

Network news

Issue 23

Canadian HIV/AIDS Legal Network

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Legal Network takes centre stage at international harm reduction conference

During five unusually sunny days in Vancouver in early May, the Legal Network found a venue for showcasing its work and contributed to global discussions on the human rights of people who use drugs at the 17th International Conference on the Reduction of Drug-Related Harm.

Thanks to assistance from the Public Health Agency of Canada, all 1000 conference delegates received a copy of *Nothing About Us Without Us*, the Legal Network's groundbreaking 2005 report on greater, meaningful participation of people who use drugs in policy and program decision-making. Major speakers at the conference referred to the report and its key messages on repeated occasions, and **Ralf Jürgens**, former executive director of the Legal Network, received a rousing ovation as the main author of this important publication.

Conference organizers asked the Legal Network to convene a major session on the human rights of people who use drugs. Over 500 people attended this session, moderated by executive director **Joanne Csete** and featuring outstanding presentations from two Canadian and two international experts. **John Richardson**, Executive Director of the Pivot Legal Society in Vancouver, passionately recounted Pivot's efforts to assist the most marginalized people of Vancouver's Downtown Eastside in asserting their rights and protecting them from police harassment. **Dirk Schaeffer** of the German organization Junkies, Ex-users, and people in Substitution treatment (JES) described JES' successful efforts to improve health and social services for people who use drugs and to ensure their voice is heard around the policy table. **Beverly Froese** of the Public Interest Law Centre (Manitoba) mesmerized the audience with a step-by-step account of the use of human rights arguments to win the right to opioid substitution therapy in Canadian prisons. Heroic Thai activist **Paisan Suwannawong** gave a moving account of the need to assert the right of people who use drugs to humane treatment for addiction, drawing on his own and his colleagues' experiences.



Joanne Csete,
Executive Director

The Vancouver conference distinguished itself from earlier international harm reduction conferences by the increased participation of people who use drugs in the planning of the conference and in key speaking slots. Outstanding presentations by Canadian activists **Rosemary Fayant** of Streetworks (Edmonton's needle exchange program), **Diane Tobin** of the Vancouver Area Network of Drug Users (VANDU), and **Brent Taylor** of the Kingston, Ontario-based Unified Networkers of Drug Users Nationally (UNDUN), among others, complemented those given by people from outside Canada who use drugs.

For more information on InSite, visit www.vch.ca/sis/

Senior policy analyst **Richard Pearshouse** gave two presentations on the right of people who use drugs to assisted injection in supervised injection facilities. InSite, Vancouver's supervised injection facility, does not currently permit assisted injection, a crucial matter for women, new injectors, and people with disabilities. One of Richard's presentations was to a satellite meeting organized by the Nurses Harm Reduction coalition. Here, Richard was able to interact with health professionals who work on the front lines with people who use drugs. Richard's work has helped to establish a human rights grounding for this important debate, putting the Legal Network at the centre of a crucial policy issue.



Stephen Lewis, the UN Secretary-General's Special Envoy for AIDS in Africa
Photo: Nick Wiebe, 2006

A memorable moment for all delegates was the keynote speech by **Stephen Lewis**, the UN Secretary-General's Special Envoy for AIDS in Africa. Mr. Lewis made an impassioned argument for the continuation of the federal exemption that enables InSite to function. He decried mandatory minimum sentences for drug offences (see related article) and made numerous references in his address to the work of the Legal Network.

The International Harm Reduction Association, the main conference sponsor, also gave all delegates a copy of the *International Journal of Drug Policy's* special issue focusing on Vancouver as a microcosm of drug policy challenges and successes. The issue included a joint article by **Jonathan Cohen** of the Open Society Institute and Joanne Csete on the difficulty of sustaining balanced approaches to drug policy when the power of the police can easily overwhelm public health approaches.

While in Vancouver, Joanne also joined AIDS Vancouver, the British Columbia Persons with AIDS Society and other Legal Network members at their regular coordinating meeting. This was a rare opportunity to update our front-line members on the Legal Network's projects and hear

their suggestions on improving our support to AIDS service organizations (ASOs). The ASOs expressed interest in receiving more assistance from the Legal Network on post-*Cuerrier* issues of disclosure of HIV status and criminalization of HIV exposure and transmission. There was also considerable interest in strategies for moving forward on prison needle exchange programs, including the possibility of litigation.

