

Why we should form an international coalition against women's imprisonment...

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Presented by

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Abstract: Women are the fastest growing prison population world-wide. This paper will focus on the recent global trends to increasingly criminalize women and girls, especially those who are poor and racialized. It will also explore the factors that are contributing to women and girls being characterized as becoming more violent.

This paper will highlight the potential possibilities of a world-wide coalition to end the imprisonment of women. It will also focus attention upon the nature and circumstances under which women are criminalized. By so doing, it will also encourage conference participants to examine their own perspectives as to the manner in which women who commit violence, as well as those who enjoy greater privilege should be dealt with by the criminal justice system. All of the foregoing will be explored within the context of class, race, and sex/gender.

Wearing the wisdom of past work and fuelled by the excitement of the forthcoming possibilities, I will attempt to provide you with an overview of our challenges and achievements as well as a glimpse into the future that is possible...

As we gather together here for these few very important days, my government and yours are in the process of manipulating our respective citizenries to believe that they are working to better protect our collective security with an increased focus on "organized crime". Yet the authorities of the State are still really focussed on catching and jailing the disorganized ones, and by cutting legal aid, charter protections, et cetera. What they are really up to is a transparently veiled plan to diminish and/or remove constitutionally enshrined human and civil rights of any groups and individuals whom they decide to define as subversive, organized and/or terrorist in orientation. Meanwhile they are also creating ever greater numbers of disenfranchised and unconnected members of our communities by openly slashing health, education and social services in order to feed and finance corporate profit and greed.

In the less than 48 hours since I left Canada, I have been notified of one lifer's death in custody, another woman who just lost her children to the state and yet another whose child was suspended from school after reacting physically to racist taunts from another student - the racist taunter was given a "talking to", but was not suspended. We all know and live the realities of these very graphic illustrations of discriminatory applications of criminal law and social policy.

It is very difficult to talk or write about our work without alternately feeling extreme despair or outrage. Indeed, I find that much of my work and actions are driven by

emotions that vacillate between the two. Part of the difficulty in addressing the issues that are increasingly arising for women prisoners in Canada and internationally, is the reality that things are supposed to have improved significantly since the bleak days of only one federal prison for women in Canada.

It is now almost twelve years since Creating Choices (Report of the Task Force on Federally Sentenced Women) was accepted by the Correctional Service of Canada (CSC), just over six years since the first of the new women's prisons opened and Madam Justice Arbour issued her scathing indictment of the manner in which the CSC manages corrections in general, but the imprisonment of women in particular. On July 6th, 2000, we finally celebrated the closure of the Prison for Women, ending its 66 year history of confining women and girls.

For federally sentenced women, CAEFS, and many others, it was a significantly muted celebration in light of the fact that the Prison for Women in Kingston was replaced by ten other prison units for women in federal penitentiaries; eleven, if you count the provincial prison for women in British Columbia, the Burnaby Correctional Centre for Women. Four of these penitentiaries for federally sentenced women are segregated maximum security units in men's prisons. It is no wonder that women prisoners frequently ask; "Whatever happened to creating choices?"

Following more than a decade of enlightened reform initiatives, including the human rights complaint of the Justice for Women, the Daubney Committee report of the Standing Committee on Justice and Solicitor General, entitled, Taking Responsibility in the report known as Creating Choices, that the Task Force on Federally Sentenced Women issued a ground breaking series of recommendations. There had long been calls for reform to the manner in which women prisoners were dealt with in Canada, however, the realities of the criminal justice system are that it is a slow lumbering giant that takes many, many, big and intensive shoves in order to shift itself.

The Task Force was one little shove that was aided by a tremendous push occasioned by the deaths of seven women at the Prison for Women in Kingston during the late 1980s and early 1990s. Six of those women were Aboriginal women. There is no doubt in the minds of many of us, that it was the blood of these women that caused the Correctional Service of Canada to make a special push to ensure that the Task Force on Federally Sentenced Women issued recommendations that were followed by the Corrections Service of Canada.

