



PROCEEDINGS

**Global Networking for AIDS,
Law and Human Rights**

**A Satellite of the
XVI International AIDS Conference**

**12 August 2006
Toronto, Canada**

Organized by the
Canadian HIV/AIDS Legal Network

PROCEEDINGS
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Law and Human Rights

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XVI International AIDS Conference
12 August 2006, Toronto, Canada

edited by David Garmaise
for the Canadian HIV/AIDS Legal Network

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For further information about this document, please contact:

Canadian HIV/AIDS Legal Network

Tel: +1 416 595-1666

Fax: +1 416 595-0094

Email: info@aidslaw.ca

Website: www.aidslaw.ca

Further copies of this document can be retrieved at
www.aidslaw.ca/aids2006

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Executive Summary

Global Networking for AIDS, Law and Human Rights was a one-day satellite held on 12 August 2006 in Toronto, Canada, in conjunction with the XVI International Conference on HIV/AIDS. Invitations to the satellite were extended to leaders from around the world in the area of AIDS, law and human rights. The purpose of the satellite was to identify (a) key legal and human rights challenges for people working in this field; (b) the capacity building needs of participants and their organizations; and (c) strategies for meeting these needs.

This executive summary provides a brief overview of the agenda and a summary of the common themes that emerged from the discussion on capacity-building strategies. The balance of these proceedings contains background information on the satellite, a summary of the reports back from the working group discussions that took place at the meeting, and a summary of the final plenary session. Annex A contains a list of legal and human rights challenges (as identified through responses to a questionnaire that was distributed prior to the satellite). Annex B contains a list of satellite participants.

Overview of the agenda

The satellite began with welcoming remarks from Joanne Csete, Executive Director of the Canadian HIV/AIDS Legal Network, and from representatives of the satellite donors and supporters — Jonathan Cohen, Open Society Institute; Susan Timberlake, UNAIDS; Julian Fleet, United Nations Development Programme; and Christopher Armstrong, Canadian International Development Agency.

This was followed by a panel session on the experiences of multi-country networks on aspects of AIDS and the law. Participating on the panel were Raminta Stuiyte, Central and Eastern European Harm Reduction Network; Melissa Ditmore, Network of Sex Work Projects; David Barr, Collaborative Fund and International Treatment Preparedness Coalition; and Christine Stegling, AIDS and Rights Alliance of Southern Africa (representing Michaela Clayton, who could not attend).

Participants then broke out into working groups to discuss the legal and human rights challenges, the capacity-building needs of people working in this field, and ways in which these needs might be met. The following issues were discussed in six working groups: (1) treatment, care and support; (2) HIV/AIDS and prisons; (3) drug policy and harm reduction; (4) HIV testing and human rights; (5) human rights of women and girls; (6) human rights of sex workers; and (7) human rights of gay, lesbian, bisexual and transgender people (the last two issues were covered by one group).

After lunch, the working groups reported back to the full plenary. This was followed by a presentation by Amanda Hickman of the Open Society Institute on web-based and other electronic information-sharing tools that might assist networking. The final plenary provided an opportunity for participants to comment on the day's discussions and to identify next steps for addressing issues raised in the satellite.

Strategies for capacity-building: common themes

In the discussion on strategies for meeting the capacity-building needs of people working in the area of AIDS, law and human rights, the following common themes emerged:

NETWORKING. Ways should be found to bring people together with a common interest in a particular issue (e.g., prisons, sex work, HIV testing, women's rights, etc.) to share experiences, exchange information and develop strategies. There is certainly value to electronic networking (e.g., listservs and discussion groups), but there is also a need for regular in-person networking.

In-person networking can take several forms: it can involve (a) bringing people together from HIV/AIDS organizations working on the issue in question; (b) bringing people from HIV/AIDS organizations together with people from partner organizations, such as groups working on prison reform, sex work, human rights and harm reduction; or (c) bringing people from HIV/AIDS organizations together with representatives of international agencies, such as UNAIDS and the World Health Organization. In-person networking could happen at the global level and/or at regional levels.

In some cases, it may make sense to establish more formal networks of people working on a particular issue area, with separate working groups being created to deal with specific issues in that area. For example, a network on access to treatment, care and support might have working groups on (a) intellectual property issues; (b) discrimination as a barrier to treatment access; and (c) the right to information about treatment. One working group suggested that such networks could be used to circulate advocacy information and materials, such as letters of support and protest. Several groups suggested that a global network of legal experts should be established to support national advocacy and training activities.