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The Canadian HIV/AIDS Legal Network promotes the human rights of people living with and vulnerable to HIV/AIDS, in Canada and internationally, through research, legal and policy analysis, education, and community mobilization. The Legal Network is Canada's leading advocacy organization working on the legal and human rights issues raised by HIV/AIDS.

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Legal Network challenges federal crime bill

On May 4, federal Justice Minister **Vic Toews** introduced two crime bills in the House of Commons, designed to toughen sentences for gun, gang and drug violence. Of particular concern to the Legal Network and its members is Bill C-9, *An Act to amend the Criminal Code (conditional sentence of imprisonment)*.

This bill, which would apply to certain drug offences, would remove the option of conditional sentencing in cases involving trafficking (or possession for the purposes of trafficking) and the importing, exporting or production of certain controlled substances, including heroin and cocaine. (It would not apply in cases involving possession.) The result: anyone sentenced to a term of imprisonment for such an offence would have to serve time in prison.

Just two weeks earlier, with the release of a briefing paper entitled *Mandatory Minimum Sentences for Drug Offences: Why Everyone Loses*, the Legal Network had warned that such U.S.-style sentencing techniques should be a policy non-starter for the new federal government.

“Throwing non-violent drug users in prison is an overly simplistic and costly approach that has already failed in the United States and will most certainly fail in Canada,” said **Joanne Csete**, Executive Director, in the April 20 press release accompanying the briefing paper. These documents, along with a companion “myth-busting” backgrounder, were sent to all members of Parliament and senators, as well as to all Legal Network members.

Currently, judges may impose conditional sentences for drug offences where the sentence is two years or less. This judicial discretion allows those who are convicted and sentenced to imprisonment to serve their sentence outside of prison — for example, under house arrest. Section 718.2 of the *Criminal Code* says that “all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders.”

If passed, Bill C-9 will result in higher incarceration rates and massive costs to build and run more prisons. Even worse, it would likely lead to higher infection rates of blood-borne diseases like HIV and hepatitis C among prisoners. (Research shows that the incarceration of injection drug users is a factor driving Canada’s worsening HIV epidemic, resulting in no small part from the lack of prison needle exchange programs.) Higher infection rates ultimately result in greater health-care costs. And, since most prisoners are eventually released back into the community, the public health implications of imprisoning non-violent people who use drugs are ominous, concludes the Legal Network’s briefing paper.

The Legal Network is monitoring the passage of C-9 through Parliament and has applied to appear as a witness before the House of Commons Standing Committee on Justice and Human Rights, if and when the committee is asked to consider the bill.

To read the full text of the mandatory minimum sentences briefing paper, go to www.aidslaw.ca/Maincontent/issues/druglaws/MMSpaper_E.pdf

Federal AIDS funding: more administration, less action?

In 2004, the federal government committed to doubling federal HIV/AIDS funding over five years, so that it would reach \$84.4 million by 2008–2009. But information recently received by the National HIV/AIDS Partners shows a disturbing trend in the allocation of funds under the Federal Initiative on HIV/AIDS — a trend running contrary to the government’s stated commitment to

strengthening community-based responses to HIV/AIDS.

In response to a series of access to information requests filed by the Canadian AIDS Society, the government has disclosed materials showing spending plans under the Federal Initiative between now and 2009. According to these internal government documents, funds

To read the
Federal Initiative
on HIV/AIDS, go to
[www.phac-aspc.gc.ca/aids-
sida/hiv_aids/index.html](http://www.phac-aspc.gc.ca/aids-sida/hiv_aids/index.html)

available from Health Canada and the Public Health Agency of Canada (including through the AIDS Community Action Program) for “grants and contributions” (G&C) will decline significantly in proportion to funds allocated to “operations and management” (O&M).

G&C funds support community-based and other civil society organizations for such work as HIV prevention, providing support services to people living with HIV/AIDS, and doing research and advocacy. Funds in the O&M category include funds spent on salaries within government and on equipment, supplies, travel and personal service contracts, and while some of that money supports particular activities or initiatives, it is not paid as project or operational support for non-governmental organizations (NGOs). By the end of the five-year ramping-up of the Federal Initiative, G&C

funding will have increased by only 88 percent, while government spending on salaries will increase by 130 percent and other O&M costs by 180 percent.

