

Turning Point

CANADIAN HIV/AIDS LEGAL NETWORK | ANNUAL REPORT 2015-2016

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Turning Point

The HIV response is at a pivotal moment. If the world is serious about ending AIDS as a public health threat, and meeting internationally agreed-upon HIV prevention and treatment targets, we must dramatically scale up efforts to protect and fulfil human rights, particularly of the “key populations” most affected by the epidemic. Advancing human rights is a matter of legal and ethical obligation; it’s also sound public health policy.

On important fronts, the momentum for change is accelerating. For example, the “war on drugs” is becoming increasingly harder for world leaders to justify or stomach. Recent debates at the UN reveal a faltering consensus about costly and failed prohibitionist approaches. In Canada, after years of ill-informed federal policy-making, we are witnessing a new openness to policies based on scientific evidence and principles of human rights — a serious consideration of the approaches the Canadian HIV/AIDS Legal Network has been advocating since our inception. As we draft our new strategic plan for the coming years, we are on the brink of new possibilities.

Of course, possibility requires persistence to produce change. Over the past year, we worked on numerous issues central to HIV, human rights and the law, in partnership with invaluable allies, at home and abroad. We invested a considerable effort in the push for drug policy reform (see pp. 6 and 10), including advocating for supervised injection services in Canada, and contributing to an

historic UN report on drug policy and human rights. Also at the UN level, we served as the secretariat of the UNAIDS Reference Group on HIV and Human Rights, and made significant contributions to the UN Secretary-General’s High-Level Panel on Access to Medicines.

Our continuing work on issues affecting Indigenous people in Canada included a [submission](#) urging that an upcoming federal inquiry into the cases of missing and murdered Indigenous women examine how punitive laws on drugs and sex work contribute to such terrible harms. And we have been working alongside sex worker groups in mobilizing opposition to Canada’s harmful federal law on sex work, while thinking through legislative reform strategies and options for possible future litigation.

The following pages reflect only a selection of our work over the past year. Through four strategic modes of working — research and analysis, litigation and other advocacy, public education, and community mobilization — and across domestic and international spheres, our interlocking efforts are building towards an exciting new momentum.

RICHARD ELLIOTT
EXECUTIVE
DIRECTOR

MARILOU GAGNON
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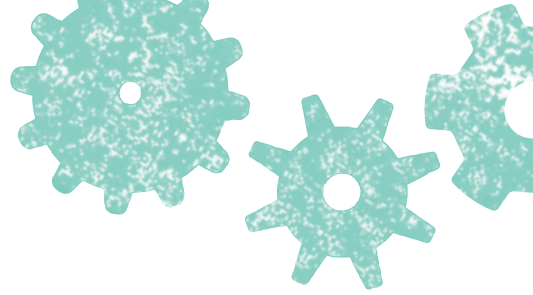


Electing Action

In recent years, people in Canada living with HIV, and communities particularly affected by the epidemic — including Indigenous people, newcomers, sex workers, and people who use drugs — have found themselves increasingly targeted by harmful federal laws and policies disconnected from evidence and contravening human rights.

And so, as the 2015 federal election got underway, we launched an effort, as in previous elections, to assess the major federal parties' positions on critical HIV-related issues, and

to disseminate those positions to concerned voters. By way of a [questionnaire](#), we quizzed the federal parties on: funding for an updated, adequately resourced federal strategy on HIV and AIDS; support for harm reduction, particularly supervised consumption services and prison-based needle and syringe programs; concern for sex workers' health and rights being undermined by an ill-advised new law; legislative reforms for trans rights at home and solidarity with LGBTI human rights defenders abroad; and safeguarding equitable access to



medicines against the still-unratified Trans-Pacific Partnership (TPP) agreement. Four out of five of the parties responded, and in each case, we were pleased to note favourable policy positions on most issues, which we in turn conveyed to our followers via a widely distributed series of analytical [blog posts](#).

Since the election, the parties' responses have formed the basis of our ongoing engagement with elected officials, as we build political support for necessary policy reforms. On World AIDS Day, we issued *Action Required*, a briefing paper shared with all MPs and highlighting five key HIV-related issues facing Canada's federal government — the same issues on which the federal parties had commented in our questionnaire, but now accompanied by concrete recommendations for action. Following the distribution of that brief, we have had numerous meetings with Cabinet members and other MPs — including three meetings in as many months with the federal Minister of Health — to discuss the issues at stake and the recommended remedies. We have been gratified to hear from political staff and civil servants that *Action Required* has been a helpful guide and a valuable resource in their work, and that they intend to use it as a tool in anticipated discussions aimed at developing an updated federal action plan on HIV.

