



## NO “END TO AIDS” WITHOUT HUMAN RIGHTS: CANADA’S TOP 5 ISSUES FOR WORLD AIDS DAY 2014

**December 1, 2014** — This World AIDS Day, it is encouraging to hear international agencies speak of a foreseeable “end to AIDS” — but in reality, achieving this goal is impossible without a renewed emphasis on human rights and without a major increase in resources. Internationally, as in Canada, new infections continue to occur, often fuelled by stigma, discrimination and misguided policies undermining HIV prevention efforts. Meanwhile, an unconscionable gap still separates as many as 22 million people around the world from accessing the treatment they desperately need. Thanks to three decades of scientific research and frontline experience, we know what programmes and services are needed and effective. Yet AIDS funding is flat-lining, and governments, including Canada’s, continue to jeopardize health and human rights by passing laws that criminalize the groups most affected, or pushing trade deals that keep the price of essential medicines beyond reach. Below are brief summaries of some of the most pressing issues for people living with or vulnerable to HIV and AIDS. Though by no means exhaustive, these are the issues that demand urgent action in Canada.

### 1. *Health and safety of sex workers*

In 2013, the Supreme Court of Canada declared unconstitutional key sections of the *Criminal Code* that effectively criminalized sex work. However, in brazen defiance of that ruling, the federal government recently passed a new law that will only replicate the effects of the old one and reproduce the very harms that the Supreme Court wanted to prevent. Few legal experts believe this law will withstand constitutional scrutiny, meaning that once again, our courts will be forced to overturn federal laws based on misguided ideology. Until full decriminalization of sex work can happen — as recommended by leading international health agencies such as UNAIDS and the WHO — it is up to Canada’s other governments to push back against regressive policy, and in the process, foster truly safer and healthier communities. Provincial attorneys-general can and should refuse to enforce this egregious law, while premiers have the power to refer the legislation to their provincial courts of appeal. Find out more at [www.aidslaw.ca/sexwork](http://www.aidslaw.ca/sexwork).

### 2. *Drug policy, prisons and harm reduction*

Once again flouting the Supreme Court — this time its 2011 ruling in favour of Insite, Vancouver’s supervised injection site — the federal government is forcing Bill C-2 through Parliament. Despite overwhelming evidence of the life-saving success of these and other harm reduction measures, Bill C-2 will enforce multiple barriers that will make it virtually impossible for other municipalities around the country to establish their own much-needed sites. As the international community begins preparing for a high-level UN General Assembly summit on global drug policy in 2016, a growing number of governments are calling for drugs to be treated as a health issue and openly recognizing the failure of the “war on drugs.” Yet so far, Canada seems determined to enshrine

those failures into law, seeking to obstruct talk of harm reduction at the UN and condemning our most marginalized and at-risk populations. In prisons, for example, the government refuses to implement essential health services for prisoners, such as prison-based needle syringe programs (PNSPs), needlessly exposing more people to risks of infection with HIV and hepatitis C. Because prisoners' rights are human rights and their health is community health, we are currently pursuing litigation against the federal government to force the implementation of PNSPs. Find out more about our lawsuit at [www.prisonhealthnow.ca](http://www.prisonhealthnow.ca). Read a critical analysis of Bill C-2 and its impact on supervised consumption services at [www.aidslaw.ca/drugpolicy](http://www.aidslaw.ca/drugpolicy).

### **3. Criminalization of people living with HIV**

Canada has the shame of being one of the world's most vigorous prosecutors of people living with HIV. More than 150 people have been criminally charged in Canada — most commonly for aggravated sexual assault — for not disclosing their HIV-positive status to a sexual partner, even when no transmission occurred or the risk was virtually zero. The criminalization of HIV non-disclosure is a contentious issue. While prosecution is warranted in the rare case of intentional transmission, the vast majority of prosecutions have not fit this profile. Since our inception, the Legal Network has fought against the overly broad use of the criminal law, and worked to expose the stigma and discrimination that underpin many prosecutions. Earlier this year, we applauded a groundbreaking consensus statement by dozens of Canada's scientific experts on HIV, who echoed our concerns about the scope of criminal prosecutions. Too often, Crown attorneys pursue these prosecutions while ignoring scientific evidence and despite the negligible or even non-existent risks of transmission involved. The Legal Network continues to provide legal support to people living with HIV and their defence lawyers, and to intervene in cases that could set precedents. At the same time, we are a partner on AIDS Action Now!'s newly launched "Think Twice" campaign that asks complainants to consider carefully whether pressing charges is really warranted or advisable. Visit the Think Twice campaign at [www.ThinkTwiceHIV.com](http://www.ThinkTwiceHIV.com). Find out more about the Legal Network's work on this issue at [www.aidslaw.ca/criminalization](http://www.aidslaw.ca/criminalization).

### **4. HIV among Aboriginal people**

The toll of HIV on Aboriginal communities across Canada has been significant and disproportionate. According to the most recent federal health data, approximately 3.8 percent of Canadians self-identify as Aboriginal, yet Aboriginal people account for an estimated 8 percent of all people living with HIV and about 12.5 percent of all new HIV infections, and HIV prevalence among Aboriginal people in Saskatchewan is among the highest in the world. Overall, infections develop at a younger age than in the non-Aboriginal population, and women represent nearly half of all new infections among Aboriginal people. Furthermore, Aboriginal communities, including people living with HIV, can face multiple systemic obstacles, including discrimination, poorer access to health services (including delayed uptake of HIV treatment), and higher rates of problematic drug use, experience of violence, and incarceration. With Aboriginal AIDS Awareness Week beginning December 1, and a roster of events planned nationwide, we must collectively confront the systemic human rights violations experienced by Aboriginal people and communities in Canada, and demand far-reaching reform. Information on Aboriginal AIDS Awareness Week is at <http://aboriginalaidsawareness.com> — a jointly sponsored Toronto event on December 6 will discuss global and domestic human rights advocacy, including gender-based violence.

### **5. Pills for prevention**

There has been much recent discussion about the preventative benefits of antiretroviral (ARV) treatment, specifically its ability to lower a person's viral load to the point that it is undetectable, thereby virtually eliminating the risk of transmission. These developments are highly promising for the health outcomes of individuals and communities — and, if prosecutors and courts are willing

to be guided by the evidence, may also be useful in curbing at least some of the unjust prosecutions against people living with HIV. However, whether it's "treatment as prevention" (TasP) — scaling up access to ARVs for HIV-positive people to prevent onward transmission — or pre-exposure prophylaxis (PrEP) — scaling up access for HIV-negative people to protect themselves against infection — the fact remains that if human rights are not taken into account and actively promoted, these biomedical approaches will be insufficient to end AIDS. We welcome the development of scientific interventions against the virus, but human rights are essential if the benefits of science are to be fully harnessed and universally accessible. As long as people won't access health services, or can't because of exorbitant costs, discrimination, violence or other human rights violations, then pills alone have limited power.

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