National, regional and local community-based AIDS organizations advocated long and hard for a doubling of funds for the Federal Initiative. But the federal government’s funding plans suggest more interest in further administering the epidemic, rather than giving strong support to civil society in the fight against it. The National HIV/AIDS Partners, including the Legal Network, have written to federal Health Minister Tony Clement, objecting to this broken promise, even as NGOs are requested to “partner” with government. They have also asked the Ministerial Council on HIV/AIDS to take up the matter with the Minister.

15th Annual Canadian Conference on HIV/AIDS Research

From May 25 to 28, hundreds of people working on HIV/AIDS issues from across Canada and around the world met in Québec City for the 15th Annual Canadian Conference on HIV/AIDS Research. Attendees included community members, researchers, government advisors, and representatives from the pharmaceutical industry. Legal Network staff in attendance included senior policy analysts **Alana Klein** and **Richard Pearshouse**.

Richard gave a presentation on the legal questions related to the problem of assisted injection at InSite, Vancouver’s safe injection facility. He presented an analysis of the criminal and civil liability faced by those who assist others in injecting drugs, and suggested that law and policy reforms be aligned with human rights principles.

The Legal Network’s work on needle exchange

in Ukrainian prisons was the subject of a presentation by former executive director **Ralf Jürgens**. He described the disturbing conditions in Ukrainian prisons, and underscored the need for comprehensive needle exchange programs in response to the crisis of HIV and hepatitis C infection. Ralf also delivered a poster presentation on the Legal Network’s highly influential work on the greater involvement of people who use drugs in policy-making decisions.

Another successful Legal Network publication, *Sex, work, rights: reforming Canadian criminal law on prostitution*, was presented in poster form. In line with that document, Alana Klein summarized the human rights violations perpetuated by the criminal law in relation to sex work, and recommended the repeal of the prostitution-related provisions of the *Criminal Code*.



Network News Flashes

Legal Network represented at high-level UN meeting

Executive director **Joanne Csete** served on the Canadian delegation to the United Nations High-Level Meeting on AIDS, which took place at the UN in New York from May 31 to June 2. In difficult negotiations over the declaration from the meeting, the delegation worked to put forward a number of human rights-based positions. Ultimately, however, the Legal Network joined other organizations in expressing disappointment that the declaration omitted specific prevention and treatment targets against which the community of nations could be held accountable. Language on the human rights of women was also watered down in a few cases, a scandalous development at a

time when it is clear that women and girls are bearing the brunt of AIDS in most regions.

Joanne also spoke on a panel with the President of Botswana, the Minister of International Development of Sweden, a member of the Russian Duma, and an executive of the DaimlerChrysler Corporation. Joanne criticized the reticence of some countries even to recognize human rights violations against men who have sex with men, people who use drugs, sex workers and prisoners, and called on stakeholders to turn rhetoric on gender equity into real action to embody women's rights in the law.

To read the full text of Joanne Csete's speech, go to www.aidslaw.ca/Media/speaking-notes/e-UN_31may06.pdf

Legal Network contributes to CARICOM meeting on HIV and human rights

In the last week of May, HIV/AIDS and human rights advocates from 10 countries of the Caribbean Community (CARICOM) gathered in Jamaica for a two-day workshop on developing human rights-based responses to HIV/AIDS in the region. The workshop was facilitated by **Dr. Robert Carr** from the Coalition of Vulnerable Communities (and a Legal Network board member) and **Merle Mendonca** from the Guyana Human Rights Association.

Deputy director **Richard Elliott** served as a resource person and rapporteur for the workshop. Participants set up an e-mail discussion list for advocates in the region to share resources and communicate about developments. A majority of participants

supported a proposal to prepare specific reports on HIV-related human rights abuses faced by men who have sex with men and by sex workers in CARICOM countries, in addition to a report on discrimination against people living with HIV/AIDS in the health sector.

The workshop was part of a larger project, funded by the Canadian International Development Agency, on legal, ethical and human rights issues related to HIV/AIDS in the Caribbean.