So, after ten years, how far have we come? As Madam Justice Louise Arbour, now of the Supreme Court of Canada, commented when she issued her report on the *Commission of Inquiry into Certain Events at the Prison for Women in Kingston*, on April 1, 1996,

In terms of general correctional issues, the facts of this inquiry have revealed a disturbing lack of commitment to the ideals of justice on the part of the Correctional Service. I firmly believe that increased judicial supervision is required. The two areas in which the Service has been the most delinquent are the management of segregation and administration of the grievance process. In both areas, the deficiencies that the facts have revealed were serious and detrimental to prisoners in every respect, including in undermining their rehabilitative prospects. There is nothing to suggest that the Service is either willing or able to reform without judicial guidance and control.

(Commission of Inquiry Into Certain Events at
The Prison For Women in Kingston - The Arbour
Commission Report, 1996: 198).

Furthermore, we know that the number of women serving federal sentences has doubled over the past decade. Approximately 3% of the federal prison population is women. They form about 10-11 % of the provincial jail populations. The reality is, however, that the fastest growing prison population worldwide is women, and in particular, racialized, young and poor women. In fact, in the last decade, information from the Correctional Service of Canada indicates that over the next two years we are likely to see a 24% projected increase, and a 50% increase in five years, in the number of federally sentenced women.

It is important to understand the nature of these increases. The numbers have basically quintupled in the Atlantic Region and tripled in the Prairie Provinces. The Task Force on Federally Sentenced Women reported that there were thirteen women from all four Atlantic Provinces. The last time I walked around Nova Institution I counted an excessive 75 prison beds for federally sentenced women.

In the Prairie Region, most of the women are Aboriginal, contributing to a situation where they represent 25% of the women's jail population. We know the increasing numbers of women in prison is clearly linked to the evisceration of health, education and social services. We also know that the cycle intensifies in times of economic downturn. It is very clear where we are sending the people who are experiencing the worst in the downturn in the economy and social trends.

In terms of the rate at which women are charged, however, there has been a 7% decrease overall in the number of women charged with criminal offences. In particular, we are seeing a decrease in the number of violent crimes committed by women. There is an 11% increase in the number of women charged with drug offences though. While we are seeing fewer women serving prison terms and fewer sentenced to long terms of imprisonment, we are witnessing an increase in the number of women serving shorter federal terms of imprisonment.

82% of the women in federal prisons are serving their first federal sentence, and only 1.6% of the women have experienced three or more terms of imprisonment. 22% of the federal women's population are lifers. 4% of the women serving federal sentences were convicted of first degree murder, and 14% for second degree murder. In terms of race and racism, approximately 44% of the women serving federal sentences are racialized women, about 25% are Aboriginal, 6% are Black, 1% Asian and the rest are described as uncategorized. Right now, 52% of all federally sentenced women and 83% of federally sentenced women who are labelled now as maximum security prisoners are under the age of 35.

Part of this increase is likely linked to the fact that we now have five federal penitentiaries for women, four segregated maximum security units in men's penitentiaries, the Isabel MacNeill Minimum Security House and the Burnaby Correctional Centre for Women, all replacing the Prison for Women in Kingston. Six of these new prison settings for women are in the Prairies and Atlantic Provinces - two Regions where none previously existed.

It must also be borne in mind that all these increases have occurred within the context of increased cuts to expenditures for social services, health and education throughout the country. The result has been that women prisoners in Canada, like women prisoners worldwide, are the fastest growing prison population.

We also know that increased numbers of young women with mental and cognitive disabilities, women who used to fill psychiatric and mental health facilities, are now increasingly being criminalized. Progressive trends of the past to de-institutionalize those with cognitive and mental disabilities have been subverted by resource depletion, attitudes and policies occasioned by the deficit dementia of the last decade. The result is that more and more people are literally being dumped into the streets.

Their attempts to survive, their attempts to self-medicate, their attempts to cope with their situations as well as the behaviour that evolves from being in a situation where they are increasingly disenfranchised, have led to their increased criminalization and imprisonment. Once in prison, these women are considered difficult to manage and consequently spend a disproportionate amount of their time classified as maximum security prisoners and serve most of their sentences in the segregated maximum security units in men's prisons. They also tend to attract a number of psychiatric labels, and tend to be characterized by the Correctional Service of Canada as among the most difficult prisoners to manage.