GATHERING AND DISSEMINATING MATERIALS. Ways should be found to compile information on people's experiences on the ground, on human rights violations, on progressive laws and policies, and on human rights advocacy strategies (including litigation) that have proven effective (best practices). Directories of organizations working on legal and human rights issues should be prepared. Existing materials, including relevant laws and court cases, should be assembled. All of this information should be made readily accessible through an information clearinghouse.

TRAINING. Training on HIV/AIDS-related human rights issues should be provided for people working in NGOs; for clients of NGOs; for people in the legal system and the judiciary; and for law-makers.

STRATEGIC LITIGATION. Ways should be found to support strategic litigation (including finding adequate funding). Participants expressed a strong interest in a global legal consultancy service that could give support to litigation (as well as support organizations in the development of policy positions and statements, advise governments on legislation, etc.).

MODEL LEGISLATION. One potentially useful human rights advocacy tool is model legislation. It was noted that the Canadian HIV/AIDS Legal Network has developed a series of

model legislation modules to support harm reduction programs; similar models, reflecting best human rights-informed legal and policy provisions, should be developed for other issue areas, such as women's rights and prisons.

TRANSLATION AND INTERPRETATION. Funds are needed to allow for the translation of relevant materials into local languages, and to allow for interpretation for both electronic and in-person networking.

UPDATED LISTS OF EXPERTS FOR TECHNICAL SUPPORT: Even where formal networks are not possible, participants noted the need for updated lists of experts in aspects of HIV/AIDS, human rights and the law who would be willing to answer questions or share experience on particular subjects. Such a list should be available on-line and in several languages.

Background

Global Networking for AIDS, Law and Human Rights brought together a distinguished group of activists and service-providers who have been leaders in using the law and human rights tools to address issues raised by HIV/AIDS, as well as researchers whose work assists human rights advocacy, and international agencies supporting advocacy on HIV/AIDS-related human rights issues. The objectives of the satellite and of the work that preceded it were:

1. to identify key legal and human rights challenges common to this group of leaders;
2. to identify technical support needs, including needs for new or adapted analytical and advocacy tools and training tools or events; and
3. to identify potentially effective forms of networking within or across regions that may improve the sharing of experience and technical resources.

Several weeks prior to the satellite, a questionnaire was distributed to a number of potential participants. The questionnaire asked for feedback on the items identified in the above objectives. A background paper summarizing the results of the survey was prepared and was distributed to participants in advance of the satellite.

Some of the key points that emerged from the responses to the questionnaires were as follows:

- Many organizations have an interest in having easy access to experts and expertise, including in civil law systems, that can be called on readily.
- There is a keen interest with respect to several issues in having access to clear, well-informed research summaries, policy analyses, fact sheets, case summaries and materials for legislators.
- Several people emphasized the importance of finding resources to ensure translation of materials into their working language.
- A number of respondents emphasized the need for training materials suitable for particular audiences, including police, judiciary, human rights organizations, people living with HIV/AIDS and NGOs. This includes materials that would embody principles in the *International Guidelines on HIV/AIDS and Human Rights*.
- There is a need for coordination of international advocacy.
- Many mechanisms for international information-sharing and communication were suggested — for example, a Web-based resource centre on law, human rights and HIV; a global listserv for legal advocates and other human rights activists working on legal issues; and an updated list of experts who might provide on-site, short-term assistance.

The top legal and human rights issues identified by respondents to the questionnaire were as follows:

- Discrimination based on HIV status
- Greater involvement of people living with HIV/AIDS
- Drug policy, harm reduction and human rights of people who use drugs

- HIV testing and human rights
- Privacy, confidentiality and reporting issues
- Criminalization of HIV transmission and exposure
- Human rights of women and girls linked to HIV/AIDS
- Human rights of gay, bisexual, lesbian and transgender people
- Human rights of sex workers
- HIV/AIDS and prisons
- Legal issues linked to access to treatment, care and support

For each of these issues, respondents identified specific questions of law and human rights that pose challenges. This information can be found in Annex A of these proceedings.