CARICOM workshop

Canadian Coalition of People Who Use Drugs

Piggybacking on the international harm reduction conference, the historic inaugural meeting of the Canadian Coalition of People Who Use Drugs was held on May 5 in Vancouver. The Legal Network was honoured to be invited as an ally. **Joanne Csete** assisted with rapporteur duties and the facilitation of some group discussions.

This very successful meeting laid the groundwork for the organizational structure and functioning of this new coalition, which will serve as a national voice and focus of support for people who use drugs.

Representatives of the Australian Injecting and Illicit Drug Users League (AIVL), a highly successful group in Sydney, were on hand to

share their experiences and advice. The Legal Network pledged to assist the Coalition in any way possible and to advocate for its systematic inclusion in federal decision-making on drug policy issues.

Darlène Palmer, Vice President of the Legal Network's board of directors, was a key player in planning the Coalition's inaugural meeting and helped to ensure excellent representation from Quebec in the Coalition. The Public Health Agency of Canada provided support for this meeting.

The staff and board of the Legal Network look forward to working side by side with the Coalition and all of its courageous activists.

Legal Network discusses sex worker rights with Chief Public Health Officer and MPs

At the invitation of **Dr. David Butler-Jones**, Chief Public Health Officer of Canada, senior policy analyst **Glenn Betteridge** and deputy director **Richard Elliott** led a delegation to Ottawa on April 25 to discuss sex workers' health and human rights. They were joined by representatives of two sex worker organizations — **Claire Thiboutot**, Executive Director of Montréal-based Stella, and **Kara Gillies**, a board member from Toronto-based Maggie's.

In separate meetings with Dr. Butler-Jones and members of Parliament **Réal Ménard** (BQ—Hochelaga), **Libby Davies** (NDP—Vancouver East) and **Hedy Fry** (Lib—Vancouver Centre), the delegation discussed the need to decriminalize prostitution-related activities in Canada, in order to better protect the health of sex workers. As a result, the MPs wrote a joint letter to the Standing Committee on Justice and Human Rights, calling for the reconstitution of the House of Commons Subcommittee on Solicitation Laws, whose work came to an abrupt end when the last Parliament was

dissolved due to the federal election call.

Dr. Butler-Jones, who is ultimately responsible for administering the Public Health Agency of Canada's Federal Initiative on HIV/AIDS, recognized the important role law and policy play in health outcomes for people from marginalized populations, such as sex workers. However, he did not see it as his role to advocate on behalf of specific population groups, but rather to help affected populations achieve appropriate solutions to the challenges they face. In addition to expressing an interest in receiving information on programs that successfully respect the health and human rights of sex workers, he recommended that the Legal Network and its partners establish contact with a number of government bodies.

While the meetings did not result in a clear sense of the prospects for much-needed law reform, the discussions nevertheless provided a stronger sense of how to direct ongoing advocacy efforts.

Eastern Europe and Central Asian AIDS Conference

From May 15 to 17, executive director **Joanne Csete** and senior policy analysts **Richard Pearshouse** and **Leah Utyasheva** participated in the Eastern Europe and Central Asian AIDS Conference in Moscow.

The Legal Network hosted a satellite meeting to discuss various legal and law enforcement barriers to comprehensive HIV/AIDS and harm reduction services in central and eastern European countries and those of the former Soviet Union. Joanne moderated the satellite, which presented three very different but complementary approaches to addressing the law and law enforcement practices.

Alexander Tsekanovich, Director General of Humanitarian Action, Russia, told of his outreach organization's experiences working with and training police in St. Petersburg. This was followed by **Balázs Denes**, Executive Director of the Hungarian Civil Liberties Union, who spoke on a variety of advocacy strategies undertaken by the HCLU, including a "civil obedience" campaign, in which people who use drugs (or who used to do so) turn themselves in to state prosecutors and confess to drug law violations. Such confessions have been successful in drawing media attention and public debate to the irrationality of current Hungarian drug laws. Finally, Richard Pearshouse addressed the legal restrictions on methadone and other opioid substitutes that impede access to humane treatment for heroin dependency in many former Soviet Union countries. He emphasized that the UN conventions on drug control do not require countries to criminalize substances such as methadone and buprenorphine, and outlined a human rights approach to the regulation of opioid substitution therapy.

At the conference proper, Richard delivered a presentation on the Legal Network's model legislation project, using the opportunity to promote the draft version of the document, which is currently being prepared for publication.