Canada's new federal government has indicated its openness to working with civil society and its commitment to making decisions based on sound scientific evidence and in accord with human rights. Certainly, the federal Minister of Health has demonstrated a greater sympathy for many of our key concerns, most evident so far in relation to

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drug policy (see p. 6). We are optimistic about this new phase of dialogue and collaboration. However, there is no room for complacency. We have a new opportunity and an accompanying duty to engage the government in both remedying ill-advised policies and taking positive action toward ending the epidemic.

FOR MORE INFORMATION:

✳ WWW.AIDSLAW.CA/ELECTION2015



Criminal Injustice

More than 180 people have been criminally charged in Canada for allegedly failing to disclose their HIV-positive status before having sex — many in circumstances in which there was zero or exceedingly minimal risk of transmission, and no intent to transmit. This aggressive use of the criminal law ignores scientific evidence and violates the human rights of people living with HIV. To make matters worse, the deeply problematic use of sexual assault law in such prosecutions is undermining efforts to advance gender equality and combat gender-based violence.

Recognizing the importance of this critical issue, the Legal Network collaborated with Goldelox Productions to produce [Consent: HIV non-disclosure and sexual assault law](#). By engaging the expertise of women's rights advocates, this short documentary film explores whether prosecuting HIV non-disclosure as sexual assault, ostensibly in the name of protecting women's sexual autonomy, in fact increases their risk of violence and discrimination — particularly for women living with HIV. We premiered the film at our [2015 Symposium](#), and have since organized and



We are expanding the conversation about the criminalization of HIV non-disclosure to encompass feminist critiques, and challenging some of the common, gendered assumptions.

participated in numerous screenings across Canada and in the U.S. Through post-screening panel discussions, as well as accompanying educational resources on the film’s website, we are expanding the conversation about the criminalization of HIV non-disclosure to encompass feminist critiques, and challenging some of the common, gendered assumptions underlying overly broad HIV criminalization.

Meanwhile, we began to see the salutary effects of a pioneering [2014 consensus statement](#) — endorsed by more than 80 leading Canadian scientists — attesting to the low-to-

zero possibility of transmitting HIV in various situations. By widely promoting and distributing the statement to judges, lawyers and policy-makers, we have empowered defence lawyers and medical experts in Canada, likely resulting in at least one known acquittal and contributing to effective resistance against prosecutorial over-reach in other cases.

At the same time, we are ensuring that people living with or affected by HIV have accessible resources that answer critical questions pertaining to their rights and responsibilities under the law. Addressing even more specific populations — e.g., [women living with HIV who are facing intimate partner violence](#), or [newcomers encountering HIV disclosure questions](#) — we are also translating some of our resources into more languages, including Chinese, Punjabi, Spanish and Tagalog, to name a few.

A long-time leader in the movement against HIV criminalization in Canada, the Legal Network is likewise an authoritative voice at the international level. Together with five other organizations, we recently created the first international coalition on HIV criminalization. As part of [HIV Justice Worldwide](#), we will undertake multi-faceted international engagement on this issue. By supporting advocates elsewhere in resisting unjust criminalization, strengthening the Canadian response and undertaking a wider distribution of *Consent*, we are once again projecting our domestic work into the global sphere.

FOR MORE INFORMATION:

- ✳ WWW.AIDSLAW.CA/CRIMINALLAW
- ✳ WWW.CONSENTFILM.ORG
- ✳ WWW.HIVJUSTICEWORLDWIDE.ORG



Remedying Drug Policy

Punitive drug policies cannot end problematic drug use; they only destroy lives, waste resources, and fuel epidemics such as HIV and hepatitis C. Drug use and drug dependence are matters of health, not criminal justice. We must end the “war on drugs” and its horrific human rights abuses against people who use drugs.