Highlights of the Working Group Discussions

All six working groups reported back to the plenary on the highlights of their discussions. Each working-group report included suggested strategies for building the capacity of people working on the legal and human rights dimensions of the issues being discussed. Some working groups also reported on (a) capacity-building needs and (b) issues that should be added to the list of specific questions of law and human rights that pose challenges that was developed during the consultations prior to the satellite. The following is a summary of the reports of each working group.

HIV/AIDS and Prisons

RAPPORTEUR: RALF JÜRGENS

The group on HIV/AIDS and Prisons suggested the following **strategies** to help improve the capacity of people working on the legal and human rights dimensions of prison issues:

1. Addressing HIV/AIDS prisons issues should become an integral part of addressing other issues, such as access to treatment, testing, and drug policy.
2. Opportunities should be found to bring together HIV/AIDS and human rights activists with prison reform activists.
3. A moderated discussion group should be established specific to HIV and health and prison issues.
4. An on-line information clearinghouse should be established, i.e., a website where all relevant materials would be easily accessible.
5. A best practices document should be developed with information, for example, on how countries have successfully introduced condoms, needle exchange and antiretroviral therapies in prisons.
6. Regional meetings on HIV/AIDS and prisons issues should be held.
7. Model legislation should be developed on HIV/AIDS and prisons issues.

Issues and Challenges

The small group on HIV/AIDS and prisons suggested that the following issues be added to the list of specific questions of law and human rights that pose challenges that was developed during the consultations prior to the satellite:

- mandatory HIV testing
- lack of access to HIV testing
- provision of antiretroviral therapies
- sex in prisons

See Annex A for the list of specific questions that emerged from the consultations.

HIV Testing and Human Rights

RAPPORTEURS: LORI STOLTZ AND JONATHAN COHEN

The working group on HIV Testing and Human Rights identified the following capacity-building needs:

Needs related to testing generally

- Testing preparedness: People who are not prepared for testing with adequate counselling are at greater risk of adverse outcomes of testing.
- Human rights activists need to examine their positions concerning how best to balance human rights concerns with the goal of scaling up testing.
- There is a need to monitor current testing practices and provide information on these practices.
- There is a need to share arguments and strategies concerning testing policies.
- People working on this topic need to be able to articulate how HIV is different from other diseases.
- There is a need to articulate exactly what information and counselling should be given in the HIV testing process and why.

Needs specific to legal issues

- People working on this topic need to share legal advice and developments, including about criminal and civil cases.
- Discussion in the group touched upon the link between HIV testing and policies related to criminalization of HIV transmission and disclosure (a topic that arose in several working groups though there was no single criminalization working group). It was noted that good testing policies are a key to establishing public health alternatives to the use of criminal law as a tool of HIV prevention.
- There is a need to develop comparative analyses of model laws and templates.

Issues and Challenges

The group on HIV Testing and Human Rights suggested that the following issues be added to the list of specific questions of law and human rights that pose challenges that was developed during the consultations prior to the satellite:

- violence and discrimination that may flow from disclosure of HIV status
- global impact of the push by the World Health Organization and various governments (including the U.S.) for scaling-up routine opt-out testing, and confusing terminology being used to describe different forms of testing
- testing without consent, including testing of specific groups such as migrants and employees
- stigma and discrimination against women who choose to opt out
- pressure from employers for workers to be tested
- anonymous testing being undermined by subsequent non-anonymous tests by health care providers
- parental consent being a barrier to testing for youth
- inadequate resources for testing with proper counselling

See Annex A for the list of specific questions that emerged from the consultations.

In addition, the working group said that there is a need for hard evidence — including anecdotal experiences — to support human rights arguments concerning testing policy and practice. That

is, for example, it is often said that people will not seek testing unless confidentiality and other protections are in place, but there is limited empirical evidence on this point.

The working group suggested the following **strategies** for building the capacity of people working on the legal and human rights dimensions of HIV testing issues:

1. Make better use of existing resources and listservs (such as the testing listserv moderated by David Buchanan).
2. Core groups of legal experts should be established at country level.
3. More effort should be made to formally document people's experiences — e.g., through the use of affidavits as was done by the Pivot Legal Society in Canada (which did not deal with testing, but is a model that could be adapted).
4. People working on this topic should share common strategies that have proven effective in areas such as adequate preparation of people for testing, or preventing testing among people who are not ready to be tested or who are not informed about HIV.
5. Use should be made of a stigma index as a tool for measuring adverse impacts of some forms of HIV testing (perhaps this is already being developed?).

