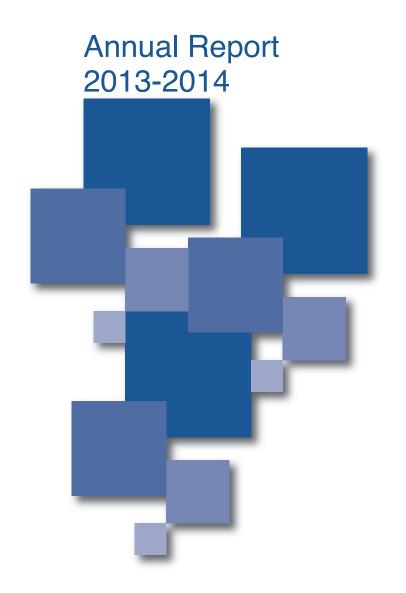


Free legal services for people living with HIV/AIDS in Ontario



The HIV & AIDS Legal Clinic Ontario (HALCO) is a not-for-profit charitable organization founded in 1995.

HALCO's Mission

The mission of HALCO is to provide legal services to persons living with HIV/AIDS in Ontario that are relevant to their well-being and that enable them to participate fully in the communities in which they live.

HALCO's Vision

HALCO's vision is a society where laws and the legal system help reduce discrimination, stigma, poverty and injustice faced by people living with HIV/AIDS.

HALCO's Statement of Principles

It is agreed that:

- 1. People living with HIV/AIDS are confronted with unique legal problems of enormous proportions and complexity;
- 2. Those best equipped to make choices regarding HIV/AIDS issues and problems are those individuals who are HIV-positive themselves;
- 3. People living with HIV/AIDS must have control over their own lives;
- The HIV/AIDS affected communities are very diverse and are confronted by overwhelming challenges derived from both their diversity and from their common experience as people living with HIV/AIDS;
- It is necessary to create and foster a climate of understanding and mutual respect for the dignity and worth of people living with HIV/AIDS; and
- 6. The confidentiality, bodily security, autonomy and privacy of people living with HIV/AIDS must be respected, which include but are not limited to:
 - a) the right of individuals to exercise control over their own medical treatment;
 - b) the right of individuals to exercise control over decisions concerning their own socio-economic position;
 - c) the right of all persons living with HIV/AIDS to be fully informed of all processes and procedures in which their interests are in any way involved; and
 - d) the right of all persons living with HIV/AIDS to consent, or withhold their consent, in all matters affecting them.

Message from the Chair and the Executive Director



On behalf of the board of directors and staff of the HIV & AIDS Legal Clinic Ontario, we are very pleased to provide this year's annual report.

Since our inception in 1995, we have done our utmost to assist people with HIV in overcoming the rampant stigma that unfortunately persists in Canada. To this end, since opening our doors we have handled approximately 50,000 legal issues and engaged in countless public legal education, law reform, and community development initiatives.

This past year we continued to engage in front-line and systemic work. While it is no secret that in recent years the legal and political climate has been difficult in relation to a number of issues of concern to people with HIV, this year saw some positive developments. In cases we were involved with, the Supreme Court of Canada stood up for the rights of sex workers, and reinforced the centrality of patient consent in the health care setting. The Federal Court struck down problematic changes that denied refugee claimants health care. The City of Toronto hosted the very successful World Pride celebration, at which we had a strong presence.

Over the past year, we continued to work for such developments. We appeared at the Supreme Court of Canada in order to convince the Court to do the right thing in relation to the criminalization of HIV non-disclosure. Also, we appeared at the Court of Appeal for Ontario to support the establishment of a right to housing. As well, we launched a ground-breaking project exploring the legal needs of trans* communities in Ontario. In addition, we are on the steering committee of a project exploring co-location with other specialty community legal clinics with provincial mandates (this has already led to exciting new partnerships).

Message from the Chair and the Executive Director

In the coming year, with the help of people with HIV and human rights organizations, we will continue to work to end stigma and bring about justice for people with HIV. In addition to providing advice and representation to people with HIV across Ontario, we will be appearing at the Supreme Court of Canada in matters relating to autonomy in the health care setting and criminalization of HIV non-disclosure.

We warmly thank all of you for your ongoing support and participation in our activities. The pages that follow highlight some of the activities of our busy year (please note that the Activity Report is for the period of August 1, 2013 to July 31, 2014, while the Audited Financial Statement is for the period of April 1, 2013 to March 31, 2014).

