounting an active and sustained assault on human rights and evidence, two touchstones of any effective response to the epidemic.

Not surprisingly, therefore, 2010–2011 has been a particularly busy period for the Canadian

HIV/AIDS Legal Network. We intensified existing campaigns but also began implementing our new five-year strategic plan — at the core of which lie four priority areas of work: Drug Policy; HIV in Prisons; Women’s Rights and HIV; and the Criminalization of HIV Non-Disclosure.

On the domestic law-reform front, our advocacy efforts galvanized a national movement to get affordable, generic medicines to developing countries to stem the tide of HIV/AIDS and other public health problems. The Legal Network and our partners shone a glaring spotlight on the deficiency of Canada’s Access to Medicines Regime (CAMR) and our dogged campaign brought us to the brink of finally seeing CAMR reformed: Bill C-393 passed by a large majority in the House of Commons before it was wilfully stalled in the Senate and died on the Order Paper with a March election call. The Legal Network will continue to fight on behalf of those needlessly suffering and dying because they can’t afford the price of life.

Internationally, the Legal Network and the UN Office on Drugs and Crime (UNODC) released a long-awaited and extensive report on legislative reforms needed to respond more effectively to HIV in six Eurasian countries, with a particular focus on ensuring the health

and human rights of people who use drugs and people in prisons. The project has already prompted some modest reforms in certain participating countries, but more fundamental reforms to protect and fulfill human rights are still needed in the face of ongoing and widespread abuses.

The past year also saw a marked increase in the Legal Network's involvement in litigation, both at home and abroad. We intervened in numerous cases on the thorny issue of criminal prosecution for HIV non-disclosure. Our submissions before both the Manitoba and Quebec Courts of Appeal had an impact clearly reflected in those critical judgments now shaping Canadian law. Meanwhile, we provided key technical support to various domestic and international litigation efforts, from a constitutional case to protect women's equal property rights in Malawi to complaints challenging systemic human rights abuses against people who use drugs in Russia.

The Legal Network also seized the occasion of AIDS 2010 to launch an extensive resource kit for lawyers handling cases of criminal prosecution for HIV non-disclosure. The conference theme of "Rights Here, Right Now" was a welcome first for the world's largest gathering of those responding to the AIDS

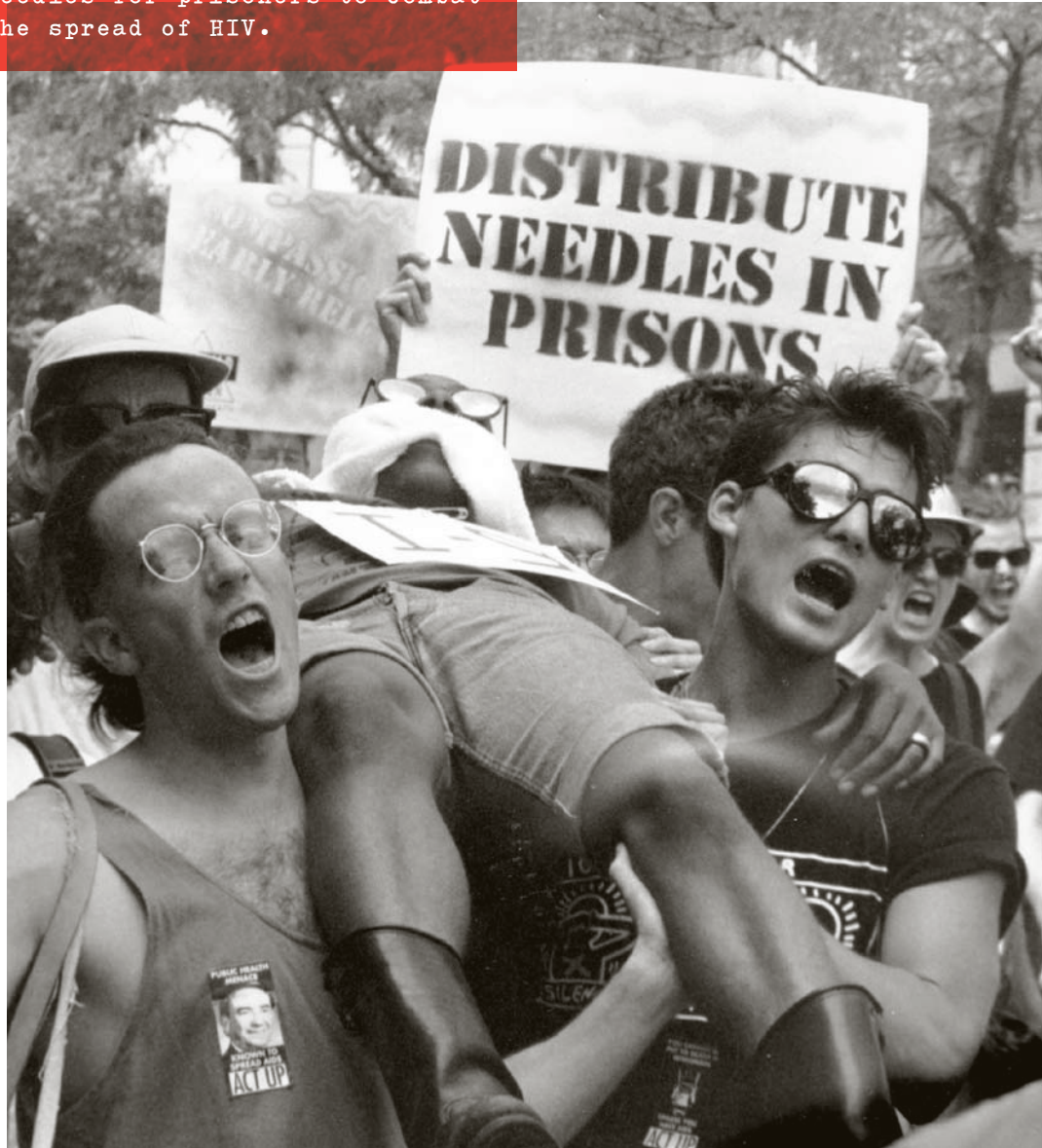
pandemic and a perfect backdrop for our Human Rights Networking Zone, in the conference's Global Village.