This was a pivotal year for drug policy engagement — a federal election and two major UN meetings: the Commission on Narcotic Drugs (CND) and the UN General Assembly Special Session on “the world drug problem” (UNGASS). In preparation, we

convened drug policy experts and advocates from across the country at a jointly organized conference to chart a vision of evidence-based drug policy in Canada. Attendees were welcomed by a specially prepared [video address](#) from the Hon. Louise Arbour, former Supreme Court of Canada justice and member of the Global Commission on Drug Policy, and a full day of productive debate set the terms for our work ahead.

During the federal election, we posed questions to the major federal parties about supervised consumption services (SCS) and



In a momentous statement at CND — to resounding applause — Canada echoed many of our recommendations.

prison-based needle and syringe programs (PNSPs), among other HIV-related concerns, and in another, [joint questionnaire](#) with Canadian Drug Policy Coalition (CDPC) and Moms United and Mandated to Saving the Lives of Drug Users (mumsDU), we raised a broader range of drug policy issues. All but one of the parties responded, providing explicit support for various reforms — support that we reflected back to the new Parliament, with concrete recommendations for action, in our World AIDS Day brief (see p. 3).

In the lead-up to CND and UNGASS, with the new government’s support for more progressive drug policy on record, we sent (with CDPC) the Minister of Health a [10-point brief](#) for the Canadian delegation to champion at the world forums, and followed up with several in-person meetings. In a momentous statement at CND — to resounding applause — Canada echoed many of our

recommendations, including explicit support for “harm reduction,” a major shift from Canada’s obstructionism on this front in recent years, and a reaffirmation of its commitment to legalize and regulate cannabis, a bold move given the restrictions in the outdated international drug control treaties.

Though early signs are good, much work must be done with and by the new government. In February 2016, we released a joint report, [On Point: Recommendations for Prison-Based Needle and Syringe Programs in Canada](#). While the report elicited encouraging statements from the Ministers of Health and Public Safety, we will continue to advance our ongoing PNSP court case and gather civil society support. We also continue to join legal interventions that have the potential to dismantle Canada’s punitive drug laws — for example, a Supreme Court case in which [our intervention](#) as part of a coalition helped topple mandatory minimum sentences for certain drug offences. And, while we welcome the government’s stated commitment to SCS and the approval in early 2016 of an exemption for a second facility in Vancouver, as long as the previous government’s egregious laws remain on the books, such life-saving health services will face unjustified hurdles.

These are issues on which we will continue to engage the federal Minister of Health — including an unprecedented opportunity in June 2016: when we welcome her to Toronto to open the second iteration of our national drug policy conference.

FOR MORE INFORMATION:

✳ WWW.AIDSLAW.CA/DRUGPOLICY

✳ WWW.PRISONHEALTHNOW.CA



LGBTI Rights = Human Rights

In at least 76 countries around the world, homosexuality is explicitly criminalized. Forty are in the former British Commonwealth and eleven in the Caribbean alone. Challenging unjust laws in any one of these countries is imperative, but doing so [in the Caribbean](#) is also strategic, as it could set far-reaching precedents.

One such country needing reform is Jamaica, where homophobic discrimination and violence contribute to one of the highest HIV rates in the world. In December 2015, we launched a ground-breaking

[constitutional challenge](#) to Jamaica's anti-gay law. Sending shockwaves across the country and the world, the challenge was reported in all major Jamaican media and in hundreds of stories internationally, including in *The Guardian* and *The New York Times*. Even more remarkably, a leading Jamaican daily newspaper, *The Gleaner*, endorsed the challenge, signalling an important shift in attitude.

Lengthy litigation lies ahead and much work needs to be done to resist homophobic religious groups, many funded by North

American counterparts. To counteract these hateful forces, the Legal Network pursues a holistic approach to change — in the courts, with policy-makers, and on the streets.

Legal actions can target outdated and poisonous laws, but they also have the power to shift hearts and minds. For example, our other major ongoing constitutional challenge — argued before the Jamaica Court of Appeal in February 2016, with judgment pending — would compel resistant TV stations in Jamaica to air a short advertisement urging respect for the rights of LGBTI people. At the same time, we expanded sensitivity training for uniformed services across the Caribbean. To date, working with allies in the region, e.g., United & Strong, GrenCHAP and Meeting Emotional and Social Needs Holistically (MESH), among others, we have trained members of the police force, fire brigade, customs department, immigration agency, port security, and army in Antigua & Barbuda, Barbados, Grenada, Saint Lucia, St. Kitts & Nevis, and Suriname. And to galvanize and empower a community of activists on the ground, we mounted several safe visibility campaigns and helped organize the very first Montego Bay Pride.