Human Rights of Gay, Lesbian, Bisexual and Transgender People

RAPPORTEUR: GLENN BETTERIDGE

The working group on the Human Rights of Gay, Lesbian, Bisexual and Transgender People said that there is a need for analysis and research to disaggregate the categories of (a) men who have sex with men and (b) transgender persons. The group also identified a need for analysis of religion-based legal systems, such as sharia law.

The working group suggested the following **strategies** for building the capacity of people working on legal and human rights issues involving gay men, lesbians, bisexuals and transgender people:

1. Promote more links between HIV/AIDS organizations and organizations representing gay men, lesbians, bisexuals and transgender people.
2. Promote more links between sex worker organizations and organizations representing gay men, lesbians, bisexuals and transgender people.
3. Engage Muslim human rights law reform organizations.

Issues and Challenges

The small group on the Human Rights of Gay, Lesbian, Bisexual and Transgender People suggested that the following issues be added to the list of specific questions of law and human rights that pose challenges that was developed during the consultations prior to the satellite:

- issues specific to gay, lesbian, bisexual and transgender people in prisons
- the compounding effect of using drugs and being gay, lesbian, bisexual or transgender
- homophobia and "transphobia" in mainstream human rights organizations
- religious fundamentalism regarding sexuality and gender
- lack of financial resources for transgender organizations

See Annex A for the list of specific questions that emerged from the consultations.

Drug Policy and Harm Reduction

RAPPORTEUR: RICHARD PEARSHOUSE

The working group on Drug Policy and Harm Reduction identified the following capacity-building needs:

- There is a need to identify, fund, train and retain lawyers.
- There is a need to train NGO workers and clients in human rights law so that they know their rights.
- There is a need to share information on positive and negative experiences concerning drug policy changes in various jurisdictions, including information on what arguments work with legislators, what legislation is in place and what impact the laws are having.
- There is a need to involve people who use drugs more in the provision of harm reduction services and in policy formulation.
- Resources need to be made available in local languages.

The working group suggested the following **strategies** for building the capacity of people working on the legal and human rights dimensions of drug policy and harm reduction:

1. A network should be established to circulate letters of support or protest to state authorities concerning proposed laws, cases before the courts, etc.
2. External assistance should be provided to allow for the development of overall national advocacy plans.
3. Support should be mobilized for strategic litigation, including through the use of international actions, media coverage and listservs.
4. Case studies on strategic litigation should be developed and disseminated (for both civil and criminal cases).
5. Technical and legal training courses should be developed for NGOs and clients. The training should cover topics such as monitoring human rights violations, how to take affidavits, and how to use such documentation.
6. Efforts should be made to find allies in the UN who support harm reduction, and training especially on areas such as legal grounding of harm reduction services should be offered to such persons.
7. Ways should be found to link with strategies established by mainstream human rights organizations.

Human Rights of Sex Workers

RAPPORTEUR: GLENN BETTERIDGE

The working group on the Human Rights of Sex Workers identified the following capacity-building needs:

- A “know your enemies” analysis is required concerning, for example, how human rights arguments are invoked to support abolitionist policies and anti-trafficking laws and policies that end up harming sex workers.
- Health care and public health staff need to be educated about the human rights of sex workers, and the ways in which human rights rhetoric and claims about HIV prevention have been misused to encourage or justify abuses of sex workers’ human rights.
- NGOs and service providers need to be educated on the importance of involving sex workers in their work respectfully, and on ways to do so.
- Public health research needs to be conducted to demonstrate how existing programs that respect the human rights of sex workers have contributed to HIV prevention and public health.
- Sex workers need to be educated first about the basics of human rights, and later about the human rights of sex workers and how to advocate for these rights.
- There is a need to monitor and document human rights violations and the impact of laws and policies affecting sex workers.
- There is a need for better access to relevant materials, including support for translation of materials into local languages.
- There is a need to educate potential allies, particularly about the links between human rights and providing services to sex workers.
- There is a need for a tool that can be used for assessing laws and the impact of criminalization of sex work(ers), and for identifying issues where action is required.
- There is a need to analyze religion-based legal systems (e.g., sharia law) and how they affect sex workers.

