



equality for all

**aidslaw**  
**project**

Centre for Applied Legal Studies (CALS)



## Mission Statement

The AIDS Law Project (ALP) was established in 1993 when the need for an organisation that would address human rights abuses specific to the AIDS epidemic was identified. The ALP is a project of the Centre for Applied Legal Studies (CALS) at the University of the Witwatersrand. The ALP was founded with the vision of developing policies for the eradication of AIDS discrimination and empowering people with HIV/AIDS. During the past nine years, the ALP has developed a reputation for rigour, commitment and meaningful impact on HIV/AIDS policies and laws.

The purpose of the Project is to protect the human rights of people infected with or affected by HIV/AIDS through the development of services, resources and policies that will prevent unfair discrimination.

In particular, the ALP focuses on removing obstacles that:

- Deny people with HIV access to employment and employee benefits
- Prevent people with HIV from having access to adequate health care and treatment in both the private and public sectors
- Inhibit people with HIV from contesting unfair treatment and discrimination by way of pursuing legal remedies

The ALP aims to become an effective support structure for communities in the fight against AIDS by:

- providing free legal assistance, advice and sometimes instituting legal action on behalf of people with HIV/AIDS
- developing public policy and law through relevant research, and assisting statutory and non-statutory institutions to formulate agreed Codes of Good Practice on key areas of public policy.
- increasing public awareness of the law and human rights issues through outreach and legal literacy training.

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## Glossary

ALP	AIDS Law Project
Amicus curiae	Friend of the court
CALS	Centre for Applied Legal Studies
CSVR	Centre for the Study of Violence and Reconciliation
HPC	Health Professions Council
MTCT	Mother-to-child-transmission
PEP	Post-Exposure Prophylaxis
PMA	Pharmaceutical Manufacturers Association
SAHRC	South African Human Rights Commission
SAMA	South African Medical Association
SANAC	South African National AIDS Council
SAPS	South African Police Services
TAC	Treatment Action Campaign

## Foreword

Regrettably, 2001 continued in much the same vein as 2000. It was a 'good' year for the ALP, but a bad year for HIV prevention and treatment. Islands of success in a sea of confusion give little cause for celebration. Whilst there was evidence of greater willingness and commitment on the part of churches, trade unions and businesses to fight AIDS, the national response to HIV/AIDS remained fractured by controversies, mostly hatched in the Office of the State President.

Instead of united action to prevent HIV, South Africa debated whether HIV in fact was the cause of AIDS; instead of legal action to reduce the price of essential medicines, the Presidency questioned the safety of anti-retroviral drugs and publicly disputed whether AIDS was causing an increase in death at all.

Thus, the year ended as it began – with hints of opportunity masked by fractious and unnecessary debate.

In this difficult context, the staff of the ALP continued with their efforts to challenge unfair discrimination and stigma – with some success. Indeed, the growth of the ALP staff was reflected in growing output and diversity. In addition to successfully concluding a number of cases, the ALP was able to publish a second edition of *HIV/AIDS and the Law Resource Manual*, speak at several hundred seminars and conferences and enhance its research capacity.

During 2001, there were signs of a reawakening of civil society activism. The ALP played its part by linking HIV-related legal struggles to broader social issues.

Two cases stand out. Between January and April, the ALP acted as attorneys for the Treatment Action Campaign (TAC) in the case contesting the efforts of the Pharmaceutical Manufacturers Association (PMA) to block amendments to the Medicines Act. The ALP's professional and pioneering use of law and legal argument contributed directly to the PMA's dropping of its court case in April.

Secondly, between July and December, the ALP was able to use some of its resources and expertise to assist the case brought by the TAC against the government on the question of the prevention of mother-to-child HIV transmission. This case concluded with the historic judgment handed down in the Pretoria High Court in December 2001.

Both these struggles and the national and international attention they attracted had a broad impact. They contributed to the deepening of democracy and the rule of law in South Africa by reminding the government, pharmaceutical companies, the media and the rest of society of the place of the South African Constitution and its promises in our day-to-day life. The Constitution is much more than a piece of paper; it can be practically used to better people's lives.

South Africa cannot remain on the chaotic path it has followed regarding the AIDS epidemic for much longer. Organisations like the ALP have an unparalleled expertise that needs to be effectively deployed as part of a unified effort at HIV prevention. We hope that 2002 will be the year that brings about this breakthrough.

- Mark Heywood  
Project Head

## Organogram

Liesl Gerntholtz

Head: Legal Department

[gerntholtzl@law.wits.ac.za](mailto:gerntholtzl@law.wits.ac.za)

Liesl is responsible for the overall management of the legal unit and has a particular interest in gender issues.

Teboho Kekana

Project Officer: Advocacy & Outreach

[kekanat@law.wits.ac.za](mailto:kekanat@law.wits.ac.za)

Teboho is interested in policy development and advocacy initiatives.

### Lindi Nkutha

Manager: Finance and Administration

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Lindi is particularly interested in capacity building within the NGO sector and gender issues

### Anita Kleinsmidt

Attorney

[kleinsmidta@law.wits.ac.za](mailto:kleinsmidta@law.wits.ac.za)

Anita deals with treatment issues and has a particular interest in medical ethics

### Mark Heywood

Project Head & Senior Researcher

[Heywoodm@law.wits.ac.za](mailto:Heywoodm@law.wits.ac.za)

Mark's passion is for writing and research, but he does precious little of either due to the demands of Project Management and his role in the TAC.

### Lindiwe Kunene

Administrative Assistant

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Lindi assists with administrative work and distribution of the ALP information.

### Teboho Motebele

Attorney

[motebelet@law.wits.ac.za](mailto:motebelet@law.wits.ac.za)

Teboho has a particular interest in access to financial services for people living with HIV/AIDS.



### Chloe Hardy

Paralegal Officer

[hardyc@law.wits.ac.za](mailto:hardyc@law.wits.ac.za)

Chloe provides basic legal advice to the public, and is particularly interested in gender issues and socio-economic rights.

### Jennifer Joni

Attorney [Jonij@law.wits.ac.za](mailto:Jonij@law.wits.ac.za)

Jennifer's current focus is employment law, while she has an interest in children's rights and treatment issues.

### Fatima Rahiman

Junior Researcher & Head of Resource Centre

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Fatima has a keen interest in the use of information communication technologies and other forms of media in curbing the epidemic, with a focus on youth.

### Marlise Richter

Junior Researcher

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Marlise has a particular interest in AIDS discrimination and prejudice issues and the intersection of gender, power and HIV/AIDS.

### Althea Cornelius

Litigation Secretary

[corneliusa@law.wits.ac.za](mailto:corneliusa@law.wits.ac.za)

Althea is involved in volunteer work with children.

## Project Operations

### i.) Legal Dept

The Legal Unit of the ALP has faced many challenges during the period under review, not all of them legal. There have been some notable successes, including the PMA case, the Old Mutual case and others that are described below. However, lawyers who work with clients who are living with HIV also face the challenge of providing emotional support to their clients. The ALP lawyers have risen to both challenges, and will continue to do so.

- Liesl Gertholtz

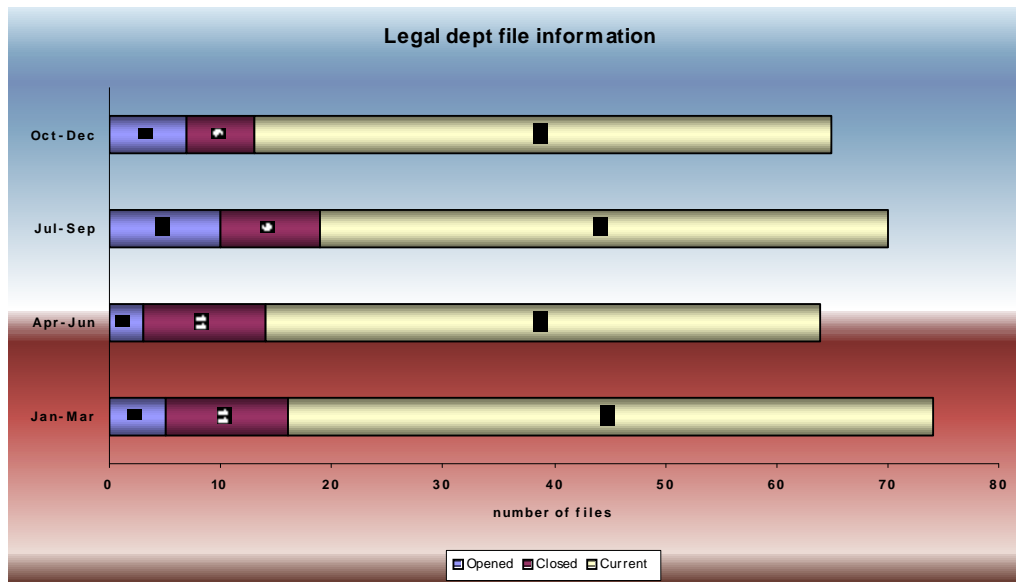
Head: Legal Department

The legal department is responsible for offering legal advice and instituting legal action on behalf of the Project's clients. The department is staffed by an advocate, three attorneys and a paralegal officer. Their main areas of focus are:

- To maintain the telephone advice service of the ALP
- Offer miscellaneous advice to members of the public and the media
- to provide free legal advice and institute litigation on behalf of the Project's clients

#### **Files**

	Jan-Mar	Apr-Jun	Jul-Sep	Oct-Dec
Opened	5	3	10	7
Closed	11	11	9	6
Current	58	50	51	52



*a.) Litigation*

**CONCLUDED CASES**

**Pharmaceutical Manufacturers' Association and others v The President of South Africa and others (the "PMA case")**

In 1997, Parliament passed the Medicines and Related Substances Control Amendment Act, which would permit the government to make medication more affordable. The Pharmaceutical Manufacturers Association of South Africa (PMA) tried to halt implementation of the Act and filed a suit in the Pretoria High court.

The new act was special importance to the Treatment Action Campaign (TAC) and other organisations working in the HIV/AIDS field, as it will allow the government to use measures such as parallel importation and generic substitution that could increase access to medication for people with HIV/AIDS. The ALP acted on behalf of the TAC who was admitted as an

*amicus curiae* (friend of the court) despite opposition from the PMA. This case drew unprecedented public attention to the issues of human rights and treatment. The combined efforts of the ALP, TAC, AIDS Consortium and international organisations succeeded in generating widespread publicity, public awareness and appreciation of the complicated issues presented by international legislation and treatment politics. This case was a vital step towards compelling the SA government to commit to making HIV/AIDS treatment accessible, and pressurising drug manufacturers into making medication affordable. The case was settled when the PMA unconditionally withdrew their case against the government on the 19<sup>th</sup> of April.

### Bulk Trans

This case concerned the unlawful pre-employment testing of a truck driver. The ALP commenced action against Bulk Trans. At a pre-trial conference between the ALP and the lawyers of Bulk Trans on the 20<sup>th</sup> of April, it transpired that Bulk Trans were willing to settle the matter out of court. A generous settlement was awarded to the driver and the file was subsequently closed.

### NS v Old Mutual

NS, the ALP's client, was offered a position at Old Mutual. She was required to undergo an HIV test. She tested positive and was denied access to certain provisions of the Old Mutual's employee benefit schemes. The matter was set down for argument on preliminary legal points on the 17<sup>th</sup> of April in the Cape Labour Court. Old Mutual argued that since it had outsourced the administration and execution of employee benefits to independent contractors, it could not be held responsible for their actions. The court rejected Old Mutual's arguments and ruled that the matter should proceed to trial. Old Mutual offered to settle out of court, which NS accepted.

### GA v SAPS

This case involved the routine testing of mortuary workers by the South African Police Services (SAPS) for HIV. HIV testing was conducted on

mortuary workers without pre- and post-test counselling. Following such a test, GA was told by his superintendent that he was HIV positive. His status was also disclosed to third parties without his consent. GA decided to undergo an additional HIV test which established that he was in fact HIV-negative. With the assistance of the ALP, GA took the matter to the Council for Conciliation, Mediation and Arbitration (CCMA). The SAPS admitted that their practice of routine HIV testing was in contravention of the Employment Equity Act and that they did not follow the guidelines set out by the Health Professions Council on voluntary testing and counselling. GA was offered substantial compensation in an out-of-court settlement.

#### [Treatment Action Campaign and others v Minister of Health and others \(the “MTCT case”\)](#)

The Legal Resources Centre (LRC) lodged a case against the South African government on behalf of TAC. On the 21<sup>st</sup> of August, TAC served papers on the Minister of Health and the MECs in which they demanded that the government provide nevirapine to all pregnant women who give birth in public hospitals, arguing that it would dramatically reduce the risk of mother-to-child-transmission (MTCT) of HIV. TAC also demanded that a comprehensive national programme to prevent MTCT be formulated and implemented. This programme should include provision of voluntary counseling and testing, Nevirapine or other appropriate medication, and formula feed. Throughout the case, the ALP worked closely with the LRC, helping with research, by gathering evidence and affidavits, and the finalisation of legal papers.

The ALP also agreed to act on behalf of the South Africa Human Rights Commission (SAHRC) in SAHRC's attempt to intervene as an *amicus* in this case. The State Attorney indicated that the government would not consent to the admission of the SAHRC as an amicus. The ALP brought an application for its admission as amicus. The SAHRC curiously decided to withdraw its application before the judge could set down a date to hear their arguments and was therefore not admitted as an amicus.

The case was heard on the 26<sup>th</sup> and 27<sup>th</sup> of November in the Pretoria High Court. On the 14<sup>th</sup> of December, Judge Botha handed down a judgment in TAC's favour, which provided that the department of health was "obliged to make Nevirapine available to pregnant women with HIV who give birth in the public health sector, and to their babies, in public health facilities to which the respondents' present programme for the prevention of MTCT of HIV has not yet been extended". It also demanded that the national and provincial departments of health produce a report before 31 March 2002 to set out their progress in rolling out a national Nevirapine programme. The report to be submitted to the court also had to set out how they intend to implement the rest of the programme.

The government subsequently sought leave to appeal the judge's decision and asked the Constitutional Court to pronounce on the issue. This case will be heard on the 1<sup>st</sup> of March 2002.

#### [DK v the Dept of Home Affairs](#)

DK was a foreigner who married a South African citizen and subsequently applied for permanent residence in South Africa. Her medical practitioner disclosed her HIV status when he was required to complete a form detailing her medical history. The Department of Home Affairs informed her that her application for permanent residence had been unsuccessful, as a result of recommendations made by the Department of Health. The ALP intervened on her behalf, appealing against the decision and requesting reasons from the Department of Home Affairs for the refusal. The case was reconsidered by the Department of Home Affairs and DK was awarded permanent residence.

#### Letter from DK

*Hello*

*Teboho*

*I just wanted you to be the first to know, I finally managed to go to Johannesburg Home Affairs and got our Permanent Residence Certificates and endorsements from Ms \_\_\_\_ (she asked me if I was your client). I have*

*even applied for my first ID.*

*Thank you so very much for your help and support. You are doing some really worthwhile work. When I first got the rejection, I was going to pack it in and return home, but you have made all the difference. Please convey my sentiments to Chloe Hardy as well (I don't have her e-mail address).*

*God bless you.*

*DK*

### [Health Professions Council of South Africa](#)

The ALP has lodged numerous complaints of misconduct against health care workers at the Health Professions Council (HPC) over the years. Complaints included:

- conducting HIV tests without consent;
- failing to provide pre- and post-test counseling;
- not telling the patient his or her status;
- disclosing the patient's HIV status to third parties without the patient's consent;
- refusing to treat patient with HIV/AIDS.

All of these acts contravene HPC guidelines on HIV testing and management, but yet the HPC never once found a doctor guilty of misconduct. The ALP identified patterns in HPC complaint review practices including lengthy delays in processing complaints, the rarity of HPC findings of physician misconduct or discipline, and the lack of explanation for HPC disciplinary Commissions and the Commission of Preliminary Inquiry findings.

The ALP compiled a complaint against the HPC and lodged it with the Public Protector's Office in February 2001. The Public Protector investigated the complaint and presented the HPC with a number of important recommendations during July 2001. Recommendations include:

- that the HPC regulate the time given to doctors to give explanations for their conduct;

- ✳ that records are kept of preliminary committee proceedings that can be made available to the aggrieved person if needs be;
- ✳ that the HPC educate doctors about HIV/AIDS guidelines and make it a point that they measure doctors' conduct with these guidelines during the Preliminary Inquiry.

## CASES PENDING

A number of important matters that were initiated in 2001 have been carried over to 2002. These are described below.