In Canada, we are complementing this strategy by taking the lead on the “Dignity Initiative,” a coalition of Canadian civil society organizations pressing the federal government to clearly define and embed a foreign policy commitment to advance LGBTI rights internationally. During the federal election campaign, a majority of the federal parties went on record with promises to promote the human rights of LGBTI people, at home and abroad



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— thanks both to a Dignity Initiative–sponsored debate among party candidates in downtown Toronto, as well as the Legal Network’s own questionnaire to federal party leaders (see p. 2). In this way, as in much of our work, we strive to connect the global to the local in our research and advocacy.

FOR MORE INFORMATION:

✳ WWW.AIDSLAW.CA/LGBTIRIGHTS

✳ WWW.DIGNITYINITIATIVE.CA



Russia: Rights Required

More than a million people are living with HIV in Russia, but authorities only reluctantly acknowledge the scale of this epidemic. Despite a high prevalence of problematic drug use and a ballooning HIV epidemic among people who inject drugs, Russia defiantly bans opioid substitution therapy (OST) — a proven harm reduction measure used for decades in countries around the world and endorsed by the World Health Organization, UNAIDS and the UN Office on Drugs and Crime. Instead, the government promotes a variety of unscientific, ineffective

treatment methods, some of them life-threatening.

For years, the Legal Network has been working in Russia and in the region with activists and partners, such as the Andrey Rylkov Foundation in Moscow, to change outdated and repressive drug policy. Although these wheels turn slowly, this past year we celebrated some [landmark victories](#) as a result of our persistent advocacy. In its Concluding Observations on Russia, the UN Human Rights Committee for the first time explicitly addressed the human rights of people who



In addition to engaging both domestic and international mechanisms to ratchet up the case for legal and policy reform, we continue to work directly with people who use drugs.

use drugs in Russia, citing the legal ban on OST in its concerns about the mistreatment of drug-dependent people in police custody. Later in the year, our joint submission to the UN Committee on the Elimination of all Forms of Discrimination against Women resulted in the recommendation that the Russian government introduce OST for women who use drugs. These conclusions add to the body of international jurisprudence against Russia, and should bolster ongoing proceedings before the European Court of Human Rights challenging Russia's ban on OST.

While important for strategic reasons, UN recommendations do not necessarily translate into legal and policy changes in the country, which is why we remain active on the ground in supporting domestic litigation. Here, too, we welcomed a breakthrough when Russia's Constitutional Court ruled for the first time that authorities should implement the recommendations of the UN Working Group on Arbitrary Detention. This ruling came as an outcome of our applications in *Matveev v. Russia*, a case that exemplified some of the many ways Russian law enforcement abuses the rights of people who use drugs.

In addition to engaging both domestic and international mechanisms to ratchet up the case for legal and policy reform, we continue to work directly with people who use drugs, including through our "street lawyers" project, now expanded to five cities in Russia. This work involves equipping advocates and members of "key populations" with tools to know the law and defend their rights. To this end, we produced a dynamic [series of short videos](#) in Russian to complement a [handbook](#) we co-authored (with community activists and the United Nations Development Programme) to assist in documenting, challenging and resolving human rights infringements when they occur.

