

Certificate course: HIV/AIDS and the Law

Course enquiries	Administrative enquiries
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Lecture times and venue

Every Monday from 25 July to 24 October 2011 (excluding 12 September 2011)

17:30 – 19:00

School of Law, University of the Witwatersrand, Johannesburg

Curriculum

SCIENCE, POLITICS AND THE POLITICS OF SCIENCE

25 July 2011

What we know about AIDS: basic science, epidemiology and the prevention and treatment of HIV infection

Prof. Francois Venter

Prescribed readings

1. N Geffen, "What we know about AIDS", *Debunking Delusions: The Inside Story of the Treatment Action Campaign* (Cape Town: Jacana, 2010) at 12 – 47
2. O Shisana et al., *South African national HIV prevalence, incidence, behaviour and communication survey 2008: A turning tide among teenagers?* (Cape Town: HSRC Press, 2009) at 63 – 71
3. AVAC et al, "We CAN End the AIDS Epidemic", available at <http://www.avac.org/ht/d/sp/i/34301/pid/34301>

1 August 2011

History, politics and HIV/AIDS in South Africa

Mark Heywood

Prescribed readings

1. J Berger, "A journey into community involvement in translating HIV research into prevention and treatment programmes: past, present and future struggles in South Africa", 18th Conference on Retroviruses and Opportunistic Infections (2011), available at <http://www.section27.org.za/2011/02/28/section27-senior-researcher-delivers-prestigious-lecture/>
2. E Cameron, "Human Rights, Racism & AIDS: The New Discrimination" (1993) 9 *SAJHR* 22
3. M Heywood, "Shaping, Making and Breaking the Law in the Campaign for a National HIV/AIDS Treatment Plan" in P Jones & K Stokke, *Democratising*

Development: The Politics of Socio-Economic Rights in South Africa (Leiden: Martinus Nijhoff Publishers, 2005) at 181 – 210

THE ABCs of HCT

8 August 2011

Conducting HIV testing

Agnieszka Wlodarski

Prescribed readings

1. *C v Minister of Correctional Services* 1996 (4) SA 292 (T)
2. *Irvin & Johnson v Trawler & Line Fishing Union* (2003) 24 ILJ 565 (LC)
3. Department of Health (DoH), *National HIV Counselling and Testing (HCT) Policy Guidelines* (2010)
4. SECTION27 et al, "SECTION27, TAC, the Yezingane Network and Equal Education welcome HCT for teens but caution on approach", available at <http://www.section27.org.za/2011/02/15/section27-tac-yn-ee-welcomes-hct-for-teens-but-cautions-on-approach>

15 August 2011

After the test: protecting autonomy and confidentiality

Agnieszka Wlodarski

Prescribed readings

1. Health Professions Council of South Africa, *Guidelines for Good Practice in the Health Care Professions: Ethical Guidelines for Good Practice with regard to HIV* (2007)
2. *Jansen van Vuuren NO v Kruger* 1993 (4) SA 842 (A)
3. *NM and Others v Smith and Others* 2007 (5) SA 250 (CC) (relevant excerpts from majority judgment; Langa J judgment at paragraphs 91–94; O'Regan J judgment)
4. *Tshabalala-Msimang and Another v Makhanya and Others* 2008 (6) SA 102 (W)

UNFAIR DISCRIMINATION

22 August 2011

In the workplace: unfair discrimination on the basis of HIV status

Umunyana Rugege

Prescribed readings

1. Department of Labour, *Code of Good Practice on Key Aspects of HIV/AIDS and Employment* (2000)
2. *Allpass v Mooikloof Estates (Pty) Ltd t/a Mooikloof Equestrian Centre* 2011 (2) SA 638 (LC)
3. *IMATU v City of Cape Town* (2005) 26 ILJ 1404 (LC)

29 August 2011

In access to health care services: unfair discrimination on the basis of HIV status

Umunyana Rugege

Prescribed readings

1. Medical Schemes Act 131 of 1998 and Prescribed Minimum Benefits under the Medical Schemes Act (relevant excerpts)
2. SECTION27, "Victory for HIV positive man in dispute with Bonitas Medical Fund", available at <http://www.section27.org.za/2011/05/04/victory-for-hiv-positive-man-in-dispute-with-bonitas-medical-fund>

5 September 2011

In access to health care services: unfair discrimination on the basis of nationality

