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CANADIAN HIV/AIDS LEGAL NETWORK HAILS DECISION OF ONTARIO COURT THAT SUPPORTS RIGHTS OF SEX WORKERS

Toronto: September 28, 2010 — The Canadian HIV/AIDS Legal Network welcomes a ruling by the Ontario Superior Court of Justice deeming sections of the *Criminal Code* related to sex work unconstitutional.

Justice Susan Himel decided that three provisions of the *Criminal Code* that seek to address facets of prostitution are not in accordance with the principles of fundamental justice and must be struck down. She said that those laws, “individually and together, force prostitutes to choose between their liberty interest and their right to security of the person as protected under the *Canadian Charter of Rights and Freedoms*.”

“Today’s court decision is a victory for the rights of sex workers,” said Sandra Ka Hon Chu, senior policy analyst with the Canadian HIV/AIDS Legal Network. “This decision is essential not only to realizing the human dignity of sex workers, but also to enabling sex workers to work free from violence and other health and safety risks, including HIV infection.”

The applicants — Terri Jean Bedford, Amy Lebovitch and Valerie Scott — challenged sections of the *Criminal Code* that, they argued, violated their constitutionally-protected rights to liberty, security and freedom of expression. They focused on Section 213(1)(c), which makes it illegal to communicate in public for the purposes of prostitution; Section 210, which makes it illegal to keep a common bawdy house; and Section 212(1)(j), which makes it illegal to live off the avails of prostitution.

Justice Himel said that those sections “infringe the core values protected by Section 7” of the *Charter* — in which everyone has the right to life, liberty and security of the person — and that this infringement was not saved by Section 1 “as a reasonable limit demonstrably justified in a free and democratic society.”

In declaring Sections 210, 212(1)(i) and 213(1)(c) unconstitutional, Justice Himel also concluded that they “prevent prostitutes from taking precautions, some extremely rudimentary, that can decrease the risk of violence towards them.”

In a 2004 study the Canadian HIV/AIDS Legal Network commissioned from the Vancouver-based advocacy organization Pivot Legal Society, sex workers described the ways in which the criminal laws place them in circumstances where they are vulnerable to high levels of violence and exploitation, including by:

- making it illegal to work indoors in a protected environment (where safety measures can be put in place);
- forcing sex workers into very dangerous situations and practices in order to avoid detection by police and prosecution; and
- compelling sex workers to get into vehicles quickly without taking adequate time to assess a potential client and negotiate the terms of the transaction.

The Attorney General of Canada is expected to appeal the decision.

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About the Canadian HIV/AIDS Legal Network

Since 1992, the Canadian HIV/AIDS Legal Network (www.aidslaw.ca) has been promoting 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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