The pages that follow, describing highlights of our work, are a mere snapshot of our busy year. All signs indicate that, in the years ahead, the struggle against AIDS, in Canada and around the world, will need as many committed and principled advocates for human rights as can be found. The Legal Network has been, and will continue to be, in that number.

David Eby
PRESIDENT

Richard Elliott
EXECUTIVE DIRECTOR

Members of ACT UP demand clean needles for prisoners to combat the spread of HIV.



Courtesy of the University of Wisconsin Archives, Image # 23/21 S00835

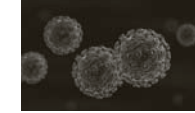
1980s

1981

In June, the U.S. Centers for Disease Control and Prevention's *Morbidity and Mortality Weekly Report* publishes an article about weakened immune systems observed in five Los Angeles gay men.

1982

In March, *Canada Diseases Weekly Report* reports the first case in Canada of what would become known as AIDS.



The term GRID (gay-related immune deficiency) is replaced by AIDS.

LEGISLATIVE LOBBYING

Breaking Silence

“The dominant feature of this first period was silence,” wrote activist Jonathan Mann. It took years for those in power to break the silence surrounding AIDS: in 1987, after an estimated 5-10 million infections, the U.S. President deigned to utter its name. Canada’s Prime Minister wouldn’t address the public health crisis until 1989. Infuriated by the foot-dragging and demagoguery of their leaders, the first AIDS activist groups were born. ACT-UP in the U.S., and AIDS Action Now! in Canada burned effigies and shut down streets in the first mass demonstrations of the epidemic. The spirit of these early pioneers energizes the Canadian HIV/AIDS Legal Network’s persistent lobbying of policy-makers whose decisions affect the rights and lives of people living with or vulnerable to HIV.

WHEN THE CRIMINAL justice system is ill-equipped to deal with complex social problems, and people living with HIV remain in the dark as to when they might face criminal prosecution, clarity and fairness are desperately needed. As a founding member of the Ontario Working Group on Criminal Law and HIV Exposure, the Legal Network was active in this

year’s campaign calling on the province’s Attorney General to introduce prosecutorial guidelines for cases involving alleged non-disclosure of HIV status.

Launched in September at a community forum co-hosted by the Legal Network (see page 23), the campaign deployed a series of vibrant postcards and broad social network saturation

First AIDS-service organizations are established in Canada: AIDS Vancouver and AIDS Committee of Toronto (ACT).

PWAs adopt Denver Principles at the Fifth National Lesbian/Gay Health Conference, rejecting label of "victims" and demanding to be recognized as "people with AIDS."

First known HIV-related court case: in *People v. West 12 Tenants Corp.*, Lambda Legal wins a court order in NYC stopping the eviction of a doctor treating HIV-positive patients.

to gather over 1000 signatures, including many prominent members from the legal, scientific and arts communities. The first major payoff came in December: a letter from the Ontario Ministry of the Attorney General stating that the ministry was undertaking a process to develop prosecutorial guidelines for cases involving HIV exposure.

Currently, the Ontario Working Group, in partnership with the Legal Network and HALCO, the HIV & AIDS Legal Clinic (Ontario), is conducting a series of eight face-to-face consultations with persons living with HIV and AIDS (PHAs), community leaders and diverse groups of experts to get their input on what should be included in the prosecutorial guidelines. These consultations will be followed by an online public consultation, which will jointly form the basis of a report and recommendations to be submitted to the Ontario Ministry of the Attorney General. Meanwhile, the campaign continues to pressure the ministry to take into account the recommendations of the community.

At the federal level, drug policy continues to suffer, driven by ideology rather than science

World's first needle exchange program opens in Amsterdam.

HIV — still known as HTLV-III/LAV
— is identified as the cause of AIDS.

and human rights principles. Bill S-10 was the latest iteration of the federal government's "tough-on-crime" agenda, threatening to impose mandatory minimum sentences for certain drug crimes, even minor ones, despite overwhelming evidence that such sentences are both ineffective and harmful. Timed to coincide with Senate committee deliberations, the Legal Network released a letter in October — signed by over 200 frontline organizations, public health professionals, researchers and experts working with people who use drugs and those vulnerable to HIV infection — calling on the federal government to be sensible on crime and abandon the bill. Those numbers had grown by February, when over 550 health professionals from across Canada voiced their opposition to Bill S-10 through an open letter to the party leaders in government, released jointly by the Legal Network and the BC Centre for Excellence in HIV/AIDS, including its Urban Health Research Initiative.

