

# Working Together: The Canadian HIV/AIDS Legal Network - Canadian Aboriginal AIDS Network Project on Legal Issues, Aboriginal People and HIV/AIDS<sup>1</sup>

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The Canadian HIV/AIDS Legal Network (the Legal Network) and the Canadian Aboriginal AIDS Network (CAAN) have recently completed part of a project on legal issues, Aboriginal people and HIV/AIDS (the Project). The Project has so far involved two phases, the first initiated by the Legal Network and the second undertaken as a partnership between the Legal Network and CAAN. The topics addressed include human rights and discrimination, jurisdiction and funding, and testing and confidentiality. Health Canada under the Canadian Strategy on HIV/AIDS provided funding for the Project.

This paper provides a description of the Project, including its history and goals, the issues addressed and conclusions reached, and identifies a number of recommendations for best practices in projects related to Aboriginal people and HIV/AIDS undertaken by non-Aboriginal organizations or for partnerships between non-Aboriginal and Aboriginal organizations. The recommendations may also be of interest to Aboriginal HIV/AIDS organizations undertaking such partnerships.

The results of the partnership undertaken by the Legal Network and CAAN suggest that HIV/AIDS issues for Aboriginal people can be addressed by non-Aboriginal organizations but only in partnership with Aboriginal organizations and where guided by Aboriginal expertise and governed by principles of mutual respect and, on the part of the non-Aboriginal organization, a willingness to learn about Aboriginal communities.

## **The Partners**

CAAN is a national Aboriginal charitable organization with a membership which includes Aboriginal HIV/AIDS organizations, other non-governmental HIV/AIDS organizations with a significant Aboriginal component, Aboriginal people living with HIV or AIDS, and others involved in HIV/AIDS work with Aboriginal people. With its office in Ottawa, CAAN acts as a national voice on HIV/AIDS issues affecting Inuit, Métis, and status and non-status First Nations people regardless of place of

residence. The network is devoted to strengthening the capacity of Aboriginal organizations and communities to respond to HIV/AIDS. CAAN carries out this goal by coordinating activities, lobbying the federal, provincial and Aboriginal governments and departments and drawing attention to the significance of HIV/AIDS issues for Aboriginal people.

The Legal Network is a national charitable organization with its head office in Montréal. It has made important contributions to HIV/AIDS education, legal and ethical analysis, and policy development in Canada. The Legal Network produces and facilitates access to accurate and up-to-date information and analysis on legal, ethical, and policy issues related to HIV/AIDS in Canada and internationally. In carrying out its work, the Legal Network consults its members and a wide range of participants, in particular, people living with or affected by HIV/AIDS. Further, it attempts to connect individuals and organizations working on or concerned by legal, ethical and policy issues.

### History of the Project

The Project has its roots in a human rights internship involving Two-Spirited Peoples of the 1st Nations (TPFN) and the University of Toronto Faculty of Law during the summer of 1994. TPFN is an Aboriginal community organization in Toronto. Among other things, it conducts advocacy, provides HIV/AIDS services, and holds community events.

The materials gathered during this internship were incorporated into a research paper on legal issues, Aboriginal people and HIV/AIDS. The Legal Network later became aware of the research paper and expressed interest in conducting work in the area. The internship experience and the dedication of the people involved with TPFN have been a source of motivation throughout the Project.

The first phase of the Project involved discussions with key informants working in the field of Aboriginal people and HIV/AIDS, which included some front-line workers, executive directors of Aboriginal HIV/AIDS organizations, representatives of Health Canada, and others. These discussions were conducted in July, August and September of 1997. In October 1997, three draft discussion papers were prepared based on legal and policy research and on the discussions. The draft papers were distributed for comments, and comments received were incorporated in the first issue of the papers, published in March 1998. The discussion papers are titled: (1) *Discrimination, HIV/AIDS and Aboriginal People*; (2) *HIV/AIDS and Aboriginal People: Problems of Jurisdiction and Funding*; and (3) *HIV Testing and Confidentiality: Issues for the Aboriginal Community*.<sup>2</sup>

In addition, two articles were prepared: the first is an article based on the issues addressed in the discrimination paper, published in *First Perspective*, a national Aboriginal owned and operated newspaper<sup>3</sup>; the second is an article summarizing the discussion papers, published in the *Canadian HIV/AIDS Policy and Law Newsletter*.<sup>4</sup> The papers were also presented in poster format at the 12th World AIDS Conference held in Geneva in July 1998.