### [Jordaan and two others v The State](#)

The ALP, the Sex Worker Education and Task Team (SWEAT), the Gender Research Project at CALS and the Reproductive Health Research Unit of Wits University successfully applied to be admitted as *co-amici* in a case before the Constitutional Court to decriminalise sex work. The case concerns an appeal against a high court judgment that effectively decriminalises sex work. The amici will argue that the criminalisation of sex work impacts not only on the ability of sex workers to protect themselves from HIV/AIDS but also inhibits them from seeking treatment for sexually transmitted infections (STIs). The amici will argue that the criminalisation also inhibits education and information campaigns aimed at increasing HIV/AIDS awareness and safer sex practices amongst sex workers. The case was scheduled to be argued in the Constitutional court on 13 November 2001, but was postponed to the 5<sup>th</sup> and 6<sup>th</sup> of March 2002.

### [Gazi v The Public Service Commission and others](#)

In 1999 the Public Service Commission found Dr Costa Gazi, a Medical Superintendent from Cecilia Makiwane Hospital in the Eastern Cape, guilty of misconduct. This decision was taken following a public statement he made about the then Minister of Health and her failure to put a prevention



programme in place for mother to child HIV transmission. Dr Gazi's appeal to the Commission against this finding was dismissed in January 2001.

The Project was asked and agreed to act on behalf of Dr Gazi in a review of the Commission's findings. The ALP drafted an application for leave to appeal against this decision. The case is based on the grounds that Dr Gazi was exercising his right to freedom of expression and conscience in relation to his ethical duty to speak out against medical practices that cause human suffering and the loss of lives. A court hearing is expected in early 2002.

#### [CM V SANDF; JD v SANDF](#)

The ALP is acting on behalf of a job applicant who applied for a position as a nurse in the SANDF. Her application was rejected on the grounds of her HIV status. The ALP will argue that the pre-employment HIV testing conducted by the SANDF is unconstitutional. The provisions in the Employment Equity Act that expressly prohibit pre-employment testing do not apply to the SANDF, and it continues to practice routine pre-employment testing. This case will be argued in 2002.

The ALP is also acting on behalf of two then job applicants to the SANDF who have been refused employment on the basis of their HIV status. The ALP served two applications to compel the SANDF to provide full explanations for the refusal of the two applicants. The SANDF has confirmed that the HIV status of both job applicants was the reason they were not employed.

#### [MEC of Health, Mpumalanga v GRIP](#)

The ALP is defending a rape-intervention NGO called GRIP against an eviction order from the provincial department of health. GRIP operates from public hospital premises and provides rape services that include counseling about, and access to, post-exposure prophylaxis (anti-retroviral medication that reduces the risk of HIV transmission after rape). GRIP's activities have angered the MEC for Health. She believes anti-retroviral medication is

against government policy, and has subsequently tried to evict GRIP from the hospital premises. This case will be heard at the Pretoria High Court on the 9<sup>th</sup> of April 2002.

#### [Naude v the MEC of Health, Mpumalanga and others](#)

The ALP is also assisting a doctor who has applied for employment at Rob Ferreira hospital (the same hospital that GRIP operates from). Dr. Naude applied for a permanent position at the hospital and was informed that his application had been successful. After he returned from leave, he was told his application had failed. He believes that his application was unsuccessful because he produced an affidavit in support of in the case described above. The ALP will represent him during a Bargaining Council hearing in 2002.

#### [Discovery Health](#)

The ALP will bring a challenge against Discovery Health Medical Scheme. This scheme places a limit on the amount spent on hospitalisations for people with HIV/AIDS who disclose their HIV status to the scheme. This particular limit does not apply to any other members of the scheme. The Project will argue that this limit is unconstitutional and falls foul of the Equality Clause of the South African Bill of Rights.

#### [One Military Hospital](#)

A wife and husband approached the hospital for fertility treatment. The hospital conducted a number of medical tests on them that included HIV testing, but without counseling the couple about the test. The tests showed that the husband was HIV positive and the wife HIV-negative. The doctor did not tell either of them about their HIV results. They elected not to proceed with the fertility treatment and were never informed of the test results. The husband subsequently became ill, and he and his wife went for independent HIV tests. Both tested positive. The ALP will assist the couple in court action against the hospital. The ALP will argue that the failure of the doctor to inform the couple of their HIV status materially increased the risk of transmission of HIV to the wife.

### [Buccleuch Montessori Nursery school and St. Helga's Nursery school](#)

The ALP will represent a mother and her child against two nursery schools. After the mother disclosed her daughter's HIV status to the nursery schools, the schools refused to accept the child as a pupil.

### [VRM v HPC](#)

The ALP is acting on behalf of a client whose doctor tested her for HIV without her consent during her pregnancy and failed to advise her of her positive test result. The woman gave birth to a stillborn child and subsequently found out that the doctor had withheld her HIV status. A complaint was lodged with the Health Professions' Council and its Commission for Preliminary Investigation did not find the doctor guilty of any misconduct. The ALP will take this case for review to the High Court in 2002.

### *b) Legal Advice*

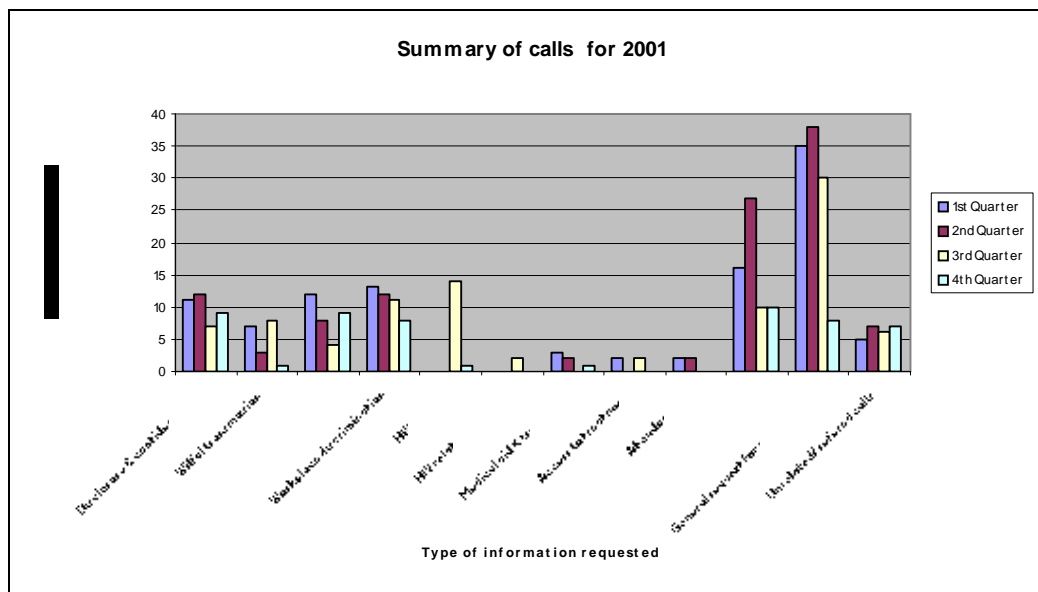
#### [Telephone requests](#)

The department handled 365 telephonic requests for assistance and information in 2001, and where necessary, arranged for follow-up consultations with callers or made referrals to relevant organisations. Coinciding with World AIDS Day on the 1<sup>st</sup> of December, the ALP took out advertisements in popular publications to publicise the fact that it provides free legal advice on HIV/AIDS issues. This initiative, together with the new ALP promotional material planned for the beginning of 2002, is expected to increase awareness of AIDS discrimination issues and the remedies available. We anticipate that this heightened awareness will add to the already large number of telephone enquiries we deal with, and to traffic to our website.