Fortunately, Bill S-10 died on the Order Paper with the federal election call in March — but not before the Office of the Correctional Investigator, in his 2009–2010 Annual Report to Parliament, exposed the enormous financial, health and social costs that the government's legislative agenda would entail by dramatically increasing incarceration rates in Canada. Recommending a full range of harm reduction services for federal prisoners, the Investigator cited the Legal Network's earlier report *Under the Skin* as evidence that prison-based needle and syringe programs reduce risk behaviour and the spread of blood-borne diseases, without increasing drug-consumption or posing a safety risk.

1985

First case of HIV reported in China means that HIV now appears in every region of the world.

1986

President Kaunda of Zambia announces his son has died of AIDS, and calls on the international community to respond to this global problem.

In January, the Legal Network, jointly with the Prisoners with HIV/AIDS Support Action Network (PASAN), also submitted a brief to the House of Commons Standing Committee on Public Safety and National Security on Bill C-39. We outlined why the government's proposed changes to the *Corrections and Conditional Release Act*, representing a radical shift in the guiding principles of Canada's federal prison system, would run counter to international human rights norms and undermine the health of both people in prison and the public health more generally, including in relation to HIV prevention and care.

Meanwhile, the same House of Commons committee undertook its own study of mental health and addictions in the federal correctional system, for which the Legal Network testified. Citing our testimony, the Committee's report, released in December 2010, stopped just short of recommending that Correctional Service of Canada implement prison-based needle syringe programs, but urged the government to "explore all program options available to reduce the skyrocketing rates of HIV/AIDS and hepatitis C ... in prison" and to "allocate additional financial and human resources for drug treatment, harm reduction and prevention."

On the international scene, the case for legislative reforms to protect the health and human rights of people living with HIV and those vulnerable to it, including people who use drugs and people in prisons, received a boost in January. At a regional conference in Almaty, Kazakhstan, the Legal Network and the United Nations Office on Drugs and Crime (UNODC) launched our extensive joint report on legislative and policy responses to HIV in six countries — Azerbaijan, Kazakhstan, Kyrgyzstan,

Read the extraordinary personal testimonies of incarcerated and formerly incarcerated people in *Under the Skin*, at www.aidslaw.ca/undertheskin.



"MY OLDER BROTHER INTRODUCED ME TO AMPHETAMINES WHEN I WAS 15. HE SHOWED ME HOW TO USE IT WITH A NEEDLE."



CAN YOU GET AIDS FROM A TOILET SEAT?



No, you can't.
You can't get AIDS from a toilet seat, or from telephones, public swimming pools, public change rooms, or from mosquitoes.
You CAN get AIDS from having sexual intercourse with an AIDS carrier, or by sharing needles while injecting illegal drugs.
Find out more about AIDS from your parents, teacher or doctor, or call the Ontario Ministry of Health hotline.

The Ontario
Ministry of
Health addresses
misconceptions
about HIV/AIDS.

Let's talk.
1-800-668-AIDS
In Toronto:
392-AIDS

Ministry of Health
Ontario

1987

ACT UP — the AIDS Coalition to Unleash Power — stages its first mass demonstration in New York City to demand faster government approval of AIDS drugs, unveils slogan "SILENCE = DEATH."



Tajikistan, Turkmenistan and Uzbekistan — all of which face dramatic growth of the epidemic, driven particularly by injection drug use. Based on detailed legislative and policy analyses for each country, and done in collaboration with a national team of experts in each, the report presents 60 general recommendations, plus numerous detailed recommendations for each of the participating countries.

During the report's consultation and drafting process, proposed recommendations for reform were presented and discussed at various fora with parliamentarians and government policy-makers, and already, in four of these countries, there have been some positive steps in specific pieces of legislation. However, too many harmful laws remain on the books, undermining prevention, treatment and care efforts — particularly for the most vulnerable populations.

Read the Legal Network-UNODC report in English and Russian at www.aidslaw.ca/centralasia.

1988

In March, AIDS Action Now! holds its first demonstration, calling for access to aerosolized pentamidine in Canada.

On December 1st World AIDS Day is observed for the very first time.

1989

First needle exchange programs in North America are established in Vancouver by the Downtown Eastside Youth Activities Society and in Montréal by CACTUS.

Where national governments resist reform, international fora can also be used to press the case. As a non-governmental organization in special consultative status with the UN's Economic and Social Council (ECOSOC), the Legal Network has increasingly partnered with NGOs in Russia and other countries of the former Soviet Union to raise human rights concerns on a range of HIV-related issues with various UN bodies — including complaints to the UN Special Rapporteur on the right to health and numerous submissions to bodies such as the Committee on Economic, Social and Cultural Rights and the Human Rights Council's Universal Periodic Review (UPR) process. While one goal of these submissions is to protect and promote the human rights of people who use drugs — a highly stigmatized group in this region — another is to support partners in the region in identifying violations and pursuing the most appropriate response-strategies.