Although the papers were generally well-received by the people interviewed and by those from both the Aboriginal and non-Aboriginal community, concerns were raised about the fact that although an effort was made to gather and reflect comments from Aboriginal people working on HIV/AIDS issues, the Legal Network acted alone in publishing the papers.

In response to these concerns, the second phase of the project was conducted as a partnership between the Legal Network and CAAN. In December 1998, a series of nine information sheets was drafted and distributed for comments. In January and February 1999, follow-up discussions were conducted with key informants working in the field, which again included Aboriginal HIV/AIDS workers, Health Canada representatives and others. These follow-up discussions focussed on a number of topics, such as the content of the information sheets and discussion papers, and the role of the Legal Network in work on legal issues, Aboriginal people and HIV/AIDS.

In order to reflect the changes that have occurred since the first printing of the discussion papers and the comments received during the follow-up discussions, the papers have been revised. The form and content of the information sheets was also devised and completed. In addition, the author participated in two workshops: a skills building workshop organized by CAAN where the results of the Project were presented, and a workshop on testing and confidentiality issues organized by the Legal Network.

It is hoped that work related to the Project will continue and that the partnership between the Legal Network and CAAN will grow. To this end, in July 1999, the Board of Directors of the Legal Network adopted a number of recommendations regarding the conduct of further work by the Legal Network in the area of HIV/AIDS and Aboriginal people.

### **Goals of the Project**

The goal of Phase 1 of the Project was primarily to bring attention to legal issues regarding Aboriginal people and HIV/AIDS, an area which has generally been poorly addressed in HIV/AIDS-related materials. A second goal of Phase 1 was to develop the capacity of the Legal Network to address legal, ethical and policy issues respecting Aboriginal people by increasing its resources in this area and its understanding of the issues, and

by developing relationships with Aboriginal HIV/AIDS workers and experts.

The goals of Phase 2 of the Project were first to continue to bring attention to and develop the dialogue about legal issues, Aboriginal people and HIV/AIDS, second, to build on and strengthen the nascent relationships started during Phase 1, and third, to attempt to address weaknesses related to the process of the Project. It was determined that the latter two objectives could best be achieved by conducting Phase 2 of the Project as a partnership between the Legal Network and CAAN.

### **Issues Addressed in the Discussion Papers**

#### *Discrimination issues:*

The discussion paper on discrimination issues indicates that Aboriginal people living with or affected by HIV/AIDS experience discrimination in many of the same ways that non-Aboriginal people do (Matiation, 2000a). Discrimination may come from a variety of sources: from band administrators and community members to health practitioners and the public at large. Discrimination is often associated with misunderstandings or lack of knowledge about HIV/AIDS and is often reinforced by discrimination based on other grounds.

What differentiates discrimination against Aboriginal people living with HIV/AIDS is the history of oppression, racism and social denigration experienced by Aboriginal communities. These factors often have the result of further marginalizing Aboriginal people affected by HIV/AIDS. It is with a regard to this context that the issue of discrimination, HIV/AIDS and Aboriginal people must be addressed.

To improve the human rights situation of Aboriginal people living with or affected by HIV/AIDS, the Project determined a number of approaches throughout the discussions undertaken for the Project. Significantly, very few of those interviewed, particularly from the Aboriginal community, expressed much faith in human rights legislation. Issues related to the human rights system include: (1) the application of federal and provincial human rights legislation to Aboriginal people and the application of the Canadian *Charter of Rights and Freedoms* to Aboriginal governments; (2) the impact of section 67 of the *Canadian Human Rights Act* on the human rights protections of Aboriginal people<sup>5</sup>; and (3) weaknesses in the human rights system, particularly for Aboriginal complainants.