Many of these women carry such labels as Fetal Alcohol Syndrome (FAS) or Effect (FAE), as well as the borderline personality label. The result of this trend is that women are entering federal prisons with significant needs, while the Correctional Service of Canada is ill-equipped to meet their needs. The result is that women with mental and cognitive disabilities are difficult for the prisons to manage, so they tend to be confined in the most isolated conditions, often in segregation. Such conditions of confinement only serve to exacerbate pre-existing mental health issues. Moreover, the levels of isolation and consequent sensory deprivation tend to create additional mental health issues.

Ironically, the odious reflex of CSC to develop mental health services in prisons, only serves to exacerbate the trend to increasingly criminalize women with mental and cognitive disabilities. Developing such services in prisons, at a time when they are increasingly non-existent in the community, is resulting in more women receiving federal sentences because there is a presumption that there is an ability to access services in prison that are not available in community settings. Prisons are not and cannot be treatment centres.

In addition, we are seeing the so called "war on drugs" really becoming a war on the most dispossessed, especially women, as we see increased numbers of women resorting to using, selling, or otherwise dealing in legal or illegal drugs, in order to cope with everyday life and/or to allow them to gain extra financial resources in order to survive.

We are also seeing the increased feminization and criminalization of poverty. Perhaps the best, and certainly the most tragic, exemplification of the intersection of federal and regional, economic, social, financial, health, and education issues, occurred in the death of Kim Rogers, a 40 year old woman we knew well, a woman who was set up to fail in the first place.

Kim was criminalized because of "welfare fraud". This label and resulting punishment were applied because Kim attempted to get an education while still on welfare. As part of the process, she also sought and received student loans. Although everyone knows that it is impossible to live on welfare anywhere in Canada without some supplemental income/support, to be caught doing so means an almost certainty of criminal prosecution.

Because Kim received student loans while she was receiving social assistance (misnomer of course), the same province that created the criminally irresponsible welfare rates, chose to prosecute her for receiving welfare payments. She entered a guilty plea, and was consequently convicted of welfare fraud. She was then sentenced to a 6 month conditional sentence [which is supposed to have been an alternative to imprisonment -- and we should all continue to question why a jail sentence should be attached to this "offence" in the first place] and a restitution order to repay the provincial government the full \$13,300 in welfare that she had received.

Knowing she would be unable to seek any employment, not only because she was pregnant, but most significantly, because one of the conditions of her sentence was that she could not leave her house -- Ontario then also terminated her welfare payments. Although a legal challenge resulted in the reinstatement of her welfare "benefits", the Ontario government continues to enforce its policy to terminate benefits and permanently disentitle anyone convicted of welfare fraud from receiving welfare. In fact, other provinces are now also following suit. In fact, just last week -- before Kim's death -- the media profiled similar problems in Nova Scotia, after a woman there was similarly convicted of welfare fraud, was sentenced to house arrest and had her social assistance terminated. Other Provinces, such as British Columbia are also following suit.

We all must act to interfere with these draconian, destructive and illegal practices. These approaches are not only criminalizing the poor, but are sentencing them to destruction. Just exactly how does anybody think that someone sentenced to a jail sentence in their own home can support themselves [and their children, in the case of many single and sole support Moms] after they are permanently barred from obtaining social assistance. It is a complete and utter set up. A set-up to which the judge, prosecutor and defence counsel were all privy in Kim's case. As the transcript of her sentencing reveals, all three not only knew she would be cut off welfare, but they also did the calculations and asserted that even if she did receive welfare, after she paid her rent and mandatory repayment, she would be left with \$18 per month with which to feed, clothe and otherwise support herself.

Again, the judge and lawyers recognized this impossible task and essentially concluded that she would have to obtain resources elsewhere - the perfect set-up to ensure that she could again be criminalized for welfare fraud since any monies she might receive would have to be claimed and likely deducted from her welfare payment. If she did not so declare any income and it was otherwise discovered, she would again be subject to charges for welfare fraud. Moreover, anyone placed under house and arrest who leaves home to obtain work or any other means of support, they may be subject to a further criminal charge of breaching the conditions (i.e. the confinement part of house arrest) of the conditional sentence. Such a breach will automatically result in a jail sentence. The logic is stunningly absent and the

stupidity abundantly clear. Who says there is no war against the most dispossessed, especially the poor?