In a similar spirit, the Legal Network partnered with the Women's Legal Aid Centre in Tanzania to make a submission to the Human Rights Council's UPR of Tanzania concerning the country's proposed national AIDS policy, which failed to adequately protect the rights of people living with HIV, women and girls, sexual minorities, sex workers, people who inject drugs or people in prison. To address this, the submission included a number of recommendations for law reform, and called on the Tanzanian government to meaningfully consult with people living with HIV in the development of law and policy that affects them.

LÀ OÙ
Y'A
Y'A DU
PLAISIR



An HIV-prevention campaign by Aide Suisse contre le Sida.

1990s

1990

1992

The 1992 International AIDS Conference is moved from Boston to Amsterdam to protest the U.S. ban on entry by people with HIV.

First prison-based needle and syringe program starts at Oberschönggrün Prison in Switzerland.

LITIGATION

Representing Rights

Of the countless HIV-centred legal proceedings since the start of the epidemic, some have sought to protect the rights of those affected by HIV, but many have sought to punish. In 1989, Canada saw its first criminal prosecution for not disclosing HIV status to a sexual partner; in 1998, when the Supreme Court ruled that a person living with HIV could be convicted for not disclosing his or her HIV status if there is a “significant risk” of transmission, it spawned more than a decade of rampant prosecutions. But this first case before the highest court also highlighted the critical role of AIDS organizations, such as the Canadian HIV/AIDS Legal Network, in arguing in the courts to resist the law’s insidious creep.

IN 2010–2011, the Legal Network significantly increased its involvement in a range of HIV-related legal proceedings — both in Canada and abroad — in which we were granted intervener status to defend the human rights of people representing marginalized communities.

Transmitting Justice: Critical developments in the criminal law regarding HIV non-disclosure unfolded in 2010–2011,

with the Legal Network playing a key role in the ongoing effort to bring reason and rights to bear in the interpretation and application of the law, specifically regarding the question of what constitutes “significant risk” of transmission.

In the Court of Appeal of Manitoba, the Legal Network intervened in *R. v. Mabior*, the first appellate court case to squarely address two of the principal unresolved questions about the “significant risk” test first set out more than a

AZT is shown to reduce the risk of vertical transmission of HIV from mother to child.

decade ago by the Supreme Court of Canada. We challenged the trial judge's ruling that that the level of risk would only fall below "significant" when both the accused person's viral load was undetectable and condoms were used during sex. Our arguments were clearly reflected in the analysis ultimately adopted by the Court of Appeal's decision, released in October 2010: the Court found that *either* the careful use of a condom *or* an undetectable viral load can, depending on the medical evidence put forward, be sufficient to remove the duty to disclose.

A few months later, the Legal Network was again before the courts, this time in Quebec. Jointly with COCQ-SIDA, the provincial network of AIDS organizations, we appeared before the province's Court of Appeal in the case of a *R. v. D.C.*, a Montréal woman convicted of sexual assault and aggravated assault for allegedly not disclosing her HIV-positive status to her partner before a single instance of unprotected sex. The allegation was made by her abusive ex-partner of four years, based on the fact that she had not disclosed her HIV-positive status until after their first sexual encounter. Although D.C. had an undetectable viral load at the time and the complainant did not contract HIV, the trial judge ruled that the single act exposed the complainant to a significant risk of serious bodily harm. On appeal, we argued that a person living with HIV should not be convicted for non-disclosure if a condom was used during sex or if his or her viral load was undetectable at the time. The central issue before the Quebec Court of Appeal was whether this single instance of unprotected sex exposed the complainant to a significant risk of HIV transmission.

Results of successful clinical trials of highly-active antiretroviral therapy (HAART) are presented at the 11th International AIDS Conference in Vancouver.

The Quebec Court of Appeal ruled that given D.C.'s undetectable viral load at the time she had unprotected sex, the risk of transmission was not significant and thus there was no duty to disclose.

The Legal Network welcomed these rulings as important developments that move toward ensuring that people living with HIV do not face possible criminal prosecution based on exaggerated and often misinformed perceptions of the risk of transmission. The Crown is seeking to appeal both the *Mabior* and *D.C.* decisions to the Supreme Court of Canada. The Legal Network and other partners will seek standing to argue our critical perspective on limiting the arbitrary and unjustifiably broad use of criminal charges to deal with difficult cases of HIV non-disclosure.

From Risks to Rights: In September 2010, an Ontario trial court issued a groundbreaking decision in favour of the province's sex workers. While sex work itself is not illegal in Canada, provisions on communicating, procuring, bawdy houses and living off the avails of prostitution in the *Criminal Code* make it all but impossible to engage in sex work without running afoul of the criminal law.

In her judgment, Justice Susan Himel ruled that three sections of the Canadian *Criminal Code* relating to sex work were unconstitutional, finding that these sections infringed upon "the core values protected by Section 7" of the *Canadian Charter of Rights and Freedoms* — the rights to life, liberty and security of the person — and that the *Criminal Code* section criminalizing communication for the purposes

Vancouver Area Network of Drug Users (VANDU) sets up 1000 crosses in a park to mark the deaths of people who use drugs in the city's Downtown Eastside.



Canadian Minister of Health releases report of Krever Commission's inquiry into the blood system; more than 1000 people were infected with HIV, and tens of thousands with hepatitis C virus, through transfusion.

of prostitution violated sex workers' right to freedom of expression.