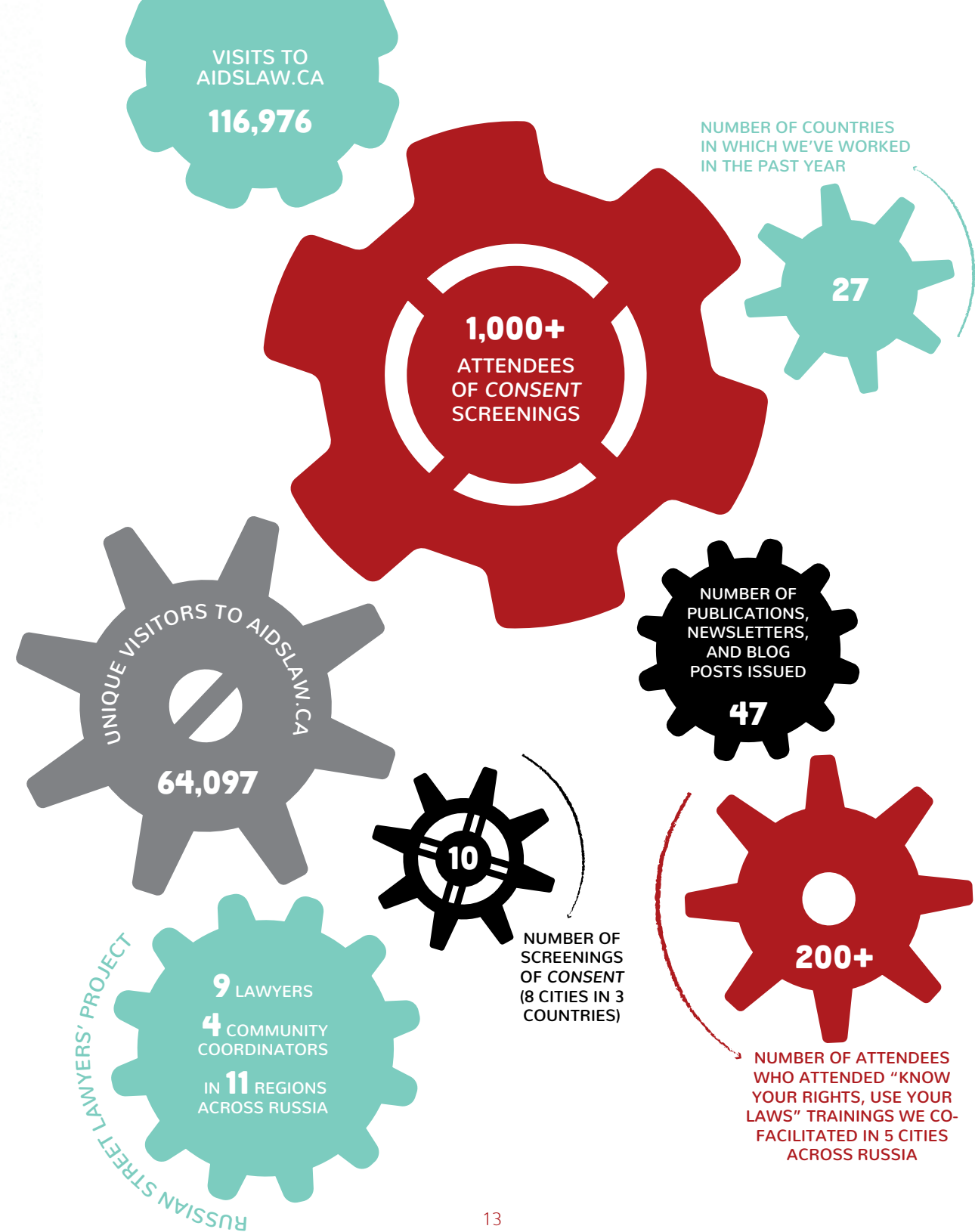
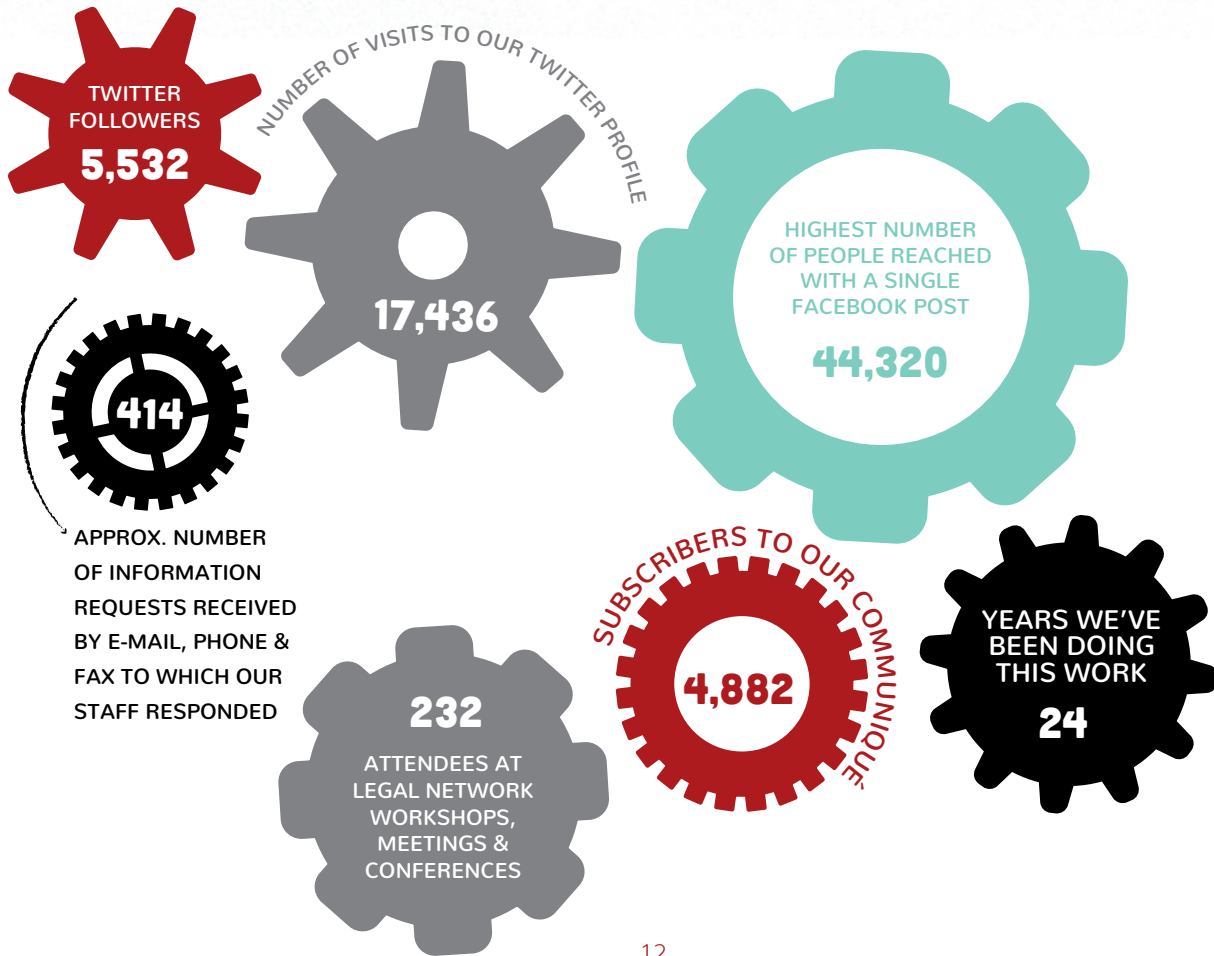
By holding the Russian government accountable before international bodies, and empowering local advocates and activists to defend and demand their human rights, we continue to challenge Russian authorities' dereliction of duty in not only ignoring, but also exacerbating the country's HIV crisis.

