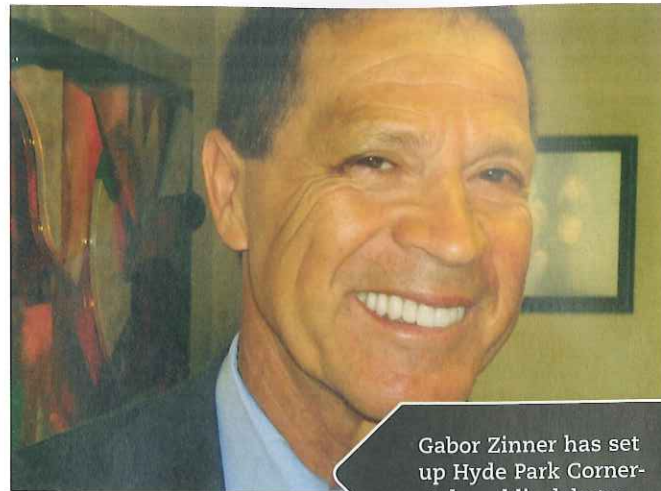


WEST

Calgary lawyer looking for a fight

As veteran Calgary lawyer Gabor Zinner sits in his art-bedecked office expounding on his love of a courtroom battle, it is hard not to notice he's got a black eye. But Zinner's shiner was not the result of some bizarre legal dust-up; he picked it up in a master's water polo tournament in California. Zinner, you see, relishes a good game of water polo as much as he likes a good legal tussle.

And that competitive spirit, still burning at 65, is behind his latest project. He is helping sponsor and organize a weekly public debate in a Calgary park, which kicked off later than expected in July due to the floods. Everybody is invited. It is modelled on London's famous Hyde Park Corner and is dedicated to free speech, vigorously held differences, and a good time. No subject



Gabor Zinner has set up Hyde Park Corner-style public debates.

is off limits. Zinner's debaters have already tackled a prickly proposition here in Oil Town: that the Keystone pipeline should be abandoned.

The litigation lawyer has put up about \$2,500 dollars for sound speakers, microphones, "and a cut-off switch." The city demanded \$2 million dollars in insurance and a weekly civic permit. Zinner gets the best speakers he can find to give the controversy of the week a good airing, then he throws it out for public debate. He says he will stick to being a moderator. "This is more about civic-mindedness than Zinner-aggrandizement," smiles the Montreal-born litigator. His eclectic resume includes a trip to the Supreme Court, climbing Kilimanjaro, running federally for the NDP "a long time ago," and being a backer of a revolutionary new type of chainless bicycle. "It operates on the same principle as a child's top," he says, vigorously pumping an imaginary spinning top.

But for all its airiness Zinner's life has some dark early shadows. During the Second World War both his parents were in Nazi death camps: his mother in Auschwitz, his father in Mauthausen. He grew up in Hungary in the midst of the revolution, and in 1956, as a seven-year-old, he remembers Soviet tanks in the streets of Budapest and a nighttime escape to Austria across a field with flares and machine guns in the distance. While Zinner says he doesn't "perceive a connection" between his celebration of free speech and open debate and the experiences of his family under authoritarian regimes he acknowledges it "forms part of my subconscious."

- Want to participate? Zinner's debates have five simple rules:
1. no slander;
 2. no hate speech;
 3. no vulgarity beyond what might be "contextually appropriate";
 4. speakers must stay on topic; and,
 5. perhaps most importantly, no long-winded bores.

— GEOFF ELLWAND
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KENYAN CASE 'REWARDING WORK' FOR ALBERTA PROF

Nobody could be more serious about fighting violence against women and girls than University of Calgary law professor Jennifer Koshan. But recently the constitutional law expert dropped her scholarly reserve and broke into a happy dance by her computer early one Calgary morning when she learned about a much-anticipated High Court of Kenya ruling. The court upheld a complaint from a group of Kenyan girls and young women. The so-called 160 Girls Case was about girls who had been raped and brutalized while the Kenyan police stood by failing to properly investigate, and sometimes even protecting the girls' abusers.

It was outrageous and cruel. But as Koshan — a one-time Crown prosecutor in Yellowknife — and her colleagues were to ultimately prove, it was also unconstitutional under Kenyan law. In a sweeping judgment the court not only found the police had failed to follow Kenyan law but by their inaction had "contributed to the development of a culture of tolerance for pervasive sexual violence against girl children." The judge ordered in future the authorities "conduct prompt, effective, proper and professional investigations." Koshan calls the ruling "everything we had hoped for."

Canadian journalist and filmmaker Sally Armstrong, writing in *The New York Times*, hailed the legal victory as "an extraordinary story of tenacity and courage, wit and survival." *The Globe and Mail* opined Kenya "still has a paternalistic culture [of] early marriages and female genital mutilation." In anticipation of the ruling the newspaper's editors wrote the lawsuit will be "a highly effective way to help transform that culture and to force authorities to uphold laws designed to protect girls, and children generally."

Koshan is quick to point out Kenya has "quite good laws" surrounding sex-



Jennifer Koshan, left front, worked with a group of African activists on the case.

ual abuse but "the problem is the laws aren't being adequately enforced." A tiny, underfunded Toronto-based NGO called Equality Effect, led by Koshan's friend Fiona Sampson, decided almost three years ago it would help get the Kenyan girls justice. It drew together a diverse group of international lawyers, academics, and activists mostly from Canada, Ghana, Kenya, and Malawi.

In meetings here and in Kenya, and through conference calls and e-mails, the group hashed out the best way to proceed. "We thought about a civil action, we discussed a private prosecution, but in the end" Koshan says, "we decided that because Kenya has a recently proclaimed constitution with really strong protections of rights it was a good opportunity to test those provisions."

Koshan believes one of the reasons Canadians were important in preparing the case was because "we have had

some experience with similar sorts of litigation here. The Jane Doe case [*Doe v. Metro Toronto Commissioners of Police*] from Toronto is a good example of using the legal system to try to hold police to account." In that 1998 case Toronto police were found to be negligent for failing to warn women about a serial rapist in their neighbourhood.

In the end, the Kenyan judgment failed to cite any Canadian cases but that did not really matter. Within hours of the ruling becoming public, Equality Effect was receiving inquiries about similar actions in other African countries. Next stop is likely Malawi.

Koshan calls her involvement with this case "rewarding work" and feels fortunate to be part of it. "This case shows we can use the law to make positive social change. As long as that continues to be true I'm going to continue doing this work."

— GE

For more detail on this case see Koshan's post on the University of Calgary's ABLawg: ablawg.ca/2013/06/18/160-girls-litigation-successful-in-kenya/.



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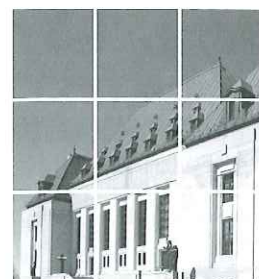
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