

FUCKLAWS Collective

[Figures 65–66, pp 197–198]

It is fitting that that the FUCKLAWS collective appear for the first time in a journal publication called Scapegoat, since thematically, our subject contends with just that: the use of punishment towards a distinct population in order to instill terror into a wider one, i.e. that of Canada's estimated 84,000 HIV positive people. The FUCKLAWS collective has something to say about this.

HIV positive people in Canada live in constant fear of being criminalized. Before the advent of highly effective anti-retroviral medication, moral panic around the spread of HIV created a legal precedent, steeped in fear and stigma, that required all HIV positive people to inform their sexual partners that they are carriers of the virus in order for any sex act to be considered consensual. Since the earliest criminal cases to employ this AIDS-crisis-era precedent, Canada has become a world leader in the prosecution of what is known as "HIV non-disclosure."¹ In such cases, people who fail to prove that they have disclosed their status to a partner are considered to have committed sexual assault. Although HIV is now treatable using a variety of medications that can prevent carriers from transmitting the virus through sexual contact, the legal framework has maintained the stigmatization of HIV-positive people's bodies in favour of what is seen as a necessary deterrent to protect HIV-negative (and *ipso facto* innocent) citizens. This solution, a throwback to AIDS crisis-era paranoia, is putting HIV-positive people in prison using the full force of police investigation, harassment, public denunciation, prosecutorial flair, and court ambivalence to things such as medical science.

The FUCKLAWS collective was formed out of a one-time creative workshop at Concordia University's Centre for Exhibition and Research in the Aftermath of Violence (CEREV) with visiting facilitator Avram Finkelstein. A member of activist art collective Gran Fury, and a founding member of the Silence Equals Death Collective,² Finkelstein was in Montreal to deliver the presentation "Collective Queer Cultural

¹ Sarah Schulman, "Canada's Vicious HIV Laws: How the Supreme Court Redefined Safe Sex," *Slate.com*, May 5, 2014, www.slate.com/articles/health_and_science/medical_examiner/2014/05/canada_criminalizes_nondisclosure_of_hiv_status_shifts_responsibility_from.html.

² NYC-based activist art collective Gran Fury was founded in 1988. Their poster art has become canonical in the history of AIDS art, particularly their 1987 AIDS GATE and 1989 KISSING DOESN'T KILL. Contrary to popular belief, the iconic Silence = Death poster was created by a distinct but overlapping group of activist artists, including Finkelstein, who was interviewed in *FUSE Magazine* (19 September 2013): <http://fusemagazine.org/2013/09/silenceequals>.

Production, AIDS, and the Public Sphere" as part of the Concordia Community Lecture Series on HIV/AIDS at the Canadian Centre for Architecture in January 2014. The following day, Finkelstein joined a dozen students, artists, activists, and community members—both HIV positive and not—in a day-long workshop on how to create visual messaging on an issue that haunts all HIV-positive people, no matter how diligent they are about disclosing their status.

The issue of HIV non-disclosure as a crime has received increased attention since two 2012 Canadian Supreme Court decisions known as *R. v. Mabior* and *R. v. D.C.* These contentious decisions still allow HIV-positive people to be accused of sexual assault simply for not disclosing their status to a partner. The nuance that HIV-positive people could be deemed innocent if they use a condom and have a very low viral load, is unlikely to help curb the rate of prosecutions since what remains is this: the carriers of the virus are still required to prove their innocence and are essentially considered guilty by virtue of having HIV. The fact that women have less control over how and when condoms are used (in heterosexual sex) and that it is harder for HIV-positive women to attain an undetectable viral load was not taken into consideration by the court. Paraphrasing one prominent woman HIV/AIDS activist's response to the decisions: we're all still just one bad break-up away from a malicious accusation, and potentially, a prison term. It is also widely acknowledged that the criminalization of HIV non-disclosure discourages people from getting tested (2) and that such laws have no positive impact on public health. UNAIDS and the U.S.-based HIV Justice Network have confirmed growing anecdotal evidence from front-line HIV/AIDS workers that the criminalization of non-disclosure does nothing to stem the spread of the virus. Rather, the fear of criminal accusations and imprisonment discourage HIV-affected people from getting tested because deniability would preclude such accusations from having any legal impact.⁻³

Hence the message from the FUCKLAWS flash collective's day together: "I HAVE HIV CALL THE COPS" and the corollary "GET TESTED—GET ARRESTED" were created in order to draw attention to the disproportionate use of state and police force against an already stigmatized population. Taking our cue from Gran Fury's sometimes brash style (particularly the Reagan remixes "AIDSGATE" and "He

Kills Me”) and Aids Action Now’s “Think Twice”—⁴ campaign, the message is directed both to an uninformed public and to readers who might consider availing themselves of unjust criminal laws to persecute their sexual partners. In light of Montreal student activists’ tense relationship with an increasingly powerful and nefarious police force, the photo contained in the image is particularly pertinent: police, as the physical manifestation of the law’s force, can be tools of oppression, manipulated by unfounded fears, such as the fear of having an educated populace with access to universal, affordable post-secondary tuition.—⁶

The image calls on the reader to reconsider what involving the police in cases of consensual sex with an HIV-positive person could mean: that the legal treatment of HIV non-disclosure does not serve to protect anyone, but rather holds the fear of incarceration like a sword of Damocles over an already stigmatized population.

Follow us for more agit-prop, rage-art, gifs, and potential future actions, at <http://fucklaws.tumblr.com>.

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“Criminalisation of HIV Non-Disclosure, Exposure, and Transmission: Background and Current Landscape,” UNAIDS, February 2012, www.unaids.org/en/media/unaids/contentassets/documents/document/2012/Background-CurrentLandscapeCriminalisationHIV_Final.pdf.

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“Think Twice: HIV is Not a Crime,” Aids Action Now, October 16, 2013, www.aidsactionnow.org/?p=1149.

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The image chosen for the background was meant to reference the UN-condemned use of excessive police force during Québec’s highly publicized 2012 student strike, which sought through civil disobedience to oppose the Liberal Charest government’s highly unpopular proposed tuition increase.



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Savais-tu que le VIH n'affecte pas seulement le système immunitaire mais aussi son statut légal? Si on t'accuse d'exposer quelqu'un au VIH, les autorités peuvent vous interpellé* (même lorsqu'il n'y a pas transmission). Un partenaire sexuel peut ainsi t'accuser de ne pas avoir divulgué ton statut, ce qui demeure un acte criminel.

Toute personne séropositive vit sous la menace d'être ciblée par ces lois. Une manière certaine de ne pas être tenu responsable c'est de simplement ne pas connaître son statut, ce qui est contradictoire à la santé et à la prévention. La vraie menace, ce n'est pas les personnes séropositives, c'est le système de droit criminel!

•
Voie de fait
Voie de fait grave
Agression sexuelle
Agression sexuelle grave
Administer une substance nocive
Homicide
Homicide involontaire



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Did you know that HIV affects your immune system and also your legal status? If you are accused of exposing someone to HIV the state can charge you with a crime* (even when there is no transmission). This includes a sex partner claiming you didn't tell them that you are HIV+

All HIV+ people live in fear of being targeted by these laws. A surefire way to avoid legal liability is to not know your status. But this is counter-productive to our health and doesn't prevent transmission. HIV+ people are not the threat, the criminal justice system is!

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Assault
Aggravated assault
Sexual assault
Aggravated sexual assault
Administering a noxious substance
Attempted murder
Manslaughter
Murder



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Figure 66