The working group suggested the following **strategies** for building the capacity of people working on the human rights of sex workers:

1. Networks should be established to address women’s rights, reproductive rights and sex workers’ rights where they don’t exist, or to find ways to integrate consideration of HIV and human rights in existing networks.
2. Links should be developed among traditional service providers (e.g., sexual health clinics) so that these organizations can complement or support advocacy for sex workers’ health and human rights.
3. A standing translation and dissemination service should be established.
4. A template form should be developed that can be used for rapid assessment of, and response to, the legal and human rights situation of sex workers, and as a basis for advocacy.

5. Training programs on the human rights of sex workers should be developed for health care workers, public health staff, NGOs and other service providers, and for sex workers themselves.
6. People working on this topic should engage Muslim human rights organizations.

The working group also suggested that the report of the June 2006 meeting on sex workers' health and rights in Johannesburg, sponsored by the Open Society Institute, be consulted when it is released. This report is expected to contain capacity-building strategies additional to what is listed above.

Access to Treatment, Care and Support

RAPPORTEUR: RICHARD ELLIOTT

The working group on the Access to Treatment, Care and Support identified the following capacity-building needs:

- There is a need for materials in local languages.
- Networks need to be able to function in multiple languages.
- There is a need for greater access to legal expertise to support domestic advocacy (litigation, lobbying, etc).
- There is a need for access to materials, such as legal and policy reforms, and litigation that has led to change.
- There is a need for training of the legal profession, judiciary and law-makers on HIV/AIDS and human rights generally, as well as on specific issues.
- There is need to provide support for lawyers and other advocates who wish to bring forward cases.

The working group suggested the following **strategies** for building the capacity of people working on the legal and human rights dimensions of access to treatment, care and support, many of which were suggested as being of relevance to all the human rights issues being discussed at the meeting:

1. A global legal consultancy service (i.e., an international legal organization) should be established to undertake litigation. Funding will be required to support this.

Issues and Challenges

The small group on the Access to Care, Treatment and Support suggested that the following issues be added to the list of specific questions of law and human rights that pose challenges that was developed during the consultations prior to the satellite:

- treatment access beyond antiretrovirals
- access to treatment for specific populations; discrimination as a barrier to access; lack of legal protection against discrimination
- intellectual property issues affecting access to treatment
- legal and ethical challenges to ensuring equitable access to treatment
- corruption within systems as a barrier to access to treatment

See Annex A for the list of specific questions that emerged from the consultations.

2. A global network of legal experts should be established to provide support for national advocacy activities, and for training of lawyers on HIV/AIDS and human rights.
3. Specific working groups within the global network could be established to work on particular issues (e.g., intellectual property).
4. A repository of cases, laws and materials that can be used for advocacy should be established.
5. Annual reports should be prepared in many countries documenting the denial of access to treatment.
6. Electronic networking among people working in this area should be established. This should be complemented with in-person meetings. Attention should be paid to ensuring that translation is provided where required.
7. A mapping exercise should be carried out of existing groups doing AIDS-related legal and human rights advocacy, and of resources on the same topic.
8. Financial support should be provided for global law and human rights networking (e.g., UNAIDS, UNDP, WHO, bilateral donors).
9. Funding for national legal services should be worked into applications to the Global Fund and the World Bank.

The working group said that it is important to ensure that activists, not just lawyers, are involved in the networking activities.

Human Rights of Women and Girls

RAPPORTEUR: ALANA KLEIN

The working group on the Human Rights of Women and Girls identified the following capacity-building needs:

Law-related

- There is a need to sensitize the judiciary, police and government on issues related to HIV/AIDS, human rights and gender.
- Paralegals need to have the knowledge and skills to enable them to not only tell women what their rights are, but also to explain how they can access and exercise these rights.
- More lawyers need to be educated on human rights issues, and in particular on the human rights of women and girls.
- There is a need for funding to permit greater access to justice, including test cases, particularly for women and girls, and for cases that seek to advance their human rights.
- There is a need to promote access to justice in more remote areas — i.e., there is a need for more geographically accessible courts dealing with women's rights issues.
- There is a need to form alliances with progressive thinkers in government, the judiciary and the legal profession, as well as with international networks of judges.