Michael Capp Barrister & Solicitor Chair, Board of Directors

Signature

Ryan Peck Barrister & Solicitor Executive Director

Signature



HALCO's primary focus is the provision of direct legal services for people living with HIV in Ontario. The clinic's direct legal services, referred to as "casework," are comprised of intake (summary advice, brief services, and referrals), and representation. HALCO's areas of legal practice include:

- Housing
- Income Maintenance
- Human Rights
- Immigration Employment
- Standards

- Privacy
- HealthSubstitute
- Decision-Making
- Regulated Health Professions complaints
- HIV/AIDS-related prison matters
- Insurance
- Other administrative law matters

3

HALCO staff are also often able to provide information, advice and referrals in other areas of law.

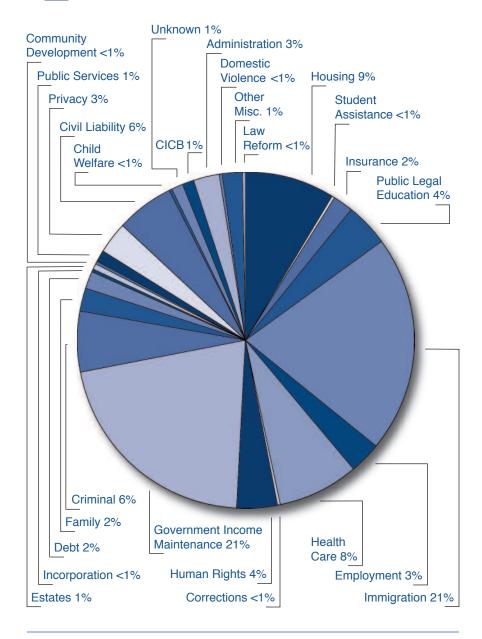
Intake - Advice, Brief Services and Referrals

HALCO continues to devote the majority of its resources to intake services. The clinic's intake services are available to people with HIV in Ontario, regardless of income.

The clinic handled over 4000 intakes in this reporting period, which amounts to more than 335 intakes per month. Housing and income maintenance matters comprised over 30% of intakes, and immigration matters comprised over 20%. The remainder were extremely varied, including criminal, health, human rights, and privacy law matters.

The chart on the following page provides a breakdown of HALCO's intake services by area of law for the reporting year of August 1, 2013 to July 31, 2014:

CASEWORK





Representation

In addition to intake, the clinic provides full legal representation to financially eligible people living with HIV in Ontario. For this reporting period, the clinic opened 245 case files.

Almost 55% of the case files consisted of housing and income maintenance matters, and over 25% consisted of immigration matters. The clinic also assisted clients with various other legal issues, including human rights, privacy, and health law matters.

Some Case File Examples

- We assisted a number of clients in maintaining their rent-geared-toincome housing, including a client who was facing an eviction order that was issued while he was overseas visiting a dying relative.
- We assisted a number of clients to obtain long and short-term disability benefits after they were unfairly denied benefits.
- After three years of delay, we finally received a positive decision for a lesbian from an African country acknowledging she is a Convention Refugee due to persecution based on HIV status and sexual orientation.

- Three clients whom we have been representing for many years were finally approved to stay in Canada:
 - a family from the Caribbean,
 - a client with early onset dementia from an African country, and
 - a gay man from Southeast Asia.

A primary argument in all three cases was the hardship they would face in their home countries due to HIV-related stigma and discrimination.



HALCO works to improve laws and the legal system to better meet the needs of people living with HIV. Law reform activities are frequently based in community development initiatives and seek to involve as many and as broad a range of individuals living with HIV as possible. We have played leading roles in campaigns, court interventions and more.

In this reporting period, the Supreme Court of Canada released positive decisions in relation to three matters in which we intervened:

- the criminalization of HIV non-disclosure (*R. v. Hutchinson*),
- health care and consent to treatment (Cuthbertson v. Rasouli), and
- sex work (Canada v. Bedford).

We appeared at the Supreme Court and the Court of Appeal for Ontario during this period, and are currently preparing materials in relation to Supreme Court matters related to the criminalization of HIV non-disclosure (*R. v. Wilcox*) and autonomy in health care decision-making (*R. v. Carter*). Moreover, we launched a legal needs assessment for trans* Ontarians, participated in various activities during World Pride 2014, and played (and continue to play) a central role in the co-location project being undertaken by provincially mandated specialty legal clinics.