However, this victory was short-lived, as the federal government immediately launched an appeal of the decision. In March 2011, the Legal Network was granted joint intervenor status with the BC Centre for Excellence in HIV/AIDS before the Ontario Court of Appeal. Should the original court decision be upheld, sex workers' ability to protect themselves and lessen the risk of violence and other threats to their health and safety will be enhanced — including their capacity to negotiate safer sex and access HIV-related health services. The appeal will be heard in June 2011.

Injecting Reason: Launched in 2003, Insite is North America's first legal supervised injection site, operating in accordance with an exemption from certain of Canada's drug laws first issued by the federal Minister of Health. Since then, the Vancouver-based centre has proven to be a safe, sanitary place where people can inject drugs with far less risk of infection or overdose, as well as connect to critical health-care services. Nonetheless, since 2006, Insite has faced stiff opposition from a new federal government.



AIDS Committee of Thunder Bay

UNAIDS and the UN High Commissioner for Human Rights issue *International Guidelines on HIV/AIDS and Human Rights*.



Andreas Enkelmann and Alexander von Agoston — Deutsche AIDS-Hilfe

In 2008, a British Columbia trial court ruled that Canada's drug laws were unconstitutional in their application to Insite because they violate the rights to life, liberty and security of the person of people using it, and granted the site a temporary constitutional exemption from those laws. In January 2010, the British Columbia Court of Appeal upheld the order, although it primarily based its ruling on the finding that Insite fell within the jurisdictional authority of the provincial government, since the supervision of illicit drug injections in a health-care setting constitutes a matter of public health. As expected, the federal government directed the Attorney General of Canada to launch an appeal, to be heard before the Supreme Court of Canada in May 2011. The Legal Network, CACTUS Montréal and the International Harm Reduction Association have been granted joint intervener status in that appeal to defend Insite's right to operate and continue saving lives.

Ensuring that Vancouver's supervised injection site remains in operation upholds the right to health of people who use drugs and will reduce behaviour that can transmit HIV and hepatitis C. Indeed, should the Supreme Court of Canada uphold the lower court decision, it could pave the way for other cities across Canada to establish their own life-saving supervised injection sites.

PROPERTY AS SECURITY: As in past years, the Legal Network's involvement in litigation extends to the international as well. We are supporting Women and Law in Southern Africa Research Trust–Malawi (WLSA-Malawi) in its challenge to Malawi's

Supreme Court of Canada rules that people with HIV may be criminally convicted for not disclosing HIV status before any sexual activity posing a "significant risk" of transmission.

current approach to marital property law before the Constitutional Court. WLSA-Malawi is arguing that the country's marital property framework discriminates against women, and the Legal Network is outlining health and human rights arguments to bolster its case.

Malawi's Constitution provides that women are entitled to "a fair disposition of property that is held jointly with a husband" upon the dissolution of marriage. However, the current interpretation of Malawi's marital property law only considers property to be held "jointly" if a direct, financial contribution has been made to its acquisition — which is certainly not a fair measure when, as is often the case, women primarily work in the home in many societies. Since case law has shown that courts in Malawi do not recognize household and care-giving work, many women retain virtually nothing upon the dissolution of a marriage.

This inequality in terms of marital property rights increases women's vulnerability to HIV in many ways. The fear of poverty and insecurity inhibits women, including those who are married, from engaging in safe sex and/or from leaving violent relationships. When a marriage ends, women without access to marital property may face daunting circumstances when securing a place to live, accessing economic opportunities and simply surviving day-to-day. This, in turn, may result in risky behaviours that put women at increased risk of contracting HIV. Property rights can also help ease the impact of HIV and AIDS on women living with the disease by giving them access to shelter, clean water and health services — the very necessities of life that are their human right.

1982

first AIDS case reported
in Africa

2011

an estimated 23 million
Africans live with HIV/AIDS



Aide Suisse contre le Sida

UN establishes the Millennium Development Goals, which include halting and reversing the spread of HIV by 2015 and providing universal access to treatment by 2010.

Indian generic pharmaceutical company Cipla announces price of \$350 per patient/year for AIDS drug treatment, setting off a dramatic price drop for AIDS treatment in the developing world.

United Nations General Assembly issues its Declaration of Commitment on HIV/AIDS.

COMMUNITY ENGAGEMENT

Empowering Action

The first documented cases of HIV were not even known by that name. AIDS would not be named until 1982; HIV until 1983. In a climate of ignorance, stigmatization ran rampant, exposing society's human rights fault lines, fuelled by social and economic inequities. But from these dark beginnings emerged lifelines, threading communities together. In 1983, AIDS Vancouver and the AIDS Committee of Toronto became Canada's first community-based AIDS organizations. Local communities connected with regional ones to share information and resources, and in 1985, the exchange went global at the first International AIDS Conference in Atlanta, Georgia. Today, the Canadian HIV/AIDS Legal Network continues to bring together organizations and individuals, in Canada and beyond, building on the work of those who came before.

ON THE HEELS of its successful inaugural year, the Legal Network's 2nd Symposium on HIV, Law and Human Rights attracted over 150 lawyers, activists, community workers and PHAs to Toronto in June 2010. A distinguished roster of speakers discussed legal and scientific issues relating to the criminalization of HIV

exposure, the latest research on Canadian immigration policy impacting PHAs, and the complex intersections of HIV and maternal health — an issue made particularly topical in the shadow of the impending G8 Summit held in Huntsville, Ontario just two weeks later. A highlight of the two-day event was the



Activists at AIDS 2004
in Bangkok rally for
equal access to treatment.