Non-legal approaches to address discrimination against Aboriginal people living with or affected by HIV/AIDS were raised during the discussions for the Project. Many of those interviewed referred to the need

for education efforts to continue in Aboriginal communities, both urban and non-urban, and to the importance of increasing the involvement of Aboriginal leaders in HIV/AIDS issues. Further, it was suggested that non-Aboriginal people working in the field of HIV/AIDS have to develop a better understanding of Aboriginal cultures and traditions. Most importantly, it was emphasized that Aboriginal people should be involved in all aspects of the control, design, and direction of HIV/AIDS initiatives for Aboriginal people.

*Jurisdiction and funding issues:*

The division of jurisdictions between the federal and provincial governments often adversely affects aboriginal people in Canada. Disputes about the scope of the powers and the responsibilities of the provincial and federal orders of government often result in a policy vacuum that hampers the implementation of an effective response to HIV/AIDS. The development of self-government initiatives adds another layer of complexity to the question of the scope of jurisdictional powers and responsibilities. The discussion paper on issues related to jurisdiction and funding suggests that the spread of HIV/AIDS within the Aboriginal community as a whole indicates a need to reduce the impact of jurisdictional boundaries on the development and delivery of coordinated and comprehensive HIV/AIDS programs and services (Matiation, 2000b).

The Project highlighted issues related to jurisdiction, HIV/AIDS and Aboriginal people, such as (1) funding problems, including the inadequacy of funds and limited sources of funding, (2) the impact of divisions between federal and provincial/territorial governments on the development and delivery of coordinated and comprehensive HIV/AIDS programs and services for Aboriginal people, (3) the impact of interdepartmental barriers, within the federal government in particular, on coordination and collaboration, and (4) the impact of divisions within Aboriginal communities (between status and non-status, and off-reserve and on-reserve people, for example).

Some initiatives are presently underway to improve collaboration and coordination between federal and provincial/territorial government agencies working in the field of HIV/AIDS, and between departments and branches within government bureaucracies dealing with Aboriginal issues. The value of these initiatives is greater where Aboriginal participation in discussion and decision-making is supported.

Aboriginal HIV/AIDS strategies are another source of increasing collaboration and coordination in the area of Aboriginal people and HIV/AIDS. The discussion paper suggests that, following the example of Ontario and British Columbia, the development of such strategies in other

provinces and territories could be beneficial for Aboriginal people (Matiation, 2000b).

A focus on Aboriginal communities is now a program component in the Canadian Strategy on HIV/AIDS (CSHA). The discussion paper suggests that although this new focus indicates the recognition of a previously neglected problem - the impact of HIV/AIDS on Aboriginal people, the commitment of funding to Aboriginal communities under the CSHA is only a beginning in the development of a coordinated and comprehensive response to the increase in cases of HIV in the Aboriginal population.

*Testing and confidentiality issues:*

The low number of Aboriginal people seeking testing for HIV means that Aboriginal people with HIV/AIDS are often diagnosed and first receive treatment at later stages in their illness compared to other people with HIV/AIDS. The discussion paper on testing and confidentiality indicates that in order to address this problem and to be successful, strategies promoting HIV testing among Aboriginal people must reflect broader issues. These broader issues include racism in health services, the prevalence of low self-esteem among some Aboriginal people, particularly in some subgroups such as street-involved people, and problems of confidentiality in small communities (Matiation, 2000c).

There is now a consensus in Canada that people should be tested for HIV only with their informed, voluntary and specific consent, at least in theory and except in a few well-defined circumstances. Further, HIV testing should be accompanied by counselling and education before and following testing, and confidentiality of results or anonymity of testing should be guaranteed (Jürgens, 1998, p. 8). In practice, however, these conventions are not always followed. In particular, access to testing remains a problem for many people; testing for HIV without the specific informed consent of the person being tested is allegedly taking place more frequently; many people often do not receive adequate counselling; and, calls for mandatory or compulsory testing of certain groups of the population continue (Jürgens, 1998, p. 8).