Extra-legal

- There is a need to develop alternatives to the legal system for empowering women to exercise human rights.
- Nurses and other health care providers need the knowledge and skills to impart more human rights information to women.
- There is a need to incorporate human rights norms into dispute resolution outside the formal legal system — e.g., in families and other traditional dispute-resolution sites.

Advocacy and networking

- There is a need to document experiences working with traditional power structures on women's rights issues.
- Financial support is needed to publish advocacy successes.
- People working in this area need skills on the effective use of media.
- There is a need to educate the media, including both reporters and senior editors and publishers.
- People working in this area need education on the language of lobbying — e.g., to combat easy shorthand like “ABC”.
- There is a need for tools to enable people working in this area to audit whether and how governments, NGO reports, laws and policies conform to human rights norms.

The working group suggested the following **strategies** for building the capacity of people working on the human rights of women and girls:

1. Easy-to-read, short know-your-rights booklets should be produced (such as those that have been produced by the AIDS Law Project in South Africa and other organizations).
2. A telephone hotline should be established.
3. A database or directory of organizations working on these issues should be developed.
4. All cases (internationally) relevant to women, girls and HIV/AIDS should be compiled for use as an advocacy tool.
5. Model legislation should be developed, along with a tool for implementing it.
6. Progressive law and policies should be compiled.
7. Support should be provided to enable more in-person meetings (to fight isolation).

Summary of Final Plenary

In the final plenary, participants had an opportunity to reflect on the day's discussions and to discuss next steps to ensure that this work is carried forward.

There was a consensus among participants that more networking on legal and human rights issues is required at both global and regional/national levels. Further work needs to be done to determine what global networks can do best and what should be left to regional/national networks. One participant suggested that rather than have regional/national networks that are geographically based, it might be better to group countries according to whether they have similar legal systems.

Participants agreed that finding funds for networking will be a major challenge, and that concrete fundraising strategies need to be developed. One participant pointed out that most funding goes to service-based organizations. Another participant said that more resources should be delivered locally for frontline initiatives, and that training and global networking should be seen as an adjunct to that. It was suggested that persuading large foundations that work on HIV/AIDS to give money for human rights work is not easy, and that it might be more fruitful to approach funders who work on human rights and get them to fund HIV/AIDS-related human rights activities.

Participants agreed that the UN human rights machinery needs to be more vocal on HIV/AIDS.

Other points made by individual participants included the following:

- Perhaps some form of twinning can be used to help regional networks develop.
- With respect to making relevant materials more accessible, perhaps people within the UN system can be convinced that they have role to play in this.
- If a website is set up where people can access relevant materials, we have to be careful about how this is done. Allowing people to post documents directly on such a site could create problems around quality control. Having a system whereby someone reads through the materials prior to posting and provides a synopsis of each document is very time-consuming, but it is important to do this correctly.

In her concluding remarks, Joanne Csete said that the satellite meeting generated a lot of ideas and a clear expression of need for, and interest in, a number of particular initiatives. The ideas generated by participants now need to be translated into concrete activities; certain donors may be interested in funding projects based on these objectives. She thanked the funders for supporting this valuable networking opportunity, and in particular the participation of experts from various developing and transitional countries. She noted that the Legal Network would be circulating a summary report of the day's discussions and that she hoped participants would remain engaged in the discussion that was now needed to translate some of these ideas into concrete initiatives.

Annex A – Specific Questions of Law and Human Rights that Pose Challenges

This annex lists the specific questions of law and human rights that pose challenges as identified by the respondents to the questionnaire that was distributed prior to the satellite. The questions are listed for each of the 11 top issues identified by respondents.

Discrimination against people living with HIV Greater involvement of people living with HIV/AIDS

- ⇒ Law exists prohibiting discrimination based on HIV status but is not enforced
- ⇒ Human rights commissions or ombudsmen uninterested in HIV-based discrimination
- ⇒ Lack of independent judiciary for bringing legal challenges
- ⇒ Awareness of their own rights is very low among people living with HIV
- ⇒ Meeting basic survival needs of people living with HIV/AIDS, including but not only treatment
- ⇒ Human rights seen by the public as a Western concept
- ⇒ Discrimination in getting life insurance is a big problem
- ⇒ Workplace discrimination remains a big issue
- ⇒ *International Guidelines on HIV/AIDS and Human Rights* widely translated but not well known or used
- ⇒ GIPA is under attack at home and abroad