The Global Fund to Fight AIDS, Tuberculosis and Malaria is established.



Insite, North America's first legally-sanctioned supervised injection site, opens in Vancouver.

public lecture by Dr. Michel Kazatchkine, Executive Director of the Global Fund to Fight AIDS, Tuberculosis and Malaria. Dr. Kazatchkine's presence triggered a flurry of media attention, as well as an invitation to meet with Prime Minister Stephen Harper — an occasion Dr. Kazatchkine used to reiterate the necessity of including comprehensive family planning and access to safe abortion in any effective maternal health plan. Earlier that day, Dr. Kazatchkine also spoke on a panel at the Munk School of Global Affairs, alongside Dr. Gerry Caplan and two African grandmother activists, Sipiwe Hlope of Swaziland Positive Living and “Mama” Darlina Tyawana of South Africa's Treatment Action Campaign.

When he stood up that evening to deliver his public lecture at our Symposium, Dr. Kazatchkine — a defender since the epidemic's earliest days of the rights to health and dignity of PHAs — spoke movingly of both the history and present state of the HIV epidemic, and called for an urgent redoubling of efforts on human rights. Among other things, he called for the closure of centres, common in several Asian countries, where people with real or perceived drug dependence are forcibly detained and subject to compulsory “treatment,” often in conditions and using methods that amount to gross violations of human rights. Bilingual video of Dr. Kazatchkine's public lecture is available at www.aidslaw.ca/agm2010.

1985: first International AIDS Conference held in Atlanta
2000 PARTICIPANTS

2010: XVIII International AIDS Conference held in Vienna
20,000 PARTICIPANTS

In March 2011, the Legal Network and the Open Society Foundations jointly published *Human Rights and the Global Fund to Fight AIDS, Tuberculosis and Malaria*. Studying the Global Fund in depth, the report's author — former Legal Network Executive Director Joanne Csete — examines how its workings have or have not resulted in human rights-friendly changes in policy and national decision-making. Read this compelling report at www.aidslaw.ca/publications.

Parliament unanimously passes a bill creating what is later known as Canada's Access to Medicines Regime; because of complications in the law, it will be used only once in seven years to export one AIDS drug to Rwanda.

16th International AIDS Conference sees protests against Canadian government's opposition to Insite and the launch of the *Toronto Charter: Indigenous Peoples' Action Plan on HIV/AIDS*.

Dr. Kazatchkine's public lecture also provided a fitting venue to honour Ralf Jürgens as the 2010 Canadian Recipient of the Award for Action on HIV/AIDS and Human Rights. The award recognized Ralf's tireless years of work — not only as co-founder and first Executive Director of the Legal Network, but also as one of the most prominent and eloquent advocates for the rights of people living with or vulnerable to HIV, and in particular people in prisons and people who use drugs, both in Canada and internationally.

The International Award for Action was presented by the Legal Network and Human Rights Watch the following month in Vienna at the XVIII International AIDS Conference (AIDS 2010) to the Macedonian group Healthy Options Project Skopje (HOPS). A citizen association that initially operated as Macedonia's first needle exchange program, HOPS now operates a range of harm reduction and prevention programs, and seeks to create, in an often hostile law-enforcement environment, a sense of community and greater empowerment for sex workers, people who use drugs, and other socially marginalized people.

Learn more about past recipients of the Awards for Action at www.aidslaw.ca/awards.



Canadian AIDS Society.

The human rights theme of AIDS 2010, “Rights Here, Right Now,” was a first for the conference and provided an excellent opportunity to highlight the issues that lie at the core of our work. In addition to a roster of oral and poster presentations, the Legal Network co-hosted for the second time with the Open Society Foundations (and with support from the Open Society Initiative for Southern Africa and the Levi Strauss Foundation) the enormously popular Human Rights Networking Zone in the Global Village. The Zone became a vibrant hub of panels, debates and film screenings, as well as the starting point for a March and Rally for Human Rights, which flooded the streets of Vienna with an estimated 20,000 marchers and ended in a concert by performer and activist Annie Lennox.

Drug company Abbott threatens to not register any new medicines in Thailand after government issues a compulsory licence on its ARV, Kaletra.

A controversial clinical trial completed in Thailand provides the first demonstration in humans that a vaccine can prevent HIV infection.



AIDS Action Now!

Proceedings from the Legal Network's Symposium and summaries of selected human rights-related presentations from AIDS 2010 are both published in the October 2010 issue of the Legal Network's flagship journal, the *HIV/AIDS Policy & Law Review*, at www.aidslaw.ca/review.

With a growing number of countries now affected by the criminalization of HIV exposure or transmission, the Legal Network, along with the U.K.-based NAM and the Global Network of People Living with HIV (GNP+), co-hosted an AIDS 2010 satellite meeting for advocates to compare notes and strategize a way forward. A line-up of speakers from the frontlines of this worrying worldwide trend shared the latest information on the nature and incidence of prosecutions, as well as the solutions being found in national policy and case-law, with the goal of identifying pragmatic advocacy strategies. A summary of the outcomes of the meeting were presented at a press conference later in the week, along with the launch of three new resources, including the Legal Network's own Resource Kit for lawyers and advocates.