Executive director Joanne Csete (left) and senior policy analysts Richard Pearshouse and Leah Utyasheva in front of Red Square

Meanwhile, Joanne and Leah had the chance to meet with a number of harm reduction service providers to gain insight into the necessary legal and policy reforms related to the human rights of people who use drugs in Russia. They also attended a side meeting, organized by the Open Society Institute, addressing the provision of legal services for people who use drugs in Russia.

The Legal Network in the news

For more information on the Legal Network's media activities, visit www.aidslaw.ca/media.htm

From March to May, the Legal Network received 29 media requests and was quoted in at least 30 news items in Canadian news sources from coast to coast to coast, including Canada's North, where the *Yukon News* interviewed deputy director **Richard Elliott** for an article on HIV/AIDS and Aboriginal people.

Executive director **Joanne Csete's** opinion piece, "Forgotten pandemic," was published in the May 13 edition of the *Winnipeg Free Press*. The commentary bemoaned the lack of attention paid to HIV/AIDS at the two-day meeting of Canada's federal, provincial and territorial health ministers; instead, the focus was on preparing for an avian flu pandemic. While at the United Nations in New York to attend the UN 2006 High Level-Meeting on AIDS, Joanne was quoted in a *Globe and Mail* story ("Keep up AIDS fight, UN told," May 31).

Letters to the editor by Legal Network staff were printed in the *Winnipeg Sun* (**Glenn Betteridge**, "No reason for forced testing," May 10), *Edmonton Journal* (Richard Elliott, "Legalization the key," May 9), and *Winnipeg Free Press* (Glenn Betteridge, "Choosing prostitution," March 30).

In addition to guest spots on news talk radio programs in Calgary (*The World Tonight*, CHQR 770 AM) and Montréal (*Les midis de Jacques Fabi*, CKAC 730 AM), Joanne,

Richard Elliott and Glenn responded to interview requests from local and regional CBC Radio One programs in Vancouver, Winnipeg, Regina, Sudbury and London, Ontario. These media opportunities covered a wide range of subjects, including mandatory minimum sentences for drug offences, Canada's intake of immigrants and refugees living with HIV, harm reduction measures in Canadian prisons, and the criminalization of HIV.

Headline news on criminalization spiked with the on-again, off-again trial of Canadian Football League player Travis Smith. A Canadian Press article quoting Glenn ran in the *Globe and Mail* and dailies in Vancouver, Edmonton, Calgary, Ottawa, London, Ontario and Fort McMurray, Alberta. Glenn also commented on this case in a nationally televised news report on *Global National with Kevin Newman*.

Two other articles worth noting included a commentary on mandatory minimum sentences by *Vancouver Sun* columnist Peter McKnight ("The sham of mandatory sentences," May 6) and a feature article by Brent Preston in the March 2006 issue of *The Walrus* ("The HIV Resurgence"). McKnight's column lauded the Legal Network's May 2006 briefing paper, "Mandatory Minimum Sentences for Drug Offences: Why Everyone Loses," while Richard Elliott was quoted in *The Walrus* article.



New Resources

- HIV/AIDS Policy & Law Review 11(1) www.aidslaw.ca/Maincontent/otherdocs/Newsletter/vol11no12006/issue.htm
- Mandatory Minimum Sentences for Drug Offences: Why Everyone Loses www.aidslaw.ca/Maincontent/issues/druglaws/MMSpaper_E.pdf
- Address to a panel discussion at the United Nations 2006 High-Level Meeting on AIDS — Speech by Joanne Csete, Executive Director www.aidslaw.ca/Media/speaking-notes/e-UN_31may06.pdf
- Prison Needle Exchange: Lessons from a Comprehensive Review of International Evidence and Experience — 2006 Edition www.aidslaw.ca/Maincontent/issues/prisons/pnep/PNEP-report.pdf
- Courting Rights: Case Studies in Litigating the Human Rights of People Living with HIV/AIDS — joint publication with UNAIDS www.aidslaw.ca/Maincontent/issues/discrimination/Courtingrights-ENG.pdf



Inside the Network

Welcoming a new staff member

The Legal Network is delighted to welcome **Leah Utyasheva**, an outstanding human rights lawyer from Russia who joined the staff in April as a senior policy analyst. Support from the Open Society Institute enabled us to hire Leah and thus expand the Legal Network's capacities in our growing work on AIDS, drug policy and human rights in eastern Europe and the former Soviet Union.