These issues are as relevant to Aboriginal people as to the general population of Canada. However, as in the case of discrimination, an examination of testing and confidentiality issues must be conducted with an appreciation for the context of oppression and racism experienced by the Aboriginal community. These factors have contributed to the over representation of Aboriginal people in parts of Canada in some of the most marginalized groups, such as intravenous drug users, sex-trade workers, and

the homeless. In addition, these factors have contributed to the problems of ill health, which make some Aboriginal people vulnerable to HIV.

The following issues were identified in discussions as being particularly relevant to Aboriginal people: (1) the control and ownership of research and data involving Aboriginal people, (2) accessible options for HIV testing which overcome problems of remoteness, cultural difference, and reluctance to use mainstream facilities, (3) culturally appropriate pre- and post-test counselling, and (4) confidentiality in small communities.

Aboriginal people living with or affected by HIV/AIDS continue to experience discrimination. While early detection of HIV infection is a pressing priority, it would be a mistake to dismiss the importance of respecting a person's rights to confidentiality in favour of early detection without confidentiality and the availability of counselling and support. Arguments supporting accessible testing based on specific informed consent, accompanied by quality pre- and post-test counselling, and under conditions of confidentiality, are as pertinent to Aboriginal people as to anyone else. To date, however, the HIV testing available to Aboriginal people falls short of the ideal for a variety of reasons, which include discrimination in health care against Aboriginal people, particularly those in marginalized groups. The inaccessibility of testing services and support for many Aboriginal people, and a lack of confidentiality in some Aboriginal communities. In order to reduce the impact of HIV on Aboriginal people and to provide timely care, treatment and support for those already living with HIV/AIDS and for those who are not aware of their status, barriers to HIV testing for Aboriginal people must be eliminated.

#### *General themes:*

During the discussions conducted for the Project, a number of general themes emerged. Although these themes arose in relation to discussions about discrimination, jurisdiction and funding, and testing and confidentiality, it is arguable that they are relevant to other issues related to Aboriginal people and HIV/AIDS. Accordingly, they may inform other work in the area.

#### (i) A context of racism and cultural denigration:

Aboriginal people continue to experience the devastating effects of colonization and a history of racism and cultural denigration. In too many ways, Aboriginal people and their communities have to deal with problems associated with this experience. A response to the HIV/AIDS epidemic in Aboriginal communities must begin with an understanding of the

experience of Aboriginal people in Canada and must include consideration of and sensitivity to other social, cultural, economic and political issues.

(ii) Cultural reinvigoration and a time of transition:

Despite the legacy of racism and cultural denigration, resurgence is underway in Aboriginal communities. Advances in land claims negotiations, the implementation of self-government, and a reinvigoration of Aboriginal culture may have positive results for Aboriginal people. Although momentum is growing, there are many issues that continue to require attention and action. The advances made by Aboriginal people have required, and will continue to require, perseverance. In too many ways, Canada has been slow to recognize Aboriginal rights. Indeed, until fairly recently, problems affecting Aboriginal people were largely ignored. It is fair to say, however, that the changes underway for Aboriginal people are dramatic and have the potential to bring some benefits.

There is a risk that some people and some issues might be overlooked during this period of transition. HIV/AIDS-related discrimination makes this risk that much greater for people living with or affected by HIV/AIDS. It is important that attention be directed toward HIV/AIDS issues for Aboriginal people and the ways the variety of changes already underway may affect HIV/AIDS programs and services. The Laboratory Centre for Disease Control reports an increase in the proportion of total AIDS cases in Canada attributed to Aboriginal people from 2% before 1989 to more than 10% in 1998 (LCDC, 1999). Efforts must continue to halt this trend and to help those living with or affected by HIV to live in an environment characterized by understanding and acceptance rather than by discrimination.