Watch video of the Satellite Meeting and learn more about our work at AIDS 2010 at www.aidslaw.ca/aids2010.

1987

U.S. becomes one of the first countries to bar foreigners with HIV

2010

U.S. removes ban, but approximately 70 countries still have HIV-specific travel restrictions

U.S. government finally lifts ban on entry by people living with HIV.

G8 countries reaffirm their commitment to the missed target of “universal access” by 2010, but then fail to support the Global Fund with even the minimal amount needed to sustain existing support to countries’ AIDS responses.

Researchers announce that a microbicide gel containing the ARV tenofovir produced a 39% reduction in new HIV infections among women.

Bill C-393 to fix Canada’s broken Access to Medicines Regime passes in House of Commons but is deliberately stalled in the Senate and dies on the Order Paper when federal election called.

Co-produced with AIDES, GNP+, and Groupe sida Genève, the resource kit — hosted on the Legal Network’s website at www.aidslaw.ca/lawyers-kit — responds to the great need to develop tools for lawyers representing people living with HIV in cases of criminalization of exposure or transmission. Geared to both lawyers and other advocates, the kit features a detailed and fully referenced compilation of the latest scientific evidence and key international decisions, as well as profiles of the legal landscape in three national jurisdictions: France, Switzerland and Canada.

It is Canada’s dubious distinction to be one of the world leaders in prosecutions for HIV exposure or transmission, and this deplorable situation was the topic of a September 2010 forum in Toronto, Ontario, titled “Limiting the Law: Silence, Sex and Science.” Co-hosted by the Legal Network, HALCO, and the Ontario Working Group on Criminal Law and HIV Exposure, and featuring visiting U.K.-based scholar Edwin J. Bernard, the community forum brought together legal, scientific, and community-based perspectives to provide a launching-pad for the Ontario Working Group’s campaign for critically needed prosecutorial guidelines (see page 7).

1992

world’s first prison needle exchange program in Switzerland

2011

still no prison needle exchange programs in Canada

Watch video of “Limiting the Law: Silence, Sex and Science” on the Legal Network’s YouTube channel, at www.youtube.com/aidslaw.

Other events aimed at informing communities on issues relating to the law and HIV non-disclosure included a series of workshops across Canada (Vancouver, Edmonton, Saskatoon, Winnipeg and Ottawa) in partnership with community organizations, and on World AIDS Day 2010, a co-sponsored forum with the African and Caribbean Council on HIV/AIDS in Ontario to launch their report on the impact of the criminalization of HIV non-disclosure on African, Caribbean and Black communities.

MOBILIZING FOR LIFE:

Reforming Canada's Access to Medicines Regime

On March 20, 1987, the United States Food and Drug Administration approved the first antiretroviral (ARV) drug for use in HIV treatment and AIDS. Some 25 years later, the struggle continues to get ARVs to those suffering and dying in developing countries. The Canadian HIV/AIDS Legal Network's tireless work on this issue illustrates how the separate tracks of our work — in this case high-level lobbying with community engagement — mutually support a common goal.

Since Canada's Access to Medicines Regime (CAMR) was created in 2004, the Legal Network has led efforts to fix its flaws and make it the workable solution that is needed to get life-saving generic medicines to developing countries. In 2010–2011, this meant steadfastly accompanying Bill C-393 — a private member's bill to streamline and strengthen CAMR — through every twist and turn of its journey through

Parliament. In October 2010 — mere weeks after a September 29 rally on Parliament Hill by a coalition of community organizations and concerned Canadians — a month-long review began before a parliamentary committee.

Despite testimony on the merits of Bill C-393 from the Legal Network and other experts working on both HIV and intellectual property, intensive lobbying by the brand-name pharmaceutical industry led some committee members to play politics with human lives. Bill C-393 was stripped of its key provisions — including the integral “one-licence solution” — before being sent back to the House of Commons.

In addition to now facing the challenge of undoing the committee's damage, a new hurdle faced C-393. The bill needed a new sponsor, since its original sponsor had left Parliament. But unanimous consent from MPs present in the House was needed to transfer sponsorship and allow the bill to move forward.

The Legal Network and its coalition of supporters rallied to launch www.LetParliamentVote.ca, so that Canadians could e-mail party leaders in the House to urge them to allow transfer of sponsorship. In a rare display of cooperation — and after an impressive 25 000 Canadians signed a petition crafted by the Legal Network and global advocacy organization Avaaz in just a few days — Parliament allowed MP Paul Dewar to take Bill C-393's reins on February 2, 2011.

In the bill's final hour of debate on March 3, concentrated advocacy spearheaded by the Legal Network and its allies in Parliament resulted in an early victory en route to a final vote: the re-instatement of the “one-licence solution” and the replacement of a prohibitively limited list of eligible medicines with a broader definition of “pharmaceutical product” reflecting what had already been negotiated at the World Trade Organization years before.

Third and final reading of Bill C-393 was scheduled for the evening of March 9, and we

7 number of years since CAMR was unanimously enacted by Parliament

1 number of times it has been used

began that day by organizing a standing-room-only press conference on Parliament Hill. An extraordinary line-up of advocates for Bill C-393 included international humanitarian activists Dr. James Orbinski and Stephen Lewis, Juno Award-winning artist K'naan, Legal Network Executive Director Richard Elliott, and Fanta Ongoiba, Executive Director of Africans in Partnership Against AIDS.