Drug policy, harm reduction and the rights of people who use drugs

- ⇒ Access to, legality of humane drug treatment, including opioid substitution therapy
- ⇒ Need to decriminalize small-scale possession or use of drugs
- ⇒ Getting the government, even health officials, to stand behind evidence-based approaches
- ⇒ Legal services for people who use drugs
- ⇒ No HIV/AIDS services for drug users in pre-trial detention or prison
- ⇒ Access of people who use drugs to antiretroviral treatment, treatment for hepatitis C and other health care
- ⇒ Access to supervised or safer injection sites
- ⇒ Women drug users fear of losing custody of children, face coercive abortion, etc.
- ⇒ Extortion, mistreatment by police in detention, planting of drugs by police
- ⇒ Discrimination against people who use drugs (and social disdain, ostracism, etc.)
- ⇒ Registration of drug users by police or health services contributes to discrimination
- ⇒ Lack of meaningful involvement of people who use drugs in policy discussions
- ⇒ Even people working in harm reduction are often afraid to speak publicly about their work
- ⇒ People who use drugs don't trust AIDS organizations or legal organizations

HIV testing and human rights

- ⇒ Opt-out or “routine” testing where it is not clear if informed consent is sought
- ⇒ Testing policies that eliminate or minimize pre-test counselling
- ⇒ Difficulties in maintaining confidentiality in “routine” or provider-initiated testing
- ⇒ Some people advocate mandatory testing to accelerate treatment programs

Privacy, confidentiality and reporting issues

- ⇒ Absence of laws and court decisions to protect people with HIV in this area
- ⇒ Disclosure by health services of HIV status of a person to his or her family members is seen as appropriate
- ⇒ Influential people argue that confidentiality protections are interfering with protection of people from infection

Criminalization of HIV transmission and exposure and related disclosure issues

- ⇒ Widespread use of criminal law against people living with HIV contributes to discrimination and stigma
- ⇒ Harsh charges and penalties contribute to public perception of people with HIV as criminals; media portrayal often doesn't help
- ⇒ Lack of clarity about when criminal law should be applied — e.g., not clear whether use of condoms is a defence

Human rights of women and girls linked to HIV

- ⇒ Women have no capacity to refuse unsafe sex in marriage (sometimes linked to payment of bride price)
- ⇒ Marriage at young age and other customary practices put girls and women at risk
- ⇒ Absence of laws and court decisions on women's rights in matters of sex
- ⇒ Lack of equal property and inheritance rights for women
- ⇒ Lack of access to post-exposure prophylaxis for survivors of rape and defilement
- ⇒ Gender-based violence is increasing due to HIV/AIDS
- ⇒ Women and girls excluded from ARV treatment
- ⇒ Women and girls provide home-based care with no assistance from government

Human rights of gay, bisexual, lesbian and transgender people

- ⇒ Gross human rights abuses, including extra-judicial killing, against sexual minorities perpetuated or tacitly permitted by the state
- ⇒ Public understanding and awareness of LGBT rights are low
- ⇒ Law criminalizes homosexual behaviour or laws to protect people based on sexual orientation are not enforced

Human rights of sex workers

- ⇒ Sex work or elements of it are criminalized; marginalizes sex workers and puts them at risk of violence and abuse
- ⇒ Police abuse and extortion
- ⇒ Sexual violence by clients, police, others
- ⇒ Public attitudes are stigmatizing
- ⇒ Sex workers treated unethically in research projects, including on HIV/AIDS

HIV/AIDS and prisons

- ⇒ Opiate substitution therapy in prison
- ⇒ Sterile syringes in prison
- ⇒ ARV treatment in prison without interruption, including when prisoners are transferred to another institution
- ⇒ Protection against unwarranted isolation of HIV-positive prisoners

Legal issues linked to access to treatment, care and support

- ⇒ General lack of access to ARV treatment for many who need it
- ⇒ Lack of access to hepatitis C treatment
- ⇒ Lack of access to treatment for children
- ⇒ Right to information about treatment is ignored
- ⇒ Reliance on donor funds for ARV treatment with no plan for continuing when those funds are gone
- ⇒ Treatment for those without legal residency status or legal papers