**SUMMARY OF THE AIDS LAW PROJECT CASES  
FOR THE YEAR 2001**

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Disclosure & confidentiality	11	12	7	9	39
Wilful transmission	7	3	8	1	19
Insurance	12	8	4	9	33
Workplace discrimination	13	12	11	8	44
HIV testing	0	0	14	1	15
HIV related violence	0	0	2	0	2
Medical aid & treatment	3	2	0	1	6
Access to treatment	2	0	2	0	4
Abandonment	2	2	0	0	4
Miscellaneous	16	27	10	10	63
General request for information	35	38	30	8	111
Unrelated/ referred calls	5	7	6	7	25

<b>Total calls received</b>	<b>106</b>	<b>111</b>	<b>94</b>	<b>54</b>	<b>365</b>
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A number of areas attracted particular interest and concern from callers in 2001:

- ② *Disclosure & Confidentiality.* Many callers sought assistance for incidences in which their HIV status was disclosed to third parties without their consent. It is clear that confidentiality and privacy remain areas of important concern in the epidemic. A substantial number of breaches of confidentiality occurred in relationships that are not protected by law (such as between family members or friends).
- ② *Wilful Transmission.* A number of callers requested advice on possible actions that could be taken against people who are suspected to have intentionally transmitted HIV to them or others.
- ② *Insurance.* Various complaints arose from callers who could not obtain mortgage bonds. Many credit institutions insist that potential clients acquire life insurance before these institutions would grant mortgage bonds or loans to them. All life insurance companies require an HIV test with their applications, and will refuse to insure applicants with HIV/AIDS. It is an impossible situation for people with HIV/AIDS who want to obtain insurance or credit.
- ② *Medical aid schemes.* Calls pertaining to medical aid schemes included complaints about schemes that provide limited cover for members with HIV/AIDS or have problematic policies regarding HIV/AIDS.
- ② *Workplace discrimination.* A substantial number of enquiries related to discrimination in the workplace setting. Complaints included pre-employment testing, unfair dismissals, and refusal of employee benefits. A number of enquiries centered on domestic workers and underscore the vulnerable position of these workers in particular.
- ② *Workplace policies.* A great number of enquiries came from organisations and businesses seeking help with the drawing up of HIV/AIDS policies for their workplaces. This is encouraging as it indicates that the public, and civil society in particular, are engaging with the AIDS epidemic in a constructive way.
- ② *HIV-related violence.* Due to the fact that high levels of stigma are still attached to HIV, the ALP receives frequent complaints from people who fear for their safety after disclosing their HIV status in their respective communities, or whose status was disclosed by others.

Women are particularly vulnerable to HIV-related violence and an alarmingly high number of calls are from women who were abused and/or abandoned when their partners found out that they (the women) tested positive for HIV.

### Miscellaneous queries

Certain telephone enquiries necessitate more than just giving information to the enquirer over the phone, but do not require the ALP to take it up as a formal case. Typically the enquirer would meet with either the paralegal officer or an attorney and after some further communication or correspondence, the issue would be cleared up.

Some miscellaneous enquiries for 2001 include:

- ✿ We wrote a letter addressed to a complainant's partner, who had been disclosing her HIV status without her consent, warning him to stop.
- ✿ We assisted a client, who had disclosed her status at her place of employment and had been victimised following her disclosure.
- ✿ We assisted a client with HIV to reinstate his disability grant with the Department of Welfare.
- ✿ We assisted a doctor who was concerned by breaches of confidentiality occurring when death certificates were completed at the hospital where he worked.
- ✿ We lodged a complaint with the Advertising Standards Authority in respect of an advertisement that claimed to provide a cure for HIV.

### Paralegal's office

The paralegal is the first point of access for legal advice at the ALP. This office either answers queries directed to the ALP by providing the necessary information, or by referring the matter to an attorney or relevant organisation.

The paralegal's activities include:

- ✿ providing legal advice, assistance or referrals when cases do not require litigation

- identifying systemic and recurring issues from enquiries and to recommend courses of action to address the underlying problem, where appropriate
- conducting research into areas to assist attorneys and clients
- providing outreach work

### iii) Research

Effective legal action and human rights advocacy depends upon accurate high quality information. Over the last five years, the ALP has improved its capacity for legal action through the employment and strengthening of its legal unit. This way it has been possible to shape law, policy and jurisprudence relating to HIV in SA. However there are areas, particularly around treatment access, where public policy still needs to be developed. At the beginning of 2001, the need to strengthen our research capacity and to publish in more academic journals was identified as a priority. This led to the employment of a junior researcher early in the year and to an effort to integrate the ALP's research and resource departments. The benefits of this approach are described below.

- Mark Heywood

Head: Research Department

The research department assists the legal team in acquiring research and knowledge that would strengthen litigation strategies or assist in the design of new policies or guidelines pertaining to HIV/AIDS. This department consists of one senior researcher and two junior researchers. They are expected to produce and publish original research, while at the same time making new knowledge in the AIDS field accessible to all, through popular media, print and information technology. The ALP Resource Centre and website are valuable resources for staff and members of the public who are seeking up-to-date research and information on a variety of aspects of the AIDS epidemic.

## *\* Research Projects*

### [AIDS discrimination tender](#)

ALP was awarded a government tender to conduct research into nature and trends of AIDS discrimination in South Africa. This research was conducted in collaboration with a research company called Strategy & Tactics. The ALP agreed to complete a literature review of prejudice and AIDS discrimination. The ALP files and cases since 1993 and interviews with current and previous members of staff delineated important focuses for the study and assisted in tracking the trends of AIDS discrimination in South Africa. Strategy & Tactics conducted field research and interviewed 60 people from Johannesburg and KwaZulu-Natal for focus group discussions about HIV/AIDS. Approximately 500 people then participated in a large-scale survey. This was done to build up an accurate picture of the nature of AIDS discrimination in South Africa and to test the suppositions made in the research conducted by the ALP. An ALP discussion document entitled “Preliminary Assumptions on the Nature and Extent of discrimination against people with HIV/AIDS in South Africa” was distributed for comment in June. The findings of the studies conducted by the two organisations will be presented to the Department of Health in 2002, and captured in a final report.

### [Commonwealth Human Rights Institute](#)

The Commonwealth Human Rights Institute requested the CALS and the AIDS Law Project to prepare a research paper on HIV/AIDS and human rights in the Commonwealth. This paper was needed in preparation for the Commonwealth Heads of Government meeting November 2001. “Human Rights and HIV/AIDS in the Commonwealth” was co-authored by the head of the ALP and the director of CALS, and submitted to the Institute in April.

### [South African National AIDS Council \(SANAC\)](#)

The head of the ALP in his capacity as the chairperson of the Human Rights and Legal issues task team SANAC was asked to address SANAC on law and human rights in February. He addressed the following issues:



***Issue raised:*** The difficulties faced by people living with HIV/AIDS in gaining access to financial services due to the discriminatory rules of the financial services sector.

**Meeting's response:** The meeting suggested that the financial services industry be engaged with and clear binding rules that seek to eliminate discrimination be set.

***Issue raised:*** The ill treatment within the health care setting of people who are HIV positive, a number of whom are not aware of their HIV status.

**Meeting's response:** The meeting recommended that the existing guidelines for health professionals be made known as widely as possible, and that the Health Professions be compelled to investigate complaints brought to it by poor people.

***Issue raised:*** The legal questions around access and affordability of essential medicines for people living with HIV/AIDS.

**Meeting's response:** The meeting mandated people who would perform research on legal mechanisms that influence affordability and access.

It is disappointing that SANAC has not acted on any of these recommendations by the time of writing this report.

### [Smaller research projects](#)

Various pieces of research were undertaken to support the legal unit or policy initiatives. Examples include:

- ✦ Research commenced on the current protocol and practices of medical aid schemes, prescribed minimum benefits, and the coverage afforded people with HIV/AIDS. This research fed into preparation for an ALP submission to the Review of Prescribed Minimum Benefits.
- ✦ The ALP provided research support for the TAC's efforts to develop a National Treatment & Prevention Plan. Research included attempts to

verify information about South Africa's mortality statistics, to gauge the Department of Health's voluntary counseling and testing programme and to determine current policies regulating VAT on essential medicines. A literature review of the latest scientific studies on certain aspects relating to HIV/AIDS was also conducted. Topics included antiretroviral medication, opportunistic infections, home-based care and business sector responses.

- ✦ In order to support the Costa Gazi and GRIP cases (see above), a survey was conducted on international conventions that relate to the ethical duties of health care workers.
- ✦ Research was conducted to establish international practice with regard to exclusion of people with HIV/AIDS from the military. The information was needed in order to prepare for the SANDF pre-employment testing cases.