Criminalization of HIV non-disclosure

Canada continues to be one of the world leaders in pursuing prosecutions in relation to HIV non-disclosure, and this continues to be the most pressing legal issue facing people with HIV in Canada. Contrary to current scientific research surrounding HIV and HIV transmission risks, people with HIV are being branded as violent sexual offenders and facing lengthy jail sentences in relation to behaviors that pose negligible to approaching zero risk of HIV transmission.



For example, people with HIV who do not disclose their HIV status before sex with a condom can be convicted of aggravated sexual assault, which is an offence designed to respond to the most violent of forced sex acts. Aggravated sexual assault carries a maximum sentence of life imprisonment as well as registration on the sex offender registry.

To respond to the crisis of the current approach to the criminalization of HIV non-disclosure, and to ensure that the law is developed in accordance with up-to-date science and human rights, HALCO continues to:

- provide information and advice to people with HIV,
- work with defence counsel to ensure the best possible representation for people accused of non-disclosure offences,
- fight for prosecutorial guidelines for Crown prosecutors handling allegations of HIV non-disclosure, and
- intervene in cases in Canada's appeal courts, including the Supreme Court of Canada.

With respect to interventions, in this reporting period HALCO, along with the Canadian HIV/AIDS Legal Network (Legal Network), intervened in the matter of *R. v. Hutchinson* at the Supreme Court of Canada. The *Hutchinson* case, which did not include HIV-related allegations but involved a man who poked holes in condoms knowing that his partner wanted to use condoms, was about fine distinctions in the law of sexual assault that could have had very broad and negative implications for people living with HIV. The Crown's approach could have made the application of the criminal law even wider than it already is, thereby potentially leading to a duty to disclose HIV status even if there is zero risk of HIV transmission. Fortunately, the Supreme Court agreed with our arguments, and while the law surrounding HIV non-disclosure remains highly problematic, we are relieved that the Supreme Court did not agree with the Crown position. In late 2014, we will be intervening in *R. v. Wilcox*, another criminalization matter that the Supreme Court will be considering.



Also in this reporting period, the Ontario Association of Chiefs of Police released its *Best Practices in Policing and LGBTQ Communities in Ontario*, which incorporates recommendations made by HALCO and the Legal Network on the importance of developing guidelines for police handling HIV-related investigations. In addition, HALCO continues to play a leading role in the Ontario Working Group on Criminal Law and HIV Exposure (CLHE) campaign for law reform in this area.

Health Law

It is vital that the confidentiality, bodily security, autonomy, and privacy of people living with HIV/AIDS are respected. This includes the right of individuals to exercise control over their own medical treatment. HALCO is therefore involved in a number of health law matters.

In late 2012, HALCO intervened in *Cuthbertson v. Rasouli* (*Rasouli*) at the Supreme Court of Canada. This case is about consent in the health care setting, and, in particular, the right of patients and their substitute decision-makers to make health care decisions. Mr. Hassan Rasouli fell into a coma in 2010. His physicians wanted to withdraw life support against the wishes of Ms. Parichehr Salasel, Mr. Rasouli's wife and substitute decision-maker. Ms. Salasel took the matter to court to stop the physicians from withdrawing life support from her husband.

The case went all the way to the Supreme Court of Canada, and HALCO, in partnership with the Mental Health Legal Committee, intervened. In a decision released in October 2013, the Supreme Court found that consent is required for the withdrawal of life support. The Supreme Court's decision has profound implications for all medical treatment, not only treatment at the end of life. We applaud the Supreme Court for standing up for the principle of "no treatment without consent," and for making it clear that patients must be in control of life and death decisions.



In autumn 2014, HALCO, along with the Legal Network, will be intervening in *R. v. Carter*, another case about the rights of patients. The *Carter* case is about the right to assisted death, however, at its core, the case has broad implications for how we, as a society, allow people to live their lives and make important choices related to their personal health. No matter the health issue, the law must respect and protect autonomy in medical decision-making. For people living with HIV or other disabilities, who have longstanding interactions with the health care system, this is particularly vital. We very much look forward to presenting our arguments at the Supreme Court.

Sex Work

Canada's laws surrounding sex work continue to harm those engaged in sex work. While sex work itself is not illegal, Canada's *Criminal Code* prohibits sex workers from communicating in public for the purpose of engaging in sex work, working with other sex workers, or hiring individuals such as bodyguards or drivers. These prohibitions force sex workers into very dangerous situations, thereby exposing them to physical harm and impeding access to health care services.

