

## **Immigration and HIV/AIDS: A New Report Demands Justice, Not Prejudice**



OTTAWA – The Canadian HIV/AIDS Legal Network releases today the most comprehensive report ever written on the issues related to immigration and HIV/AIDS. The result of extensive research and broad consultation with experts in Canada and internationally, *HIV/AIDS and Immigration: Final Report* contains 19 recommendations. Most notably, the report demands that the Minister of Immigration, Elinor Caplan, abandon plans to mandatorily test all prospective immigrants and refugees for HIV, and to exclude all those testing positive (with limited exceptions) from coming to Canada. The Legal Network calls such measures unnecessary, unethical, and discriminatory.

\* Press conference, 12 June, 11 am, Charles Lynch Press Room, Ottawa \*

“Canada must not base its immigration policies on prejudice,” says Ralf Jürgens, Executive Director of the Legal Network. “There is no need to exclude HIV-positive prospective immigrants from Canada on public health grounds. People with HIV are not a threat to Canadians. HIV is not transmitted through casual contact. Incidentally, Health Minister Rock has recently acknowledged this, in advice he provided to Minister Caplan.”

Dr Don Kilby, a physician who is caring for more than 400 patients with HIV in Ottawa, agrees: “HIV is different from airborne diseases such as tuberculosis. TB can be transmitted by the simple presence of an infected individual. HIV cannot.” He continues: “We should not give Canadians the false impression that immigration policies can protect us from HIV. Instead, the government should reinforce the message that the only way we can protect ourselves from infection is by engaging in safe sex practices, by refraining from sharing injection equipment, and by ensuring that donated blood and plasma are carefully screened. Allowing people with HIV/AIDS to come to Canada creates no direct and unavoidable risk to the health of Canadians.” Roger LeClerc, who has lived with HIV for over ten years, adds: “Claiming that immigrants with HIV are a threat to public health simply because they are HIV-positive is outrageous. It stigmatizes all people with HIV as dangers to public health. It is insulting and discriminatory.”

*HIV/AIDS and Immigration: Final Report* also recommends against denying permanent residence to people with HIV based on an assumption that they will place excessive burden on health and social services. “It is certainly legitimate for Canada to expect that an immigrant contribute to Canadian society,” Jürgens says. “But it is not justified, and would be discriminatory, to presume that all immigrants with HIV will place excessive demands and not contribute to Canadian society.” LeClerc explains: “New treatments allow many HIV-positive people to lead long and productive lives. We contribute a great deal to Canadian society, including paying taxes that support our health and social service systems. It would be totally unjust to automatically exclude all persons with HIV, and persons with other chronic life-threatening diseases, from immigrating to Canada.”

Instead, the report recommends that (contrary to the current and proposed future practice) the projected costs that an immigrant may create be compared to the potential contribution that the applicant can be

expected to make to Canadian society in both monetary and non-monetary terms. “Currently, we look only at the potential costs, not at the contributions. This cannot be justified,” Jürgens adds.

The report does support some of the changes in the new immigration and refugee legislation. “Exempting spouses, common-law partners, children of Canadians, and refugees from inadmissibility to Canada based on “excessive demand” on health and social services is a step in the right direction,” says Janet Dench, Executive Director of the Canadian Council for Refugees. “It would be inconsistent to accept that refugees are in need of protection and then render them inadmissible for medical reasons.”

However, the report strongly opposes mandatory HIV testing of all persons seeking entry to Canada. “Immigrants would be the only group of people on whom mandatory HIV testing would be imposed by Canada,” Dench points out. “This would stigmatize all newcomers to Canada. It would send the message that refugees and immigrants are carriers of disease. Since Canadians generally are not subject to mandatory HIV testing, it would also suggest that refugees and immigrants somehow require different health measures than Canadians. The negative impact of imposing mandatory testing would outweigh any benefit that the measure could have.”

Jürgens adds: “Ironically, the Canadian Strategy on HIV/AIDS emphasizes the importance of human rights protection for people living with HIV/AIDS and the importance of protection from HIV/AIDS-related discrimination – among other things by ‘targeting and addressing such issues as travel and immigration restrictions.’[1]<sup>1</sup> Has the government forgotten the principles of its own HIV/AIDS Strategy, only three years after it launched it?”

“Doing more to prevent the spread of HIV here at home and worldwide is clearly necessary,” Dr Kilby concludes. “But Canadian immigration policy must be just, and not guided by prejudice and misinformation. Canada has signalled its commitment to do more to assist countries hardest hit by AIDS, and will sign a declaration of commitment at the UN General Assembly Special Session on HIV/AIDS later this month. We must not embarrass ourselves by claiming to be part of the solution, while seeking to introduce unnecessary, unjust, and unethical policies for refugees and immigrants with HIV/AIDS.”

*HIV/AIDS and Immigration: Final Report* is the product of a 12-month project funded by Health Canada under the Canadian Strategy on HIV/AIDS. The project was initiated in the summer of 2000, at the time when Health Canada recommended to Citizenship and Immigration Canada that testing all prospective immigrants for HIV, and excluding those testing positive, was the “best public health option.” In response, Minister Caplan stated that her department was indeed considering mandatory HIV testing for all prospective immigrants to Canada, and excluding those testing positive on both public health and “excessive cost” grounds. Hundreds of organizations and individuals across Canada and internationally raised their concerns about these proposal with Ministers Caplan and Rock. Minister Rock agreed to undertake further consultations and to analyze the issues related to HIV/AIDS and immigration in a broader context. Recently, he wrote to Minister Caplan providing revised advice. According to it, mandatory HIV testing is necessary, but prospective immigrants with HIV, after receiving counseling, need not be excluded from immigrating to Canada on public health grounds.

– 30 –

**Press contact:** Jean Dussault (450) 451-6472 / cell (514) 708-0128

*\* Press conference, 12 June 2001, 11 am, Charles Lynch Press Room, Ottawa \**

**The report, a question and answer sheet, press release, speaking notes, and other related materials will be online from 11 am, 12 June: [www.aidslaw.ca](http://www.aidslaw.ca)**

---

<sup>1</sup> Health Canada. *The Canadian Strategy on HIV/AIDS. Moving Forward Together*. Ottawa, 1998. Available at [http://www.hc-sc.gc.ca/hppb/hiv\\_aids/can\\_strat/strat\\_admin/can\\_strat2.html](http://www.hc-sc.gc.ca/hppb/hiv_aids/can_strat/strat_admin/can_strat2.html)