### *Forging new policies and guidelines*

The ALP also assisted in the drafting or revision of policies:

- 🕒 July: The ALP assisted and advised the South African Medical Association (SAMA) with the revision of its guidelines on the management of patients with HIV/AIDS.
- 🕒 July: The ALP was consulted on the syllabus and structure of a new course planned for 2002 by the Wits Law faculty. The course on HIV/AIDS and the law will be the first of its kind in South Africa.
- 🕒 August: The ALP submitted written recommendations to the Equality Review Committee about the addition of "HIV/AIDS status" to the

current list of enumerated grounds upon which unfair discrimination is prohibited

- ④ September: The ALP submitted a joint submission with TAC on the draft Regulations to the Medicines Act.
- ④ September: The ALP assisted in the Guidelines for the Medicines Control Council on the benefits that would accrue to participants of HIV/AIDS drug trials and HIV vaccines. Guidelines had to be forged from ethical debates on topics such as whether drug trial participants are entitled to receive access to the investigative medicines after trials were concluded and whether researchers would be obliged to provide anti-retroviral medication to participants who contracted HIV during vaccine trials.
- ④ November: The ALP endorsed a submission made by the Gender Research Project of CALS to the Law Commission on domestic partnerships. In addition, the ALP included our own submission highlighting certain issues that pertain specifically to HIV/AIDS and the lack of recognition of partnerships outside legally-recognised marriages.
- ④ Acting on the bewilderment that many people experience with the *loveLife* HIV/AIDS awareness campaigns, the ALP made contact with this organisation and discussed a variety of concerns. We engaged in regular and amicable correspondence, in which we pointed out possible limitations to their campaigns and provided relevant research and suggestions on how their programmes could be enhanced or expanded.

#### iv) Advocacy, Outreach & Public Education

Advocacy and outreach play an important strategy in the achievement of the objectives of the ALP. The integration of ALP's legal expertise and the collaboration with TAC as advocacy experts have made a huge difference in the achievement of that otherwise would have been difficult cases. Initially we used advocacy to achieve non-discrimination within the employment arena. The benefit of using advocacy tools successfully was seen in the victory of "A" v SAA and the Hoffmann cases. However, the growth of the disease compounded the problems and there was less and less political commitment from policy makers and less empathy from the drug manufacturers. During 2000/1 access to affordable drugs became the target for advocacy that ended in huge reductions of some essential drugs prices including donations of Nevirapine and Diflucan to government.

*- Teboho Kekana*

*Project Officer: Advocacy & Outreach*

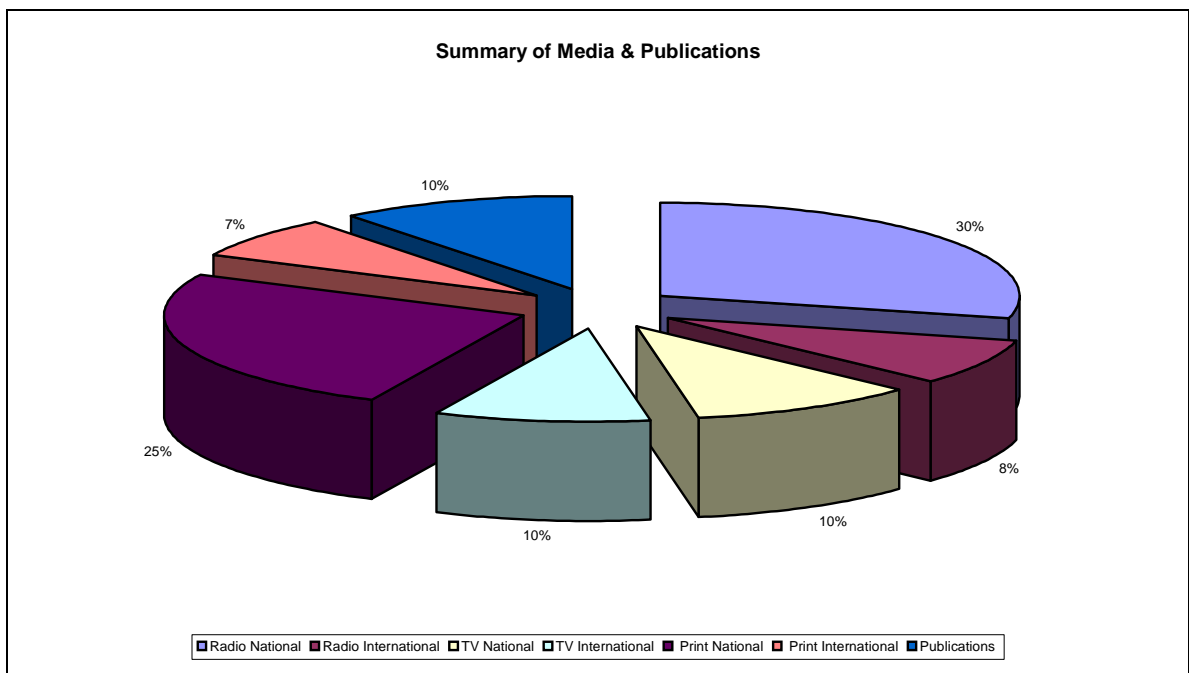
All members of ALP staff are expected to increase and expand awareness and knowledge of HIV/AIDS, and to work towards the ALP's motto of creating a society that is free from discrimination and stigma, and where all people can enjoy equal rights and opportunities. The ALP employs a variety of strategies to advocate for critical issues and increase public education about the epidemic. Some of its strategies include:

- ✿ making presentations to groups of people;
- ✿ creating opportunities for public discussion and debate;
- ✿ establishing partnerships and networks with groups with similar interests;
- ✿ making submissions on important policies or laws to decision-making bodies, and

- ☀ creating and distributing informative literature that is accessible to a substantial number of people.

### ALP presentations

It is the ALP's policy that staff members should accept at least two invitations a month to address public forums on HIV/AIDS issues. A number of organisations and interest groups have been addressed on HIV/AIDS and the law and various other aspects of the epidemic. We receive and accept frequent invitations from the business sector, NGOs, government and helping service organisations. Refer to appendix A for a detailed summary of ALP presentations and media statements.



### *Partnerships*

#### Local advocacy initiatives and partnerships:

## AIDS Consortium

The ALP continues to take an active role in this organisation by attending monthly meetings and playing a role in the Consortium Executive. The Consortium is the largest community-based network in South Africa and it uses its networks to distribute ALP publications.

## Collaboration with the Treatment Action Campaign

The ALP was a co-founder of TAC in 1998 and the Project continues to play an active role in the TAC and its activities. The ALP acts as TAC's legal advisor, while a number of Project members of staff hold TAC membership. During the organisation of specific events, ALP staff volunteer their time and services.

In 2001:

- ▶ The ALP assisted in the organisation of the TAC Gauteng Provincial conference in February by lending a hand with logistics, while the Project Head of the ALP also chaired the conference.
- ▶ The TAC National Congress was held in March and brought together more than 500 delegates from trade unions, government, faith groups and organisations working in the HIV/AIDS field. The ALP provided logistical support and its Project Head assisted with the election of the new TAC executive committee.
- ▶ In May the ALP facilitated what was named the Nkosi Johnson Leadership School. This two-day educational workshop and seminar formed part of the activities designed by the ALP partnership with the Canadian HIV/AIDS Legal Network. The school contained components of skills training and capacity building, and focused on legal and human rights issues and access to medication in particular.
- ▶ In July, ALP researchers assisted the TAC to develop a draft discussion document on a national HIV/AIDS treatment plan. This document was based upon the most up-to-date medical, scientific and economic information about HIV/AIDS. In August, the ALP helped to organise a national expert consultation on the document, which

brought together ± 40 experts from different social disciplines. A day's discussion led to proposals for a reworking of the document and the identification of further research areas.

- ▶ In June, the ALP joined forces with the AIDS Consortium, TAC and Community AIDS Response (CARE) in a picket to protest against the threatened closure of the Johannesburg General Hospital's HIV/AIDS clinic. The clinic is run by Wits University and the Johannesburg Metropolitan Council. The picket led to a series of negotiations and strategies that kept the clinic running.
- ▶ The ALP and TAC facilitated a picket at the Johannesburg Legislature. The picket was held on 27 August, after the court papers on the MTCT case were lodged. Its aim was to draw attention to the various appeals made to the legislature to implement the HIV/AIDS policies since 1998. Various civil society organisations joined the demonstration.
- ▶ The ALP was represented at the interfaith service and rally on World AIDS Day.

### PEP partnership

The ALP joined forces with the Centre for Violence and Reconciliation (CSV) in order to address the critical lack of information, awareness and access to post-exposure prophylaxis (PEP). PEP is an anti-retroviral medication that decreases the risk of a person contracting HIV after an incidence of rape. The South African government refuses to make this medication available to rape survivors or counsel them about the medication.

The ALP and CSV convened a workshop on PEP and rape in November and invited a number of interested organisations and structures. The workshop was originally envisioned as a strategy and brainstorming session, but was limited by the clear gap in people's knowledge and understanding of the critical issues. The workshop changed into a meeting for information-

sharing. The ALP and the CSVN undertook to take the initiative further by taking responsibility for the administration of the network that was formed at the workshop and to come up with legal, advocacy and educational strategies to increase access and information on PEP.