(iii) Aboriginal control:

The driving force behind the resurgence in Aboriginal culture and identity comes from within Aboriginal communities themselves. The success of HIV/AIDS programs and services for Aboriginal people depends on the extent to which Aboriginal expertise guides, directs and implements the process. Aboriginal HIV/AIDS workers and Aboriginal people living with or affected by HIV/AIDS have a particularly significant contribution to make to the development of positive responses to HIV/AIDS issues for Aboriginal people.



## **Process Issues**

In light of the reinvigoration of Aboriginal communities and culture, and the continuing desire among Aboriginal people for control over their own issues, data, resources and communities, it must be asked whether non-Aboriginal people and organizations have a role in addressing issues related to HIV/AIDS and Aboriginal people. Clearly, there is no place for paternalism in Aboriginal affairs. Aboriginal people neither want nor need non-Aboriginal people telling them what their problems are and how to address them. Nevertheless, based on the discussions conducted for the Project, there continues to be a role for non-Aboriginal people and organizations in work related to Aboriginal HIV issues.

There are a number of reasons behind this need which include: (1) the energies and resources of Aboriginal people and organizations working in this field are often over-burdened; (2) organizations like the Legal Network which have developed expertise in HIV/AIDS can be useful to other organizations and the communities they serve; (3) a comprehensive response to HIV requires collective action; and (4) the objectives of non-Aboriginal HIV/AIDS organizations are often relevant to and can be achieved through partnerships with Aboriginal organizations. These four points are addressed in more detail below.

### *Limited resources for Aboriginal HIV/AIDS-related work:*

The allocation of resources to Aboriginal people made in the CSHA represents a milestone of sorts for Aboriginal HIV/AIDS issues, but this allocation follows a long period of neglect. For years, Aboriginal organizations sought funding on an unequal playing field and struggled for the broad recognition that there is an impact of HIV/AIDS on Aboriginal people.

The CSHA has not solved all the concerns for Aboriginal people regarding HIV/AIDS; resources continue to be over-burdened, capacity building within the Aboriginal community can be slow, and rates of infection continue to increase in the Aboriginal population. In light of the rising impact of HIV/AIDS on Aboriginal people, additional resources are necessary, which include shared resources from other organizations. Non-Aboriginal organizations can have a role in reducing the strain on existing resources in the Aboriginal community by assisting in the production of specialized materials that Aboriginal organizations may not have the time or resources to prepare. In addition, an organization like The Legal Network, for example, can contribute to the process of capacity building in Aboriginal communities through the wide distribution of their materials to

front-line workers and to others and by promoting dialogue about issues related to Aboriginal people and HIV/AIDS.

*Specialized expertise:*

Some HIV/AIDS organizations have developed specialized expertise. The Legal Network has developed a reputation for timely high quality contributions to discussions about legal, ethical and related HIV/AIDS policy issues. CAAN has expertise in Aboriginal issues and service delivery and development for Aboriginal people. The sharing of such specialized expertise between organizations can be beneficial to both.

Although Aboriginal HIV/AIDS organizations and workers can benefit from the contribution of specialized expertise to their work on Aboriginal HIV/AIDS issues, non-Aboriginal organizations must recognize the limits of their expertise in relation to Aboriginal communities. These organizations can learn a great deal about Aboriginal perspectives by partnering with Aboriginal organizations.

*The need for collective action:*

All organizations benefit from information sharing, collective research and partnerships where appropriate. Resources for HIV/AIDS-related work are limited for all organizations, and there is a degree of similarity between the experiences of the various organizations addressing HIV/AIDS issues. In particular, few organizations, both Aboriginal and non-Aboriginal, have resources to address legal and ethical issues in the comprehensive fashion that the Legal Network can. Similarly, few non-Aboriginal organizations have access to information respecting Aboriginal communities that CAAN and other Aboriginal service organizations have.

With respect to non-Aboriginal HIV/AIDS organizations, it is important that communities that may be affected by their work are involved in the process. In the case of the Legal Network, the implementation of a partnership with CAAN represents a step in the right direction. A lesson from the Legal Network/CAAN partnership, however, is that partnerships between Aboriginal and non-Aboriginal organizations, as with any partnership, should be based on joint planning from the outset and a fairly clear agreement between the partners about the goals, objectives and plan of action for the work, and about the responsibilities of each party. Partly because the partnership started as a second phase of the Project, rather than at the beginning of the first phase, the Legal Network/CAAN partnership fell somewhat short of the ideal of joint planning.

