

Chelsey Legge

Final Report – IHRP Internship at the Canadian HIV/AIDS Legal Network

August 13, 2016

This summer, I interned at the Canadian HIV/AIDS Legal Network (‘the Network’), providing research support to the Research & Policy Division. The Network is one of the world’s leading organizations working on the legal and human rights issues related to HIV, with an aim of promoting the human rights of people living with and vulnerable to HIV, in Canada and internationally. Their work includes research and analysis, advocacy and litigation, public education, and community mobilization.

I was fortunate to have the opportunity to work on several different projects during my time at the Network. In addition to carrying out short-term research assignments – such as revising and updating our submission to the Ottawa Board of Health in support of supervised injection services in Ottawa, and helping to draft an operating budget of a pilot prison needle and syringe program – I worked on several longer-term projects. Most significantly, I researched and drafted a report on Indigenous women, gender-based violence and HIV, which will eventually be submitted to Health Canada. Over the course of my research, I learned about the overlapping risks of violence and HIV in the lives of many women, and how HIV can be both a cause and consequence of violence against women. HIV is a cause of violence largely because of the stigma surrounding HIV, and the discrimination, ostracization and abandonment that follows disclosure of one’s HIV-positive status, all of which can push positive women into unsafe situations. Disclosure to an intimate partner can also increase a woman’s susceptibility to sexual and physical violence, and may give an abusive partner further control in the relationship. HIV is a consequence of violence because of the increased risk of transmission associated with forced sex and the links between a history of sexual abuse and HIV prevalence. Further, women in violent relationships often face precarious economic, housing and safety situations, putting them at a greater risk for exploitation, abuse, and HIV infection. I also learned about the particular challenges faced by HIV-positive Indigenous women, the socioeconomic variables that render Indigenous women more vulnerable to violence (and thus more vulnerable to HIV), and the ways in which bad laws and policies exacerbate or fail to address these vulnerabilities. These “bad laws” include the laws around sex work, drug use, and HIV non-disclosure.

Another project I really enjoyed working on was a memo on barriers to entry to Canada for attendees of the 2017 Harm Reduction Conference for the Conference Advisory Committee. Held once every two years in a different country, the Conference has become a global focal point for knowledge sharing, networking, and promoting best practice in the field of harm reduction. The 2017 Conference will be hosted in Montreal from May 14-17. The Network is concerned that some potential attendees may have trouble obtaining visas or the newly implemented Electronic Travel Authorizations (“eTAs”) for factors relating to having a criminal record or for factors relating to a health condition. In particular, we expressed concern over the ambiguity of the medical screening questions on the eTA application and the likelihood that people with

certain stigmatized health conditions, including HIV and opioid dependence, will have to disclose these conditions in situations which, prior to the implementation of the eTA regime, they did not need to disclose. We also critically reviewed the way in which Citizenship and Immigration Canada evaluates criminal rehabilitation (namely, failing to consider any steps the person may have taken in terms of rehabilitation, such as drug or alcohol rehabilitation, anger management courses, or related activities) and the criteria for determining whether an offense is minor so as to allow a person to qualify for a Temporary Resident Permit. Researching and helping to write this memo gave me a lot of insight into Canadian immigration law, and the conflicts that can arise between public health and safety on the one hand and the principle of non-discrimination on the other.

One of the last projects I worked on was a report on the possibilities of criminal law reform under the new Liberal government. One of the Network's major focus areas is HIV criminalization. Based on the current state of the law, people living with HIV have a legal obligation to disclose their status before vaginal or anal sex *without* a condom (whatever their viral load), and vaginal or anal sex *with* a condom unless they have a low viral load (less than 1500 copies/mL). If they fail to disclose, they can be charged with aggravated sexual assault, regardless of whether or not HIV transmission actually occurred. The Network's position is that sexual assault law is an inappropriate framework for dealing with the complex issues surrounding disclosure of one's HIV status. We believe in restricting the use of the criminal law to the rare instances where HIV was transmitted with malicious intent. In pursuit of this goal, I researched Liberal party election and post-election promises, looked into other non-governmental organizations and associations working on criminal law reform, and made several recommendations for action.

I am very grateful to the Canadian HIV/AIDS Legal Network, and to the International Human Rights Program, for an amazing summer experience. I learned so much about HIV-related legal issues and international and Canadian human rights law, and I was lucky to gain several friends and mentors. I would strongly recommend this experience!