FOR MORE INFORMATION:

✳ WWW.AIDSLAW.CA/RUSSIA

By the Numbers

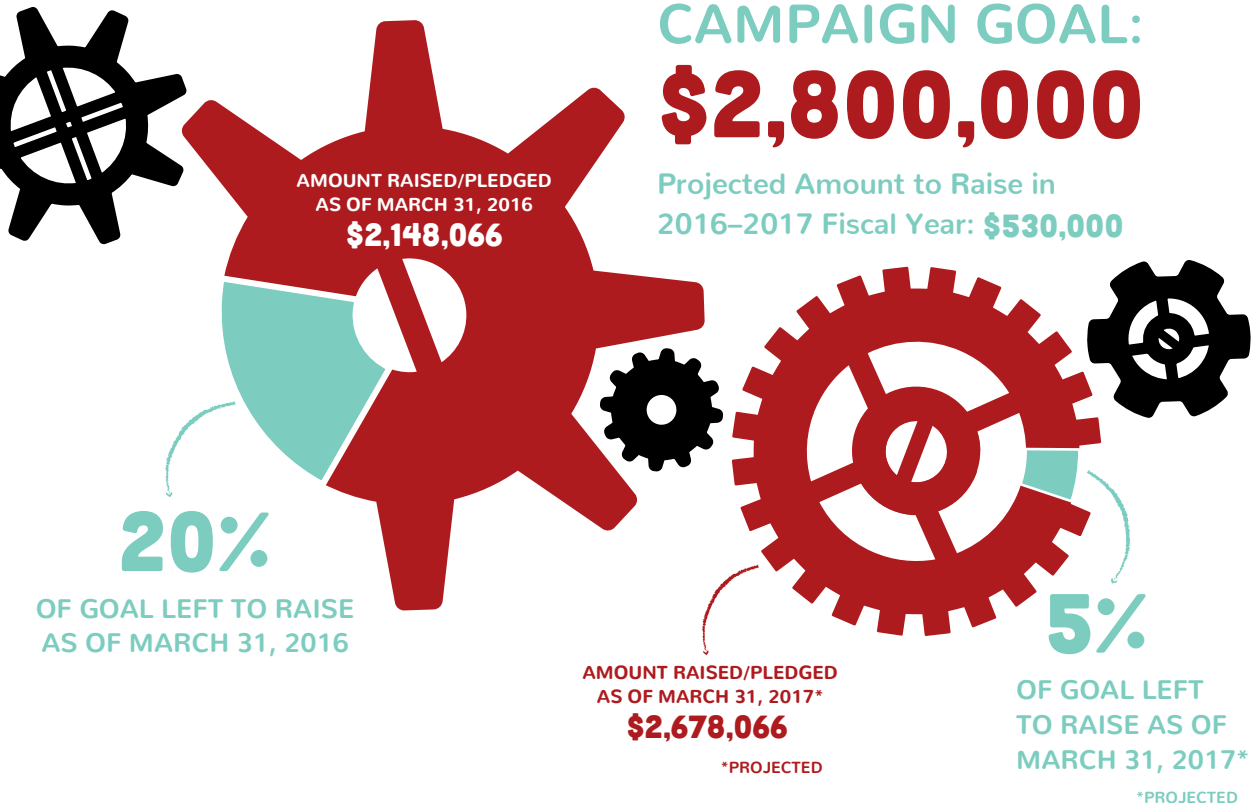
The following facts and figures provide a snapshot of the Legal Network's activities from April 1, 2015 to March 31, 2016.



The Right(s) Now Campaign

MOVING CLOSER TO OUR GOAL

Launched in June 2014, “**Right(s) Now**” is a comprehensive campaign designed to build a long-term, sustainable and integrated fundraising program to support the Legal Network’s policy goals from 2014–2017. As of June 2016, we have raised nearly **80 percent** of our **\$3 million goal** (adjusted to \$2.8 million). Contributions to the **Right(s) Now** campaign will help us bring lasting change in law, policies and programs, improving the lives of thousands or even millions of people. With the continued support of our donors, we believe that we can reach **95 percent** of our goal by **March 31, 2017**.



Financial Overview

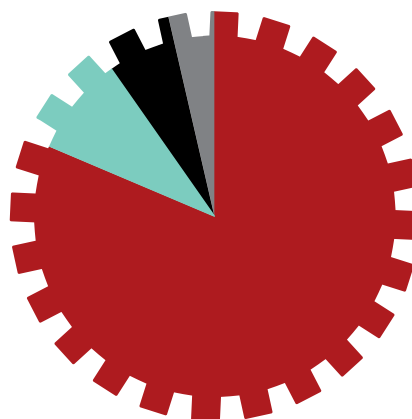
SUMMARY OF AUDITED FINANCIAL STATEMENTS

FISCAL YEAR ENDING MARCH 31

WHERE OUR MONEY GOES

	2016	2015
REVENUE	\$	\$
Grants	1,556,393	1,222,361
Consulting Fees	322,480	159,350
Donations	117,207	91,897
Membership	1,288	9,300
Interest & Other	6,805	33,477
TOTAL REVENUE	2,004,173	1,516,385
EXPENSES		
Personnel Costs & Professional Fees	1,402,422	1,136,046
Travel Expenses	235,235	101,070
Events Expenses & Awards	83,729	43,189
Communication & Information	53,130	40,787
Strategic Litigation	26,776	14,931
Rent & Maintenance	109,670	89,212
Office Equipment & Expenses	52,048	45,244
Amortization	2,082	5,801
Other	36,543	25,228
TOTAL EXPENSES	2,001,635	1,501,508
NET ASSETS	109,957	107,419

Charitable Activities	81.5%
Administration	9%
Fundraising	6%
Other	3.5%



THANKS REMERCIEMENTS

Sincere thanks to our extraordinary collaborators
for playing such an important role in our success

Sincères remerciements à nos formidables collaborateurs,
pour leurs grandes contributions à nos réussites

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