In 2010, in *Canada v. Bedford*, an Ontario judge found all of these *Criminal Code* provisions unconstitutional. The matter was appealed to the Supreme Court of Canada, and in 2013, HALCO, along with its partners, made arguments at the Supreme Court. In December 2013, the Supreme Court, in a landmark ruling, upheld the trial decision and struck down the above-noted provisions of Canada's prostitution laws as unconstitutional. We applaud this decision to uphold sex workers' human rights.



Unfortunately, the federal government responded to the Supreme Court decision by proposing legislation that will reproduce the harms that the Supreme Court found unconstitutional. Bill C-36, the proposed legislation, criminalizes sex workers, clients, and many of those who live and work with sex workers. Simply put, Bill C-36 is far more expansive and its consequences will be felt much more widely than the government suggests. HALCO will continue to work with sex worker organizations and others to ensure that sex workers' human rights are secured.

Trans* Legal Needs Assessment

It is clear that pervasive experiences of discrimination, harassment, and social marginalization exist for trans* people, including trans* people living with HIV. As a result, we are leading the *Trans* Legal Needs Assessment (Ontario)* project to help ensure that the legal needs of trans* people in Ontario are being met and determine the barriers that trans* people face in accessing justice.

The project is designed to:

- 1. assess the legal needs of trans* community members, and the needs of lawyers/legal service providers in serving trans* clients,
- conduct education and information sessions with trans* community members as well as lawyers/legal service providers in cities around Ontario, and
- 3. identify barriers to accessing justice and make recommendations to improve access to justice and substantive justice for trans* Ontarians.



While the project is focussed on the needs of the broader trans* community, a specific component will be dedicated to trans* people living with HIV. Data will be collected through surveys that will be distributed across Ontario and through focus groups that will be held across the province.

The project is funded by Legal Aid Ontario (LAO), with additional funding provided by the Ontario HIV Treatment Network (OHTN) to better meet the needs of those living with HIV. Project partners include The University of Western Ontario and the University of Toronto.

World Pride 2014

In June 2014, Toronto hosted World Pride 2014, and HALCO was extremely pleased to participate in this very important event.

Along with ARCH Disability Law Centre and the Advocacy Centre for the Elderly, we participated in a panel focusing on sex, rights and the law. We also played a leading role in the World Pride Welcome Coalition information session and reception to assist attendees to understand Canadian immigration/refugee law.

In addition, we participated in a panel on the criminalization of HIV at the World Pride international human rights conference. We also staffed an information booth during the Pride weekend. We extend our gratitude to Paul Brown Boxfit for choosing HALCO as the beneficiary of their beer garden at World Pride.



Specialty Legal Clinic Co-location Project

A number of Ontario's specialty community legal clinics and the Association of Community Legal Clinics of Ontario (ACLCO) have been exploring the feasibility of a co-location model. The clinics anticipate that co-location will promote further collaboration and information exchange amongst the clinics, enable collective investment in improved information technology, reduce overall leasing costs, and provide an opportunity to increase the efficiency of administrative systems. Most importantly, the project will facilitate improved services for the clinics' communities.

This project has two phases. Phase 1 was exploratory with the primary objective of establishing an understanding of the participating clinics' current states including geographic requirements and functional space needs. This informed a high-level concept for the co-location space that clinics were able to reference when deciding if co-location is an appropriate form of transformation for their clinic. We are now in Phase 2 of the project which is focussed on facilitating the transition to a new space. ACLCO and ten specialty clinics, including HALCO, have agreed to proceed at this stage.

All participating clinics have agreed that the project is not about the merging of clinics, but about co-location. All clinics will maintain their current incorporated status and continue to be governed by independent boards of directors representative of the communities they serve. In addition, administrative savings realized through the project will be reinvested in the specialty clinics to enhance client service, and support and strengthen the clinic system. It is important to note that HALCO has made it clear that it requires its own distinct office space in order to respond to the unique confidentiality concerns of people with HIV.



Public Legal Education

HALCO provides information in print, on-line and in person to help people understand legal issues, advocate for themselves, and seek broader social change.

HALCO also provides public legal education for governmental and non-governmental organizations.

For this reporting period the clinic opened 220 public legal education files, over 65 of which related to in-person workshops.