Press conference speakers were backed by open letters of support from faith leaders and leading Canadian health professionals and scientists. Prominent Quebec NGOs and AIDS activist Dr. Réjean Thomas were also quick to endorse a public letter pleading that the Bloc Québécois abandon its damaging “sunset clause” amendment, requiring that any reforms to CAMR automatically die after a mere four years.

Following an intense day of MP meetings and media relations, Bill C-393 was finally up for vote — after the Bloc Québécois and the bill's supporters negotiated a much more tolerable 10-year sunset clause with far less onerous preconditions for extending the life of CAMR reforms. Before a packed public gallery of supporters, Bill C-393 was passed by a strong majority of Members of Parliament — 172 to 111 — drawn from all parties, and echoing the will of Canadians.

The bill was then immediately transferred to the Senate, under the sponsorship of Senator Sharon Carstairs and supported by many other prominent Senators. There was no pause: within

an hour of the House vote, the Legal Network launched www.LetDemocracyWin.ca to enable Canadians to voice their opinion that the decision to pass Bill C-393 in the elected House of Commons should not be vetoed by an appointed Senate. This urgent action took place under constant threat of an election call.

Sadly, supportive Senators and the groundswell of public support for the bill were not enough. For four days in a row, a handful of Senators deliberately stalled the bill's progress, and parroted talking points drawn from a leaked memo from the Minister of Industry, repeating blatantly incorrect claims about the bill and outlining the government's opposition to it. When the minority government fell and Parliament was dissolved for a federal election, Bill C-393 died on the Order Paper.

But this is by no means the final chapter for CAMR reform. The Legal Network launched www.AIDSaction.ca during the federal election so that, before casting their vote, Canadians could clearly see which candidates indicated support for fixing CAMR, as well as how incumbents running for re-election had voted on Bill C-393.

The great strides made this year would not have been possible without the many organizations that work hand-in-hand with the Legal Network, including the National Advocacy Committee of the Grandmothers to Grandmother Campaign, Universities Allied for Essential Medicines, RESULTS Canada, the Interagency Coalition on AIDS and Development, other members of the Global Treatment Access Group (GTAG) and thousands of concerned Canadians. Together we will continue our fight to bridge the global gap between those who receive life-saving medicines and the many who do not, simply because they are too poor to pay the price of life.

To learn more about CAMR and get involved in future reform efforts, visit www.aidslaw.ca/camr.

OUR PEOPLE

We wish to thank our staff, past and present, for their extraordinary commitment to the Canadian HIV/AIDS Legal Network's mission. Thank you for playing such an important role in our success.

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AIDS Bureau, Ministry of Health
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CIHR Centre for REACH in HIV/AIDS
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GNP+
Groupe sida Genève
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And the tens of thousands of people who supported the campaign to reform Canada's Access to Medicines Regime. For more information on how you can donate to support our work, please visit www.aidslaw.ca/donate.

Image credits for pages 2 and 3: ACT UP; Aide Suisse contre le Sida; AIDS Committee of Sudbury; AIDS Committee of Toronto; AIDS Health Education and Advice for the Deaf, British Deaf Association; AIDS Virus and Education Research Trust (AVERT); Alberta Health; Canadian AIDS Society; Deutsche AIDS-Hilfe; National Institute on Drug Abuse, Department of Health and Human Services.

STATEMENT OF FINANCIAL POSITION*As at March 31, 2011*

	2011	2010
CURRENT ASSETS		
Cash	\$613,007	\$506,345
Marketable securities	166,415	216,252
Amounts receivable	73,338	176,882
Prepaid expenses	10,248	18,249
	<u>863,008</u>	<u>917,728</u>
Leasehold improvements	14,516	7,379
	<u>\$877,524</u>	<u>\$925,107</u>

LIABILITIES AND NET ASSETS**Current liabilities**

Accounts payable and accrued liabilities	\$66,455	\$58,514
Deferred grants	721,203	778,621
	<u>787,658</u>	<u>837,135</u>

Net assets

Invested in capital assets	14,516	7,379
Unrestricted	75,350	80,593
	<u>89,866</u>	<u>87,972</u>
	<u>\$877,524</u>	<u>\$925,107</u>

STATEMENT OF OPERATIONS*For the year ended March 31, 2011*

	2011	2010
REVENUE		
Grants	\$1,707,389	\$1,599,346
Service fees	5,356	11,216
Membership	10,981	10,864
Donations	11,304	9,789
Interest and other	17,843	22,934
	<u>1,752,873</u>	<u>1,654,149</u>
EXPENSES		
Personnel	856,342	864,446
Professional fees	348,534	277,262
Travel	158,646	121,343
Rent and maintenance	82,578	84,763
Information and publications	53,731	80,362
Facilities and equipment	103,408	56,704
Foreign country activities		50,317
Communication	68,190	46,171
Office equipment	27,433	24,005
Office support and maintenance	6,145	16,172
Awards	10,604	5,653
Other	32,761	24,066
Amortization	2,607	1,563
	<u>1,750,979</u>	<u>1,652,827</u>
EXCESS OF REVENUE OVER EXPENSES FOR THE YEAR	<u>\$1,894</u>	<u>\$1,322</u>