Increasingly, we are seeing a direct relationship between such policies and the increased criminalization of the most marginalized, especially young, racialized and poor women. This is a significant part of the reason that we, the Canadian Association of Elizabeth Fry Societies joined with the Canadian Association of Sexual Assault Centres, to host the October 1-3, 2001 conference; *Women's Resistance: From Victimization to Criminalization*. These issues and welfare policies were part of the overall conference agenda, and not to mention the ongoing struggle against attacks on the poor and criminalization of the most dispossessed.

In Canada and elsewhere, we are also seeing the increased likelihood that progressive trends that were developed by women to address misogynist violence by men, have increasingly been used against women. At the same time, as we are seeing decreases in the number of women who are actually willing to seek protection from the system, we are also seeing a backlash in the form of so-called gender neutral, zero tolerance policies. As a result, battered women, most of whom have called the police themselves after being battered, are increasingly being counter-charged. This is especially true in circumstances where women have defended themselves against the abuse. In too many such situations, both are charged with assault and in the worse situations, both the abusive man and the abused women are ending up in the same anger management programs.

We are also seeing increased numbers of women, who have used lethal force, pleading guilty to manslaughter or second degree murder. In most such cases, the women were charged with first degree murder despite the fact that they were responding defensively. Most women are also counselled to plead guilty to either second degree or manslaughter, so women experience that backlash as well. In fact, when she conducted the Self Defence Review, Judge Ratushny found that approximately 20-30 of the women serving federal sentences in relation to the deaths of abusive partners had entered guilty pleas and therefore precluded their cases from review.

Despite all of these grim realities, those of us who work with and are allied with women prisoners, know very well that those women continue to call upon all of us to do our utmost to ensure that their voices are brought out from behind the walls. It is as a result of their continued perseverance, that the rest of us are afforded the privilege of also being able to continue to walk with them as they challenge the manner in which they are held captive and imprisoned in Canada.

Over the next several years, we anticipate further regressive policies and law reform initiatives to be undertaken by the Government of Canada under the guise of meting out decisions that meet their perceptions of what will be acceptable to public opinion. CAEFS and many other national organizations, on the other hand, have had to resort to filing a complaint with the Canadian Human Rights Commission regarding the systemic discrimination and violation of women prisoners' human rights in Canada.

On International Women's Day, March 8, 2001, after years of discussions aimed at attempting to negotiate with Corrections to implement all of the recommendations of the Arbour report and the provisions of the Corrections and *Conditional Release Act (CCRA)*, as well as legal actions and representations to the Standing Committee on

Justice and Human Rights, the Canadian Association of Elizabeth Fry Societies and the Native Women's Association of Canada filed a complaint with the Canadian Human Rights Commission. As a result, the Commission has decided to conduct a broad-based systemic review of the situation experienced by federally sentenced women, utilizing its authority pursuant to s.61(2) of the *Canadian Human Rights Act* to report on the manner in which the Government of Canada is discriminating against women serving prison sentences of two years or more.

We are alleging that the breaching of the human rights of women prisoners is occasioned by discrimination on the basis of sex, race and disability. In the 1980s, the group *Justice for Women* and Gayle Horii (a woman serving a life sentence) filed human rights complaints, substantially based upon the same concerns as those that we are raising. When the earlier complaints were filed, there was only one federal penitentiary for women, in which women's needs were not met and compared to which men were provided substantially more programs and services. Gayle Horii's Canadian Human Rights Commission complaints and ongoing law suit are approximately 15 years old now.

The CAEFS' complaint articulates, among other issues, that unlike their male counterparts, with the exception of 13 beds that have been slated for closure, women who are classified as minimum security prisoners do not have access to minimum security prisons. Furthermore, despite the promises of *Creating Choices* and the *Corrections and Community Release Act (CCRA)*, there are insufficient community based releasing options for women, especially Aboriginal women. Similarly, in addition to being subjected to a discriminatory classification scheme, women classified as maximum security prisoners and those identified as having cognitive and mental disabilities are not provided with adequate or appropriate carceral placement options.

Aboriginal women represent 1-2% of the population but 24% of the federally sentenced women population. Of these located in the Prairie Region, in particular, approximately half are languishing in segregated maximum security units in men's prisons. Women identified as having mental and cognitive disabilities face a similar plight. In addition to being subjected to a classification scheme that results in too many maximum security designations for these women, they are increasingly isolated in what the Correctional Investigator has referred to as brutal and discriminatory environments.