While a significant number of workshops focussed on public health law and the criminalization of HIV non-disclosure, many other legal topics were covered, including immigration, social assistance, privacy, and human rights.

Workshop participants included people with HIV, AIDS service organization staff, legal clinic staff, lawyers, law students, health care professionals, government officials, and others.

During this period, we also produced two newsletters and had over 92,000 visits to our website. In addition, we published an updated version of our *HIV disclosure: a legal guide for gay men in Canada*, as well as a new consumer/debt guide entitled *I owe money...I am having trouble paying my bills* (both are also available in French).



HALCO's James Kreppner Awards

The late **James Kreppner**, a local, national and international social justice and human rights advocate, was a great friend to HALCO and to people with HIV and Hepatitis C. In recognition of James' innumerable contributions, HALCO established the **Kreppner Award** in 2010. The award recognizes the efforts of people who have made significant contributions in advocacy for and support of people with HIV or people with HIV and Hepatitis C in Ontario.

At HALCO's 2013 annual general meeting, Kreppner Awards were presented to criminal defence lawyers **Cynthia Fromstein** (sole practitioner) and **Jonathan Shime** (Cooper, Sandler, Shime & Bergman LLP). Both are exceptional in that they not only advocate tirelessly for their clients facing criminal charges, but also contribute time and expertise to systemic advocacy to oppose the expansive and unjust use of the criminal law in relation to HIV non-disclosure. Each stands with people who are socially marginalized, stigmatized and disadvantaged – and treats them, their cases, and the larger issues at play with intelligence, dignity and respect. In their work with and on behalf of people with HIV, they embody the highest ideals of the legal profession. Their contributions cannot be underestimated.



Board of Directors and Staff

Board of Directors

Laura Bisaillon Michael Capp, CHAIR Eric Cashmore

Tracy Gregory, SECRETARY-TREASURER

Peter Gross

John McCallum, VICE-CHAIR

Eric Mykhalovskiy Barbara Ncho Greg Simmons

Staff

Meagan Johnston, STAFF LAWYER

Renée Lang, STAFF LAWYER

Rick Lobodzinski, administrative assistant

Jill McNall, COMMUNITY LEGAL WORKER

Bill Merryweather, director of administration

John Nelson, STAFF LAWYER
John Norquay, STAFF LAWYER

Ryan Peck, EXECUTIVE DIRECTOR/LAWYER

Amy Wah, STAFF LAWYER

Javier Arvizu, Articling Student (July 2013 – May 2014) Ashley Jacobs, Articling Student (July 2014 – May 2015)

Audited Financial Statement for period

April 1, 2013 to March 31, 2014

HIV & AIDS Legal Aid Clinic (Ontario) Statement of Financial Position

March 31

	LAO Operating Fund	MOH AIDS Bureau Fund	LAO Legal Disbursements Fund	Donations Fund	TCTC Fund	Project Funding Fund	2014 Total	2013 Total
Assets Current assets Cash Interfund advances Short-term investments Funding receivable Sales tax recoverable Prepaid expenses	\$ 54,100 12,591 - 59,719 7,587 	\$ 22,465 4,554 - - 255 \$ 27,274	\$ 462 500 - 253 - \$ 1,215	\$ 5,457 (5,100) 75,091 - 457 \$ 75,905	\$ 35,004 (3,031) - 2,133 	\$ 33,998 (9,514) - 25 - - \$ 24,509	\$ 151,486 75,091 59,719 10,710 11,453 \$ 308,459	\$ 221,770 83,535 5,000 9,465 11,603 \$ 331,373
Liabilities and fund balances Current liabilities Accounts payable and accrued liabilities Deferred revenue Interfund payable (receivable)	\$ 41,650 118,616 28,793 189,059	\$ 17,781 - 21,857 	\$ - - 303 - 303	\$ 443 - (38,988) (38,545)	\$ 3,031 42,890 (3,005) 42,916	\$ 1,894 48,074 (8,960) 41,008	\$ 64,799 209,580 	\$ 69,845 162,029
Fund balances (deficit) Externally restricted Internally restricted Unrestricted	(43,609) (43,609) \$ 145,450	(12,364) 	912 - - - 912 \$ 1,215	114,450 	(8,810) - - - (8,810) \$ 34,106	(16,499) - - - (16,499) \$ 24,509	(36,761) 114,450 (43,609) 34,080 \$ 308,459	(10,187) 150,302 (40,616) 99,499 \$ 331,373