Agnieszka Wlodarski

Prescribed readings

1. National Treasury, "Revenue Directive – Refugees / Asylum Seekers with or without a permit" (19 September 2007)
2. DoH memorandum, "Access to Comprehensive HIV & AIDS Care including Antiretroviral Treatment" (15 February 2007)
3. Gauteng DoH, "Access to the Comprehensive HIV and AIDS care including Antiretroviral Treatment" (4 April 2008)
4. Médecins Sans Frontières (MSF), "No Refuge, Access Denied: Medical and Humanitarian needs of Zimbabweans in South Africa" (June 2009)
5. MSF, "Survival Migrants in South Africa Slums", (December 2011)
6. Southern African HIV Clinicians Society (SAHCS), *Clinical Guidelines for antiretroviral therapy management for displaced populations Southern Africa*, available at http://sahivsoc.org/index.php?option=com_docman&Itemid=67

12 September 2011 – no class

DISCHARGING CONSTITUTIONAL OBLIGATIONS: DEVELOPING AND IMPLEMENTING REASONABLE LAWS, POLICIES AND PROGRAMMES

19 September 2011

Evidence-based policy-making: preventing mother-to-child transmission of HIV

Adila Hassim

Prescribed readings

1. *Minister of Health and Others v Treatment Action Campaign and Others (No 2)* 2002 (5) SA 721 (CC)

2. M Heywood "Preventing Mother to Child Transmission in SA: Background Strategies and Outcomes of the TAC case against the Minister of Health" (2003) 19 *SAJHR* 278
3. A Kapczynski and J Berger, "The Story of the TAC Case: the Potential and Limits of Social Justice Litigation in South Africa", in Deena Hurwitz et al (eds.), Hurwitz, Satterthwaite and Ford's *Human Rights Advocacy Stories* (West Academic Press, New York: 2008)

26 September 2011

From policy development to programme implementation: treating HIV in prisons

Jonathan Berger

Prescribed readings

1. *EN and Others v Government of the RSA and Others (No 1)* 2006 (6) SA 543 (D)
2. *EN and Others v Government of the RSA and Others (No 3)* 2006 (6) SA 575 (D)
3. A Hassim, "'5-Star' Hotel? The Right of Access to ARV Treatment for HIV Positive Prisoners in South Africa" (2006) 2 *Int. J. of Prisoner Health* 157
4. SAHCS, *Guidelines for the prevention and treatment of HIV in arrested, detained and sentenced persons*, available at http://sahivsoc.org/index.php?option=com_docman&Itemid=67

3 October 2011

Laying down the law: enforcing medicines regulation

Jonathan Berger

Prescribed readings

1. Medicines and Related Substances Act 101 of 1965 and General Regulations under the Medicines Act (relevant excerpts)
2. A Gray, "Developing, registering and using medicines", in A Hassim et al, "Health & Democracy: a guide to human rights, health law and policy in post-apartheid South Africa (Cape Town: *Siber Ink*, 2007)
3. N Geffen, "The deadly Dr Rath" and "TAC litigates against Rath", *Debunking Delusions: The Inside Story of the Treatment Action Campaign* (Cape Town: Jacana, 2010) at 124 – 172

SEX, CRIMES AND THE CRIMINAL LAW

10 October 2011

Sexual assault, post-exposure prophylaxis and the law

Umunyana Rugege

Prescribed readings

1. Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 (Chapter 5)

2. J Kim et al, "Rape and HIV Post-Exposure Prophylaxis: Addressing the Dual Epidemics in South Africa" (2003) 11(22) *Reproductive Health Matters* 101
3. SAHCS, *Guidelines for Post-Exposure Prophylaxis*, available at http://sahivsoc.org/index.php?option=com_docman&Itemid=67

17 October 2011

Criminalisation of harmful HIV-related behaviour

Justice Edwin Cameron

Prescribed readings

1. Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 (relevant excerpts)
2. *R v Cuerrier* [1998] 2 S.C.R. 371
3. R Jürgens et al, "Ten Reasons to Oppose the Criminalization of HIV Exposure or Transmission", (2009) 17(34) *Reproductive Health Matters* 163, available at <http://ssrn.com/abstract=1543808>
4. M Kirby, "HIV/AIDS Criminalisation – Deserved Retribution or Capricious Sideshow?" (2007) 32(4) *Alternative Law Journal* 196

24 October 2011 – revision

Jonathan Berger and Metumo Shilongo