Moreover, although the Correctional Service of Canada and the Solicitor General have committed to the closure of the segregated maximum security units in men's prisons by the end of September this year, the Correctional Service of Canada plans to replicate these isolating units in the new regional prisons. Not only will the new maximum security units mirror the isolation of segregation units, without respecting the specific rights of segregated prisoners under Canadian law, but CSC also plans to incorporate secure officer posts within the units.

Furthermore, CSC has developed a new "Management Protocol" for women classified as maximum security prisoners which will result in CSC-sanctioned violation of women's *Charter* and human rights, not to mention the rights and protections embodied in the *CCRA*. In addition to being contrary to principles of fundamental justice, these realities will only serve to further heighten the isolation of women that

already causes us concern because of the clear and demonstrated damage and danger caused to women prisoners.

One of the main concerns of the members of the Task Force on Federally Sentenced Women was that their work might lead to the creation of five mini-Prisons for Women. The new Management Protocol and the plans for the Secure Units for women classified as maximum security prisoners in the regional prisons are clear indications that for too many women, the new prisons are progressing from bad to worse.

CAEFS' human rights complaint is also being supported by Aboriginal Women's Action Network, Assembly of First Nations, National Association of Friendship Centres, Federation of Saskatchewan Indian Nations, Strength in Sisterhood, Disabled Women's Network Canada, National Action Committee on the Status of Women, National Association of Women and the Law, Canadian Association of Sexual Assault Centres, Canadian Research Institute for the Advancement of Women, Canadian Bar Association, Amnesty International and many local members, as well as the individual members of the Canadian Association of Elizabeth Fry Societies. Human Rights and Prison Watch International as well as Amnesty International have already indicated their concern regarding the human rights abuses in Canadian prisons for women.

Canada prides itself on its international human rights reputation. When it comes to the manner in which we treat our most marginalized, that reputation is too often not warranted. The Canadian government has refused to implement repeated recommendations by the Correctional Service of Canada's own task forces on federally sentenced women and segregation, for external oversight, as well as its own commission's recommendations for judicial oversight. CSC has even rejected the recommendations of the *Parliamentary Standing Committee on Justice and Human Rights* on this point.

We are hopeful that the Canadian Human Rights Commission will look at the systemic issues that contribute to a correctional context for federally sentenced women for which Canada must be held to account. The human rights abuses experienced by federally sentenced women create a situation which is shameful for all of us, as Canadians.

America's Angela Davis, Britain's Pat Carlen, Australia's Amanda George and Debbie Kilroy, and many others, are increasingly calling upon those concerned about women prisoners to end our ill-fated calls for reform in favour of demands for the decarceration of women and the abolition of women's prisons. I myself and our organization have long held this position, largely as a result of the experiences of women, and the Task Force, in 1993, also took this position. Accordingly, we now continue the struggle for women's equality by persisting in our work with and on behalf of women in prison.

One of the ways that we have continued our work to inspire an end to the imprisonment of women has been to initiate and build coalitions to counter a regressive law and order agenda, and women's imprisonment in Canada. To this end, October 1-3, 2001, in our nation's capital, we highlighted the coalition at an incredible women's conference which we co-sponsored and organized with the Canadian Association of Sexual Assault Centres (CASAC).

The Canadian Association of Elizabeth Fry Societies (CAEFS) and the Canadian Association of Sexual Assault Centres (CASAC) have worked in alliance on a number of important women's equality issues for approximately ten years. CAEFS and CASAC, along with women with the lived experiences of victimization and criminalization, other equality-seeking groups representing women with disabilities, Aboriginal and other racialized groups, academics and theoreticians, professional and practitioners, have worked collaboratively on policy and law reform initiatives.

The conference, *Women's Resistance: From Victimization to Criminalization*, created an unprecedented opportunity for women in and from prisons, rape crisis centres and women's shelters, front-line anti-prison and anti-violence workers, lawyers, academics, politicians, bureaucrats and other professionals to come together to work on strategies to further women's equality.

Unlike most conferences, but not unlike the one organized by Sisters Inside, the most dispossessed, especially those with the lived experiences of victimization and criminalization, were privileged over professionals and academics at the Women's Resistance Conference. The results were significant in that all conference participants commented very positively on the value and quality of the panels, workshops, general interactions and involvement of all conference participants. At the local or grassroots level, the conference has inspired many new partnerships and activities.