Audited Financial Statement for period

April 1, 2013 to March 31, 2014

HIV & AIDS Legal Aid Clinic (Ontario) Statement of Operations and Fund Balances Year ended March 31

	LAO Operating Fund	MOH AIDS Bureau Fund	LAO Legal Disbursements Fund	Donations Fund	TCTC Fund	Project Funding Fund	2014 Total	2013 Total
Revenue								
Legal Aid Ontario	\$ 582,894	s -	\$ 4.930	\$ 1.880	\$ 31,325	\$ -	\$ 621,029	\$ 599.338
Direct receipts Indirect receipts	\$ 562,694 8,516	a -	р 4,930	\$ 1,880	\$ 31,325	Ф -	\$ 621,029 8,516	\$ 599,338 9.090
AIDS Bureau	0,510	329,150	-	-	-	-	329,150	329,148
Project funding	-	329,130	-	-	-	56,397	56,397	63,005
Donations	-	-	-	21,426	-	30,397	21,426	58.445
Interest	157	27	3	1,564	18	40	1,809	1,145
Recovered from clients	157	21	1,066	1,504	- 10	40	1,066	1,446
Necovered normalients	591,567	329,177	5,999	24,870	31,343	56,437	1,039,393	1,061,617
		329,177		24,070		30,437	1,055,555	1,001,017
Expenses								
Salaries and benefits	396,488	322,567	-	43,705	-	68,243	831,003	857,176
Occupancy	100,972	-	-	-	-	-	100,972	98,166
Indirect payments	8,516	-	-	-	-	-	8,516	9,090
Supplies and services	28,430	2,500	-	25	-	-	30,955	25,178
Communications	20,848	-	-	-	-	-	20,848	24,158
Library	9,853	-	-	-	-	-	9,853	9,276
Travel	9,978	-	-	-	-	-	9,978	9,447
Professional dues	11,369	6,105	-	-	-	-	17,474	13,145
Equipment and maintenance	8,106	-	-	-	-	-	8,106	6,939
Fundraising development	-	-	-	16,992	-	-	16,992	14,939
Legal disbursements	-	-	10,221	-	-	-	10,221	8,334
Project expenses	-		-		39,894		39,894	31,984
	594,560	331,172	10,221	60,722	39,894	68,243	1,104,812	1,107,832
Deficiency of revenue over expenses	(2,993)	(1,995)	(4,222)	(35,852)	(8,551)	(11,806)	(65,419)	(46,215)
Fund balances (deficit), beginning of year Interfund transfer	(40,616) 	(10,369)	5,134	150,302	(259)	(4,693)	99,499	145,714
Fund balances (deficit), end of year	\$ (43,609)	\$ (12,364)	\$ 912	\$ 114,450	\$ (8,810)	\$ (16,499)	\$ 34,080	\$ 99,499

Notes



Funders and Donors

The generosity of HALCO's funders and donors allows the clinic to provide legal services to the HIV community. The clinic is grateful to all those who provide support, and particularly grateful to the following funders:

Core Legal Aid Ontario

Funders Ministry of Health and Long-Term Care

Funding Visionary: M·A·C AIDS Fund

Partner

HALCO also sincerely thanks all of the individuals who provided volunteer services and donations.



Thanks

HALCO extends special thanks to the following for their support of the clinic's work:

Michael Battista Jennifer Hild Priva Sarin Pablo Irribarra Megan Schwartzentruber Mark Blans Jonathan Shime Lizz Bryce Senay Johnson Paul Champ Jesse Kalyshov Maddy Tosca Cécile Kazatchkine Richard Wazana Matt Cohen Paul DeCunha Paul Lewin Flying Beaver Pubaret Marie-France Major Paul Brown Boxfit Hana Dhanji Richard Elliott Aadil Mangalji Pro Bono Law Ontario Eugene Meehan, Q.C. Pro Bono Students **Neil Evans** Anthony Navaneelan Sari Fefferman Canada Michael Power The 519 Church Street Michael Fenrick Cynthia Fromstein Rohan Robinson **Community Centre**

HALCO

HIV & AIDS Legal Clinic Ontario 65 Wellesley Street East, Suite 400 Toronto, Ontario, Canada M4Y 1G7 Telephone: 416-340-7790

Toll-free: 1-888-705-8889 E-mail: talklaw@halco.org

www.halco.org

©2014

HIV & AIDS Legal Clinic Ontario