Annex B – List of Participants

Chris Armstrong

Canadian International Development Agency
Canada

David Barr

Tides Foundation
United States

Mark Bebbington

Australian Federation of AIDS Organizations
Australia

Ronald Brands

AIDS Netherlands and the Dutch HIV Association
The Netherlands

Scott Burris

Temple Law School
United States

Rui Cai

Beijing Aizhixing Institute of Health Education
China

Ruth Carey

HIV/AIDS Legal Clinic (Ontario)
Canada

Robert Carr

Jamaica AIDS Support
Jamaica

Milton Castelen

Stichting Maxi Linder
Suriname

Veronica Cenac

AIDS Foundation
St. Lucia

Matrine Chuulu

Women and Law in Southern Africa
Zambia

Jonathan Cohen

Open Society Institute
United States

Eszter Csernus

Hungarian Civil Liberties Union
Hungary

Delme Cupido

Legal Assistance Centre
Namibia

Melissa Dittmore

Network of Sex Work Projects
United States

Catherine Dodds

Sigma Research
United Kingdom

Le-Ann Dolan

AIDS Calgary
Canada

Julian Fleet

United Nations Development Programme
Switzerland

Catherine Hanssens

Center for HIV Law & Policy
United States

James Heenan

Office of the United Nations High Commissioner for
Human Rights, HIV/AIDS focal point
Switzerland

Mark Heywood

AIDS Law Project
South Africa

Beri Hull

International Community of Women Living with
HIV/AIDS
United Kingdom

Andrew Hunter

Asia Pacific Network of Sex Workers
Thailand

Sai Jahann

Open Society Institute
United States

Ralf Jürgens

Independent Consultant
Canada

Karyn Kaplan

Thai AIDS Treatment Action Group
Thailand

Yohannes Kassahun

International Development Law Organization
Italy

Johanna Kehler

AIDS Legal Network South Africa
South Africa

Murtazokul Khidirov

NGO 'RAN'
Tajikistan

Esther Kisaakye

Uganda Network on Law, Ethics, and HIV/AIDS
Uganda

Carolyn Macaltau

New Zealand AIDS Foundation
New Zealand

Shashikant Mane

SANGRAM
India

Catherine Mumma

Kenya National Commission on Human Rights
Kenya

Malala Mwondela

Zambia AIDS Law Research and Advocacy Network
Zambia

Supatra Nacapew

Centre for AIDS Rights
Thailand

David Otiashvili

Union Alternative Georgia
Georgia

Sunil Pant

Blue Diamond Society
Nepal

Michael Pates

American Bar Association, AIDS Committee
United States

David Patterson

Independent Consultant
Canada

Asha Ramaiah

Indian Network for People Living with HIV/AIDS
India

German Rincón Perfetti

Red hispana de derechos humanos en VIH/sida y
minorías sexuales
Colombia

Alexander Rumyantsev

DELO
Russia

Meena Seshu

SANGRAM
India

Christine Stegling

Botswana Network on Ethics, Law & AIDS
Botswana

Martin Stolk

Global Network of People Living with HIV/AIDS
The Netherlands

Lori Stoltz

Adair Morse LLP
Canada

Raminta Stuikyte

Central and Eastern European Harm Reduction
Network
Lithuania

Greg Szekeres

UCLA School of Medicine
United States

Claire Thiboutot

Stella
Canada

Susan Timberlake

UNAIDS
Switzerland

Andrey Tolopilo

Ukrainian Harm Reduction Association
Ukraine

Alexander Tsechanovitch

Humanitarian Action
Russia

Delphine Valette

UK AIDS and Human Rights Project
United Kingdom

Christine Vézina

Coalition des organismes communautaires québécois
de lutte contre le sida
Canada

Wan Yanhai

Beijing Aizhixing Institute of Health Education
China

Canadian HIV/AIDS Legal Network Staff

Joanne Csete

Executive Director

Richard Elliott

Deputy Director

Glenn Betteridge

Senior Policy Analyst

Richard Pearshouse

Senior Policy Analyst

Alana Klein

Senior Policy Analyst

Leah Utyasheva

Senior Policy Analyst

Leon Mar

Director of Communications

Vajdon Sohaili

Communications Specialist

Terry Gould

Program Support Coordinator

Doriana Schiavi

Finance Officer

Taslim Madhani

Administrative Assistant