#### International advocacy initiatives and partnerships

- Anita Kleinsmidt took a 2-week trip to Canada in May, hosted by the Canadian HIV/AIDS Legal Network. She did a number of presentations on the implications and the lessons learnt from the PMA case. She also attended various meetings with government and stakeholders in Canada to discuss strategies on how collaborative efforts could be used to create better access to treatment.
- In July, Mark Heywood traveled to London to attend a workshop on access to essential medicines organised by the Voluntary Service Organisation. He also participated in a seminar organised by the Royal Institute for International Affairs
- Teboho Motebele attended a skills-building seminar in Canada in July. She presented a workshop on treatment access and helped facilitate workshops on HIV/AIDS and development, and on patent rights.
- Five ALP members attended the NGO Forum of the World Conference Against Racism held in Durban in September. This allowed for a deepening of staff understanding of racism and health and was an ideal situation for networking with individuals and organisations from other countries.
- The Project Head undertook an extensive visit to North America in September. During his trip, he met and strengthened relationships with a number of lawyers, clinical researchers, health specialists and AIDS workers. Some of the highlights of his trip included:
  - giving the keynote opening and closing addresses at the Annual General Meeting of the Canadian HIV/AIDS Legal Network;
  - lecturing to business and law students at Duke University in North Carolina; and



- addressing the closing plenary of the American Law, Ethics and Medicine Conference.
- In November, Jennifer Joni attended a conference in Auckland, New Zealand. The conference focused on the challenges of socio-economic and political development in Africa in the 21<sup>st</sup> century. She also traveled to the University of Connecticut in the USA to participate in a symposium on whether patent rights were a barrier to access to AIDS medication in Africa.
- In December, Anita Kleinsmidt traveled to Kenya to assist the Kenyan government's HIV Legal Task Force in drafting up legislation and policies on HIV and the law.
- The ALP was approached by the London School of Economics (LSE) on hosting a joint two-day seminar on "The Role of Civil Society in Dealing with HIV/AIDS and other infectious diseases". The seminar is scheduled for the 22<sup>nd</sup> and 23<sup>rd</sup> of February 2002 and its output will shape a chapter in the LSE's second Global Society Yearbook.

*Seminars: Deepening debates; Enhancing understanding*

**Seminar on "HIV and disability"**

The ALP hosted a public seminar on "HIV and Disability" that was addressed by Advocate Wim Trengrove. The possible intersections between HIV/AIDS and disability and whether HIV/AIDS status would fall into the legal definition of 'disability' were hotly debated.

**CALS seminar**

The ALP initiated and co-organised a CALS seminar on the gendered aspects of mother-to-child-transmission of HIV on the 13<sup>th</sup> of November. Speakers from the Women's Health Project, the Gender Research Project at CALS and the ALP addressed the forum.

**Equality Review Committee**

In June, the Project organised a seminar to discuss legal arguments and strategies in preparation of making a submission to the Equality Review Committee. The Committee was created in terms of the Promotion of Equality and Prevention of Unfair Discrimination Act and makes recommendations to the Minister of Justice. The Committee invited recommendations on whether “HIV/AIDS status” and several other grounds should receive explicit protection from unfair discrimination under the Act. The seminar was attended by members of the Human Rights Commission responsible for drafting a report for the Committee, the AIDS Consortium, and CALS.

### Wits Forum

The Project participates in the efforts of Wits university’s Faculty of Law, Commerce and Business to encourage discourse on HIV/AIDS issues both within and outside the institution. The Wits Forum was established in the beginning of 2001 and meets once a month to listen to presentations and discuss various topics relating to HIV/AIDS. Staff members attend and contribute to seminars, while the ALP hosts the Forum every second month. The Project Head was invited to present the inaugural seminar of the Forum.

### Cohabitation

The ALP has convened meetings with the Gender Research Project of CALS to identify and discuss the recognition of partnerships outside legally-recognised marriages. The first meeting was informed that the ALP received repeated enquiries from women who state that after the dissolution of their domestic partnerships (commonly when the male partner finds out that the woman has HIV/AIDS), they find that they have no legal recourse against their partners for support or maintenance. The meetings resulted in a submission to the Law Commission on domestic partnerships.

### \* *ALP Resource publications*

- 2001 saw the finalisation and publication of the 2<sup>nd</sup> edition of our *HIV/AIDS and the Law: A Resource Manual*. The 1<sup>st</sup> edition of the

manual came out in 1997 and was in high demand. A number of important changes in South African law, policy and legal precedents necessitated a revision of the old 300-page manual. The new manual now sports 547-pages and contains up-to-date information on HIV/AIDS and how to enforce your rights in relation to the epidemic. The manual was officially launched at a function co-hosted with CALS on the 12<sup>th</sup> of September. Several members of the Constitutional Court, Human Rights Commission and senior lawyers and attorneys attended this event. Currently 515 complimentary copies have been distributed to individuals and organisations instrumental in HIV/AIDS in South Africa such as trade unions, NGOs, journalists, libraries and judges. More than 1125 copies have been sold, and customers include the Department of Health (who bought 500 copies), the AIDS Consortium (100), advice offices, Department of Social Services and others.

What the Reviewers Say:

*[HIV/AIDS and the Law: A Resource Manual] is an extremely user-friendly read with extensive cross-referencing, useful explanatory cartoons and graphics, exercises ('talking points') at the end of each chapter to stimulate ongoing discussion, as well as detailed references and resource lists. Each chapter has its own contents allowing instant identification of topics and making it the ideal resource to dip into, find the information you need and move on – quickly and efficiently....*

*The manual is full of straightforward, practical advice telling you exactly what your rights are and how to ensure that they are protected in various scenarios. The reader is taken through the steps of different legal processes such as making a criminal charge, getting a protection order (in case of domestic violence) and starting a civil claim. There's a concerted effort to avoid legalese and take some of the fears out of confronting the law. The sample*

*will, living will, statement and affidavit should also be very useful to anyone faced with these sometimes intimidating legal processes....*

*All in all an exceptionally useful addition to the bookshelf of anyone working in, interested in, or affected by HIV/AIDS in South Africa – and I guess that's all of us!*

*- Michelle Rotchford Galloway*

*AIDS Bulletin*

*December*

*2001*

*Justice A Chaskalson*

*President: Constitutional Court*

*31 July 2001*

*Dear Project Members*

*Thank you for sending me a copy of your publication on HIV/AIDS and the Law. I am arranging for it to be placed in our library where it will be available to everybody at the Court.*

*Ms X*

*23 November 2002*

*Hereby I wish to think you for the literature I received from you today.*

*I started to study the resource manual and it highlighted a number of points which I was not sure of. This manual will assist me in more than one way when facilitating.*

*Your speedy response on my previous request is greatly appreciated. Thank you once again.*

- The ALP published “Your Victory is Our Victory” - a pamphlet that describes the history and legal significance of court cases that examined the refusal of companies to employ or promote people with HIV/AIDS. The ALP was involved in 2 cases in particular - SAA v Hoffmann and SAA v A. The pamphlet sets out the facts and legal points of these cases and explains why the applicants’ victories against SAA are so important. During 2001, we distributed more than 2560 of these pamphlets
- The ALP developed a booklet on HIV/AIDS and the law aimed at advice offices and other service organisations. “Guidelines on HIV/AIDS & the Law for Advice and Legal Office Worker” will be distributed in 2002 and contains user-friendly guidelines and

information on topics such as workplace discrimination, social grants, the medical sector and criminal law and HIV/AIDS.

- Our 8-volume “Current Law & Policy” pamphlet series was in great demand and more than 7000 copies were distributed. Three volumes of the pamphlets on the topics of rights to health care, women and HIV and rights in the workplace have been revised and will be published in early 2002. The ALP liaised with the Judicial Inspectorate Commission to distribute the pamphlet “Your rights in prison” to inmates around the country.
- Human Rights Internet kindly hosted the ALP website since 1998. In 2001, our website was transferred from our hosts to the Wits server, and further developed by ALP staff members. The website is an important resource that contains the latest developments on HIV/AIDS and the law, and ALP publications and papers. A revamped website will be unveiled in April 2002. Watch [www.alp.org.za](http://www.alp.org.za)
- An educational poster containing a list of important rights in the AIDS epidemic was designed and a thousand copies will be distributed in 2002.