Leah most recently directed the gender program for the American Bar Association's Central European and Eurasian Law Initiative in Moscow, in which she participated in an extensive analysis of Russia's compliance with the Convention on the Elimination of All Forms of Discrimination against Women

(CEDAW). Although her recent work has been on women's rights, Leah has been part of drug policy discussions and training and knows many of the key harm reduction figures in the region.

After graduating from the Bashkir State University's law faculty in Russia, Leah worked in the office of the Human Rights Ombudsman of the Republic of Bashkortostan — her native region in Russia — reviewing complaints on human rights violations. She holds an LL.M. in Comparative Constitutional Law from the Central European University, Budapest, and a Ph.D. in human rights law from the University of Newcastle upon Tyne, United Kingdom.

Legal Network welcomes summer interns

This summer, as in previous years, the Legal Network's offices are enlivened by the addition of summer interns, a group of four dynamic and committed students selected from scores of applicants from across the country. **Tim Franklin** and **Sara Kushner** were the first arrivals, beginning their internships in May. Tim, a first-year law student at the University of Toronto, has contributed articles to the *HIV/AIDS Policy and Law Review* through a Pro Bono Students Canada placement. While at the Legal Network, he is focusing on reproductive and sexual health law. In his short time here, Tim has already conducted extensive research on prison needle exchange litigation, working closely with senior policy analyst Richard Pearshouse on a model legislation project addressing the HIV epidemic among people who use drugs.



From left: Sara Kushner, Jennifer Chan, Tim Franklin and Ellen Silver

Sara, a second-year law student at McGill University, is part of the McGill Human Rights Internship Program. She also holds a Bachelor of Communications degree from Concordia University. At the Legal Network, Sara is researching aspects of prison needle exchange programs and contributing to the model legislation project by examining a wide range of issues regarding drug policy and harm reduction services.

“I’ve enjoyed getting practical, hands-on experience working on cutting-edge issues in HIV/AIDS and human rights,” says Sara. “I’m fortunate to be working with such a fantastic group of dedicated advocates and lawyers.”

Beginning her 10-week summer internship in June, **Ellen Silver** is a first-year law student at the University of Toronto. A graduate of the University of Western Ontario’s Bachelor of Science in Biology program and a former policy advisor for the Ontario Ministry of Health and Long-Term Care, Ellen brings an

exceptional combination of experience in both medicine and health policy. She is primarily researching national issues, including those related to needle exchange programs and HIV/AIDS in prisons. However, she will also closely follow HIV/AIDS criminal cases in Canada, with findings to be included in the upcoming issue of the *HIV/AIDS Policy and Law Review*.

Jennifer Chan, who also started in June, is a University of Victoria law student with a strong background in health sciences. She completed a Bachelor of Science in Microbiology at the University of British Columbia and a Master’s of Science in Pharmacology at the University of Oxford. Jennifer is interested in bridging the gap between medical advances in HIV/AIDS treatment and legal policies and is researching issues pertaining to national and international drug strategies and pharmaceutical policies.

XVI International AIDS Conference

The XVI International AIDS Conference, August 13–18 in Toronto, will give the Legal Network the chance to promote its work on an international stage from its home base.

We will share a booth with the Canadian Working Group on HIV and Rehabilitation (CWGHR) and the Interagency Coalition on AIDS and Development (ICAD) on the main exhibition floor for the duration of the conference.

In addition to poster presentations by deputy director **Richard Elliott**, senior policy analysts **Richard Pearshouse** and **Glenn Betteridge**, and consultant **David Patterson**, our work will also be publicized in oral presentations by

executive director **Joanne Csete**, senior policy analyst **Alana Klein** and consultant and former executive director **Ralf Jürgens**.

Communications director **Leon Mar** and communications specialist **Vajdon Sohaili** have both received media accreditation for the conference. This will allow the communications unit to report from the floor for *Network News* as events unfold. Consultant **David Garmaise** will also be attending in his capacity as managing editor of the *HIV/AIDS Policy and Law Review*.

We all look forward to seeing members at AIDS 2006!



Visit the website for the
XVI International AIDS
Conference at
www.aids2006.org