CAEFS and CASAC consider the Women's Resistance conference a success as many new initiatives are springing up across the country. For instance, there is an increased willingness on the part of anti-violence workers to work with criminalized women. In addition, steps have been made toward the unification of an anti-prostitution position for anti-violence workers in Quebec within the context of the current work of the Federation du Femmes du Quebec (FFQ).

Additionally, the conference engaged critics of the systems of policing, courts and corrections, regardless of where they were placed in the hierarchy, in a productive dialogue which served to raise the general level of consciousness and inspired new and imaginative pioneering partnerships to challenge the status quo. Conference participants have expressed tremendous interest and agreement to form new partnerships and coalitions to monitor and critique police behaviour across the country. There was also widespread dissatisfaction with community policing which inspired the establishment of monitoring mechanisms to track police response to violence against women.

Ordinary women learned that restrictions on their wages, working conditions and operating expenses are not so much a matter of organizational decision-making but more a function of provincial and federal government decision-making. Also, many front-line workers learned of the relatively small economic gap between them and the women they serve, as compared to them and professionalized women. The large number of front-line women workers, criminalized and victimized, caused professional women to consider the particular nature of their privilege and the particular expertise of the women without their privilege on matters of law, especially in relation to matters of violence.

As a result of the *Women's Resistance conference*, women who participated gained increased insight into the linkages between victimization, prostitution, criminalization, and mental and cognitive disabilities of women and girls. Some of

these women have decided to engage in activities designed to address such linkages. In particular, women are working to develop strategies to identify and address the need for adaptive strategies in order to assist these women in organizing to address their dispossession and oppression.

Both CAEFS and CASAC are working to develop national strategies to insure that provincially funded and administered services do not contravene constitutionally protected Charter and Human Rights protections, as well as to insulate the work of our membership from provincial pressures to abandon the equality-seeking nature of our work in favour of only providing services. These strategies will also serve to address provincial and municipal off-loading of responsibilities without the requisite resources for the most vulnerable and dispossessed. Both organizations have identified key Federal-Provincial-Territorial Working Groups as key sites of engagement.

In addition, many women are expressing an interest in joining our developing coalition of women in Canada who are committed to eliminating the use of imprisonment for women. This coalition will be further enhanced by the input of yourselves, Angela Davis, other women involved in the Critical Resistance movement to counter the Prison Industrial Complex in the United States, and other women involved in the emancipation of women world wide. The commitment of women working in developing western countries continues to strengthen and grow as we join forces to develop workable decarceration strategies.

Indeed, as a lifer named Gayle Horii often reminds me, "There is strength in sisterhood." As she advised me the first time we met in 1992, the words of an Australian Aboriginal woman named Lilla Watson best encapsulates and conveys the message of our work:

**If you have come here to help me,
you are wasting your time.
If you have come here because
your liberation is bound up with mine,
then let us work together.**

By focussing on initiatives to keep women in the community and facilitate their integration after prison, our 24 member societies hope to encourage the Canadian public to examine some productive and responsible means of encouraging community responses to addressing criminal justice matters from coast to coast. Particularly in this time of fiscal restraint, our aim is to retain a proactive focus in order to encourage the development of, and support for, community-based alternatives to the human and fiscal costs of our increasing reliance on incarceration. We focus on increasing public awareness of the myriad issues facing women in prison and gradually break down the stereotypes of women in conflict with the law. In addition, CAEFS initiates and responds to media awareness and coverage of the myriad relevant issues on an ongoing basis.

CAEFS continues to challenge Canadians to reach behind the walls and welcome women into our and their communities, so that they may take responsibility and account for their actions in ways that enhance our national, provincial and local commitment and adherence to fundamental principles of equality and justice. We think that current international realities demand that we form an international

coalition to end the imprisonment of women and girls. Just think about what we might achieve if our individual countries alone, let alone collectively and globally, manage to decarcerate women. We could see reinvestment in community development, women's services and women's equality of resources freed up as a result of prison closures. We look forward to working on this international agenda with you.

For copies of CAEFS' position papers or additional information, please contact Kim Pate directly at kpate@web.ca, visit the CAEFS' home page at <http://www.caefs.ca>, telephone us at (613) 238-2422, or fax us at (613) 232-7130.