#### iv) Project Management and Administration

The year under review was a year the department focused on putting up and reinforcing the structures necessary to facilitate the activities of the Project. The department successfully tackled this task and looks forward to a year of implementation of already laid down policies.

The department’s commitment to creating an environment in which the Project can, in the most efficient way, accomplish its objectives is what ensures our continued endeavours.

- Lindiwe Nkutha

Manager: Finance and Administration

The administration department exists as a structure that supports the Project's activities and ensures these are carried out efficiently, towards the realisation of the Project's goals.

The department has structured itself in the following manner:

- Information custodianship
- Development and implementation systems of internal control: policies and procedures
- External communication and fundraising
- Logistical support

Detailed below are the department's activities for the year 2001:

#### *Information custodianship*

- The department facilitated the flow of information, into and out of, the Project. Noteworthy are the following systems which were designed and implemented, around information dissemination:

The systems for sharing information relating to public education invitations went through a metamorphosis, with a final workable system emerging and being implemented towards the end of the year. A system was designed and implemented that facilitated the sales of the Project-generated manual. A process was put in place to have the "HIV/AIDS Current Law & Policy" booklets translated into isiZulu, seTswana and Afrikaans, to make the information contained therein more accessible to a wider audience. In collaboration with the Resource Center, the department ensured that information received by the Project from outside sources (through publications and journals) was kept in a way that was accessible to the Project staff. Project-generated information, as well as other information pertinent to its work, was disseminated on request to the general public as well as civil society organisations.

*Development and implementation systems of Internal control: policies and procedures:*

The ALP functions as a subdivision of CALS, which in turn operates under the auspices of the University of Witwatersrand. This position necessitates the ALP comply with both CALS' and the University's policies and procedures. Within this framework, the administration department was able to accomplish the following:

*Financial systems, Human resources systems and Administration and logistical systems:*

The administration department

- Developed a broader understanding of CALS' and the University's systems of internal control, sufficient to use as a basis for the Project's own policies.
- Identified areas for policy and procedure improvement, which were discussed at structures within CALS. The end result of which will be a finalised and uniform CALS policies and procedures manual.
- Improved on service relationships with the University personnel as service providers. This improved the quality of service relating to financial services which the Project received from the University..
- Participated in a process within CALS to clarify division of responsibilities, create synergies and eliminate overlapping of tasks where they existed.
- A staff reporting system was put in place, for the purpose of keeping track of the Project's progress towards achieving its goals, as well as a source for various project work statistical information.
- Inform and encourage staff to follow ALP/CALS generated policies and procedures.

*External communication and fund raising*

The department maintained:

- Communication with the Project partner organisations, national and international.



- Regular periodic donor reporting per donor's specifications.
- Constant contact with donor organisations and correspondence on grant conditions.

A number of proposals were also written and submitted to donor agencies. As a result the Project will be receiving funding from the European Union, Ford Foundation for the years 2002 to 2003 and from Interfund for the year 2002.

### *Logistical support*

#### *Project related*

The administration department:

- Provided support for conferences, meetings, seminars organised by the Project.
- Provided general administrative services to the Project and its staff members.

### **New Appointments**

In January the Project appointed Lindi Nkutha as "Project Officer: Finance and Administration" in order to streamline the administration of the Project and expand its functions and capacity. During the first Review & Planning meeting of 2001, the need to increase the Project's research capacity was identified. Another researcher, Marlise Richter, was appointed to the research department in May. June saw the employment of Chloe Hardy as paralegal officer to attend to telephone enquiries, provide information and legal advice on HIV/AIDS, and to set up interviews with clients. The appointment of a paralegal freed up time for ALP attorneys to focus on litigation work and public education.

### **Interns and Visitors**

April: The Policy Director of the Canadian HIV/AIDS Legal Network undertook a one-month visit to the ALP. Richard Elliot worked on treatment related

research and participated in preparatory work for the PMA case. The visit also strengthened the existing partnership between the Project and the Legal Network.

May: Tenu Avavia from the AIDS Legal Unit in Windhoek, Namibia spent 3-weeks at the Project in an initiative to exchange knowledge and information between South African and Namibia.

September: Tom Bollyky, a US Fulbright scholar with a background in intellectual property will be with the Project until June 2002, working on issues related to access to treatment and patents. Devin Blake, a law student with a public health background from the University of Michigan, US spent four months at the Project as part of the regular student exchange programme between Wits University and the University of Michigan.

### Meetings

In 2001, ALP staff attended the following administration and strategy meetings:

- ALP review meetings in February and October;
- ALP mini-review and planning meeting on the 2<sup>nd</sup> of May;
- Legal department review & planning meetings: 5<sup>th</sup> & 6<sup>th</sup> of February and 26<sup>th</sup> of October;
- CALS strategy planning on 12<sup>th</sup> October.

This year, the Project instituted a new system of performance management. This culminated in September in job appraisals and a review of job descriptions of all members of staff.

<b>ALP Meetings</b>	<b>Jan-Mar</b>	<b>Apr-Jun</b>	<b>Jul-Sep</b>	<b>Oct-Dec</b>	<b>Total</b>
Review & Planning	1	1	0	1	3
Staff	5	3	4	3	15
Legal department	2	3	5	2	12
Administration	1	0	1	1	3

Letters of Appreciation

*Department of Education*

*North West Province*

*21 May 2001*

*On behalf of the Auxiliary Staff members of the Rustenburg District Council, I hereby sincerely express our heartfelt thanks and appreciation to you and your organization for making available the AIDS Law Booklets.*

*Your contribution deserves its merit and indeed these booklets will be made good use of.*

*Department of Works*

*KwaZulu-Natal*

*Request for Documentation: HIV/AIDS*

*I would like to express my appreciation for the swift response to my request for documentation on the legal aspects pertaining to HIV/AIDS.*

*The information forwarded by Ms Lindiwe Kunene to me has surpassed my expectations and I would like to thank her accordingly.*

*Once again, many thanks.*

[Staff Training](#)

The Project places a strong emphasis on staff development and training. Staff members are encouraged to keep abreast of developments in national and international law, the latest information and research on HIV/AIDS, and to link their work to other interests and fields of study. Members of staff attended more than 238 seminars in 2001, gaining knowledge and insight as well as placing HIV/AIDS on the agenda and making it a point of discussion in the great variety of forums attended. Formal academic or training courses that were attended include: Competition Law; International & Comparative Law of Human Rights; Employment Law; English literature; web design courses and various other computer courses. In order to develop and sharpen writing skills, a number of staff members participated in a writing workshop facilitated by the Wits Writing Centre.

### **2002: the Year Ahead**

#### *Legal department:*

The Legal Unit will continue with the work started this year. In particular, we will focus on finalising the cases which we believe will have an impact, not only of the lives of the people involved, but on legal reform and on the way in which our society deals with people living with HIV. The lawyers at the Project will continue to give of their best and will remain committed to tackling unfair discrimination against people living with HIV, wherever it may appear.

- Liesl Gertholtz

#### *Project Management & Administration:*

The department hopes to capitalise on the fact that a policy & procedure infrastructure has already been laid down within CALS. The next step for the department would therefore be to ensure understanding by all staff members of the infrastructure, which in turn will ensure adherence and ease of implementation of the policies and procedures. The merger of a portion of the Resource Center and the Administration department will allow for an even more efficient management of the flow of information as well as an expansion of the capacity and skills base of staff members in the department.

- Lindiwe Nkutha

*Research Department.*

Whilst many areas of policy and law around HIV are now fairly settled, there is a growing need for research-based advocacy around unresolved policy issues concerning access to health care services, including medicine. At the beginning of 2002, supported by funding from the Ford Foundation, the ALP employed a specialist researcher on legal issues around treatment access. This will strengthen the capacity of the ALP's Research Department, and also lead to a valuable diversity between researchers in their area of expertise and focus.

- Mark Heywood

*Advocacy Department.*

In 2002 we will continue to use advocacy strategies to persuade the government and policy makers to expand resources and to strengthen support for the response to HIV and AIDS. We will utilise all the resources at our disposal as demonstrated in the MTCT case until there is a commitment and a political will to involve civil society in the access to affordable treatment for people with HIV and AIDS.

- Teboho Kekana

## **8.) Financials**

The financial information provided is based on unaudited financial statements and is a reflection of the summary of both the sources of the Project's income, as well as a general picture of the pattern of expenditure. The ALP's fuller report can be obtained from CALS, whose report denotes our activities as part of CALS as an organisation. At the time of drawing up this report CALS' audit had not been completed yet.