*Complementary objectives:*

Many HIV/AIDS organizations, at a basic level at least, share complementary objectives. It follows from the mission statement of the Legal Network, with respect to the promotion of ethical responses to HIV/AIDS, that the organization carries a positive obligation to reach out to all groups affected by HIV/AIDS and to take steps to promote the human rights of all people. As the principle HIV/AIDS organizations focussing on work related to legal issues in Canada, the Legal Network has a responsibility to be vigilant about legal and ethical issues which impact marginalized groups, including Aboriginal people living with or affected by HIV/AIDS. Similarly, as the national HIV/AIDS organization for Aboriginal people in Canada, CAAN has a responsibility to ensure that Aboriginal HIV/AIDS issues, including legal issues, are appropriately addressed and that the perspective of Aboriginal people is reflected in research and policy work. By combining their work, the two organizations further their complementary objectives, which include their overriding goal: to assist people living with or affected by HIV/AIDS. Similarly, other HIV/AIDS service organizations share a concern for the interests of marginalized groups, a desire to help those living with or affected by HIV/AIDS in general, and a need to further their specific objectives effectively through the efficient use of all available resources.

**Assessing the Partnership:**

The goals of the Project can be summarized as follows: (1) to bring attention to legal issues concerning Aboriginal people and HIV/AIDS and to contribute to a dialogue about these issues, (2) to develop the capacity of the Legal Network to address legal, ethical and policy issues concerning Aboriginal people by increasing its resources in the area and its understanding of the issues, and by developing relationships with Aboriginal HIV/AIDS organizations and workers, and (3) to develop a partnership between the Legal Network and CAAN. Despite some problems related to process, particularly during the first phase, the Project has gone some distance toward achieving these goals.

The discussion papers and other materials produced, the activities undertaken in connection with the Project, and the discussions conducted have, to a modest extent at least, helped raise awareness about legal issues, Aboriginal people and HIV/AIDS. In addition, the partnership between the Legal Network and CAAN has been a positive initiative that may lead to more collaboration between the two organizations in the future. If the partnership is to continue both parties will have to be committed to maintain the relationships which have developed.

There are ways that projects involving Aboriginal and non-Aboriginal HIV/AIDS organizations can be improved: (1) partnerships and work plans should be formalized early on with each initiative which possess a clear understanding and agreement about the objectives and the plan of action, and with the involvement of the partners from the outset and throughout the process; (2) discussions contributing to the materials generated by such partnerships need to be as broad as possible and need to include face to face meetings with people from different regions, and discussions with more front-line workers and people living with or affected by HIV/AIDS; and (3) it is necessary that Aboriginal people with expertise in HIV/AIDS and related issues be approached to review and comment on materials, and in some cases, to assist in the development of work plans and establishment of objectives and subject matters for the work early in the initiative.

With these improvements in mind, non-Aboriginal organizations can play a role in addressing issues related to Aboriginal people and HIV/AIDS. Some aspects of this role include: (1) being sensitive to the impact of certain issues on Aboriginal people and the distinct concerns which arise with respect to some issues for Aboriginal communities; (2) maintaining relationships with Aboriginal HIV/AIDS organizations, sharing information about issues as they arise and evolve, and sharing expertise and assistance where appropriate; (3) working to develop partnerships with Aboriginal HIV/AIDS organizations and new initiatives with such organizations which address relevant issues; and (4) continuing to contribute to the dialogue about issues related to Aboriginal people and HIV/AIDS.

Finally, in all cases, it is important that non-Aboriginal organizations approach initiatives related to Aboriginal people and HIV/AIDS with respect, sensitivity and, most fundamentally, with an openness to learn.

## **Recommendations**

Non-aboriginal organizations that wish to contribute to work related to Aboriginal people and HIV/AIDS may find the following recommendations to be of interest:

- Non-Aboriginal HIV/AIDS organizations should support Aboriginal HIV/AIDS organizations and those working in the field of Aboriginal people and HIV/AIDS by contributing their resources and expertise to Aboriginal HIV/AIDS organizations where appropriate. Aboriginal organizations will be able to indicate when such contributions would be appropriate.

- Non-Aboriginal HIV/AIDS organizations should make efforts to develop relationships and partnerships with Aboriginal HIV/AIDS organizations and Aboriginal HIV/AIDS workers. Formal partnerships should respect the authority of Aboriginal people to exercise control over work and over issues which affect them and should be based on: (1) joint planning from the outset; and (2) agreement between the partners about the goals and objectives of the work and about the respective responsibilities of the partners.
- Non-Aboriginal HIV/AIDS organizations should be vigilant about issues which have an impact on marginalized groups, including Aboriginal people living with or affected by HIV/AIDS, should consider Aboriginal issues related to HIV/AIDS, and should address these issues in their work.
- While recognizing that partnerships with Aboriginal organizations are preferable, non-Aboriginal HIV/AIDS organizations should act proactively in addressing Aboriginal issues in their work and in approaching Aboriginal HIV/AIDS organizations to offer support.
- Non-Aboriginal HIV/AIDS organizations should seek the participation of Aboriginal people in their activities and as members in their organizations and on their boards of directors.
- Work on HIV/AIDS issues should generally include consultation with Aboriginal people. Moreover, work on Aboriginal HIV/AIDS issues should be guided and controlled by Aboriginal people and organizations.

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## Endnotes

<sup>1</sup> This article is based on information contained in the three discussion papers prepared for the Project: *Discrimination, HIV/AIDS and Aboriginal People*, *HIV/AIDS and Aboriginal People: Problems of Jurisdiction and Funding*, and *HIV Testing and Confidentiality: Issues for the Aboriginal Community*, an article by Stefan Matiation ((1999, Spring). "Where Are My Human Rights?": Aboriginal People and HIV/AIDS. *Canadian HIV/AIDS Policy & Law Newsletter*, 4(2/3), 31-34), and a report prepared by Stefan Matiation for the Board of Directors of the Canadian HIV/AIDS Legal Network ((1999, June 30). *Report on Phase One and Two of the Project on Aboriginal People and HIV/AIDS: The Role of the Network*. Montréal: Canadian HIV/AIDS Legal Network).

<sup>2</sup> The revised discussion papers and the information sheets are available on the website of the Legal Network at [www.aidslaw.ca](http://www.aidslaw.ca) and through the Canadian HIV/AIDS Clearinghouse (tel: (613) 725-3434; email: [aids/sida@cpha.ca](mailto:aids/sida@cpha.ca)).

<sup>3</sup> See Matiation, Stefan. (1997, December) *First Perspective* , 6(10).

<sup>4</sup> See Matiation, Stefan. (1999, Spring). Ibid at 1.

<sup>5</sup> Section 67 of the *Canadian Human Rights Act* R.S.C. 1985, c. H-6 (the CHRA) provides that: Nothing in this Act affects any provision of the *Indian Act* or any provision made under or pursuant to that Act. The effect of this provision is to immunize the legislative provisions of the *Indian Act* R.S.C. 1985, c. I-5 and that which is done by the federal government and band councils pursuant to that Act from scrutiny under the CHRA. This provision has been interpreted narrowly. To review how the judiciary and the Canadian Human Rights Commission have considered the

provision, see *Canadian Human Rights Commission v. Canada (Department of Indian Affairs and Northern Development)*, [1995] 3 CNLR 28 (FCTD) at 40, *Re Desjarlais and Piapot Band No. 75*, [1990] 1 CNLR 39 (FCA), and *Courtois v Canada (Department of Indian Affairs and Northern Development)*, [1991] 1 CNLR 40 (Cdn Human Rights Trib). For more details, see Stefan Matiation. (2000a).

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