The Project wishes to thank all our donors who have provided us with the invaluable financial support, without which none of the achievements we made would have been possible.

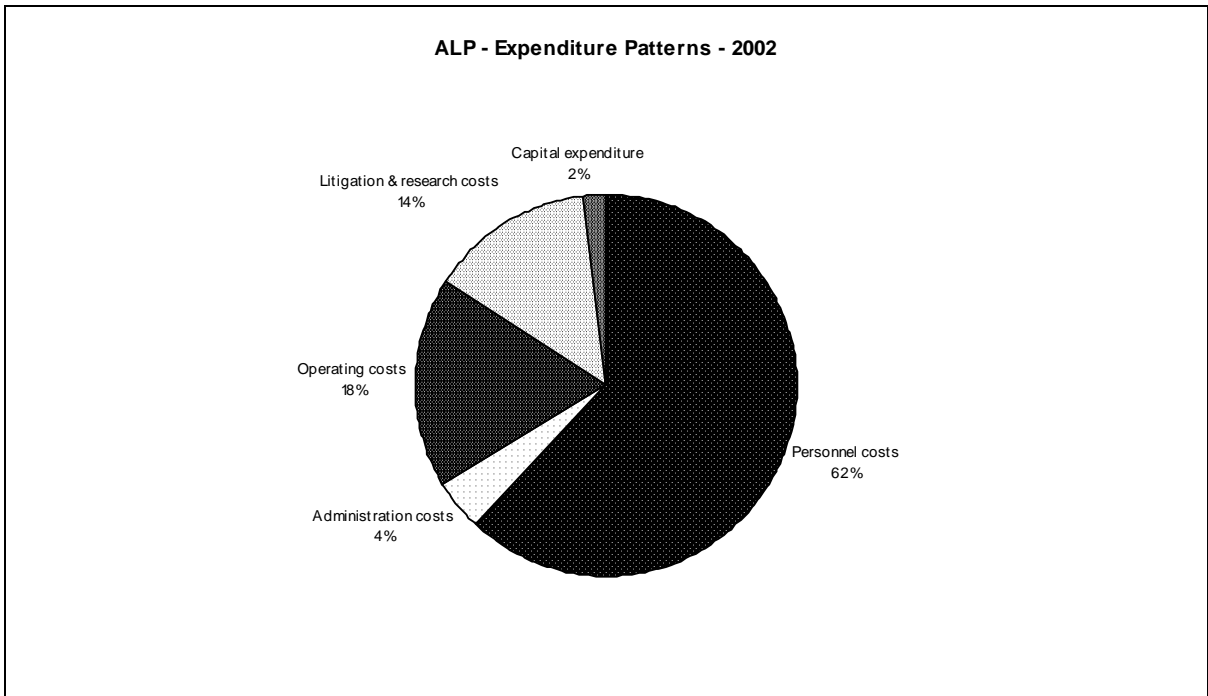
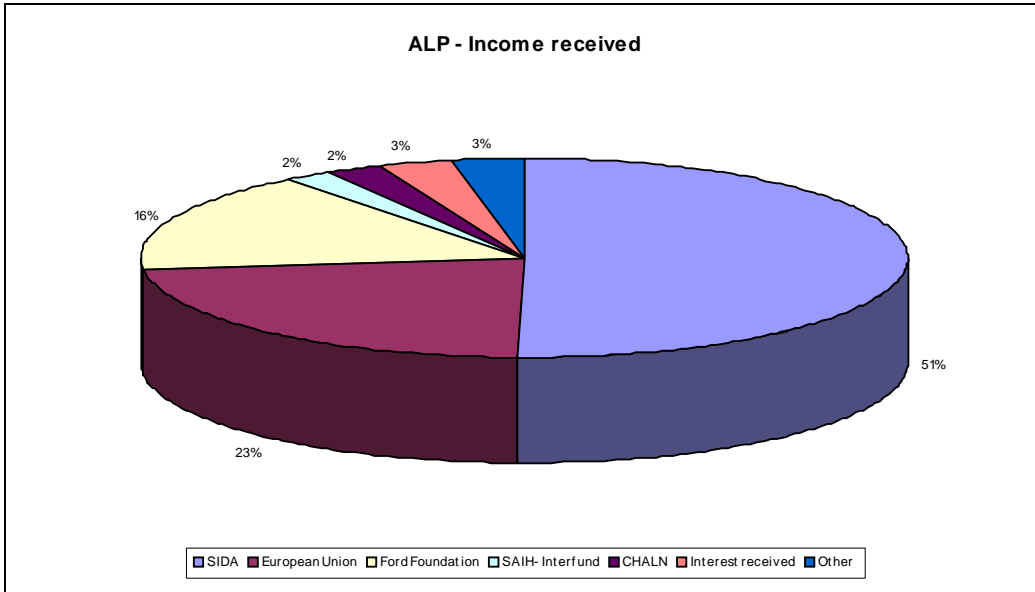
- Lindiwe Nkutha

Manager: Finance and Administration

**Income received per donor**

	<b>R</b>
<b>SIDA</b>	2,156,286
<b>European Union</b>	976,000
<b>Ford Foundation</b>	707,738
<b>SAIH- Interfund</b>	81,462
<b>CHALN</b>	100,322
<b>Interest received</b>	142,233
<b>Other</b>	125,409
<b>Total Income received</b>	<b><u>4,289,450</u></b>

<b>Aggregate Project expenditure</b>	<b>R</b>
Personnel costs	2,346,457
Administration costs	169,242
Operating costs	671,909
Litigation & research costs	529,820
Capital expenditure	68,719
<b>Total expenditure</b>	<b><u>3,786,147</u></b>



## **9.) Appendices**

### **Appendix A**

#### **Presentations at workshops, seminars and conferences**

##### **Liesl Gertholtz**

- 26/27 March. The Potter's House, workshop on "HIVAIDS, violence against women and shelter workers"
- 23/24 April. POWA shelter, workshop on "HIVAIDS, violence against women and shelter workers"
- 10 May. Pretoria Technikon, "HIVAIDS in the workplace"
- 12 July. University of Natal, Durban, "The Good, the Bad and the Ugly – HIVAIDS and the law in South Africa"
- 26 July. Netcare AIDS Imbizo, "HIVAIDS in the workplace and hospital employees"
- 23 August. Rand Water, "HIVAIDS in the workplace"
- 27 August. Department of Education, North West Province, "HIVAIDS in the workplace"
- 8 October. Wits Business School, "HIVAIDS and the law"
- 9 November. CSVN and ALP, "Post exposure prophylaxis and violence against women – a strategy workshop"

##### **Mark Heywood**

- 15 January. Presentation to TAC Executive Meeting: "Results and Prospects for TAC – Overview of 2000".
- 3 February. Presented report and recommendations of Law and Human Rights task team to SANAC, Pretoria.
- 5 February. Presented Overview and Assessment of ALP work in 2000 to ALP Review and Strategic Planning Meeting.
- 12 February. Presented at TAC KZN Conference on "Mother to Child Transmission", Durban.



- 17 February. Discussant at TAC Gauteng Provincial Conference in session on transformation of the Health service.
- 24 February. Presentation of TAC NEC Report at KZN Provincial Conference of the TAC.
- 1 March. Presentation to staff at Lawyers for Human Rights on PMA Court Case.
- 2 March. Presentation to demonstrators in Copenhagen on PMA Court Case – via satellite.
- 18 March. Chaired opening rally of TAC First National Congress.
- 19/20 March. Chaired sessions of TAC National Congress.
- 24 March. Keynote presentation to NEHAWU Provincial Congress, Johannesburg on “The challenges of AIDS”.
- 30 March. Presentation to unit heads and staff of Department of Foreign Affairs on “Issues behind the Court Case between the Government and the PMA”.
- 30 March. Presentation to University of Pretoria, Centre for the Study of AIDS, AIDS Forum, on “Issues behind the Court Case between the Government and the PMA”.
- 4 May. Presentation to Sage Life Annual meeting of Actuaries and Underwriters on “HIV/AIDS – Social issues and the role of the insurance industry”.
- 7 May. Presentation to Wits University Department of Architecture, HIV/AIDS Open Day on “The AIDS Epidemic in South Africa and its professional and personal impact on students of architecture”.
- 8 May. Presentation at seminar organised by Metropolitan Life, Cape Town on “Legal Issues around Access to Treatment in the Workplace”.
- 17 May. Presentation to University of Natal, Durban, AIDS Forum on “The Way Forward after the PMA Court Case”.
- 19/20 May. Facilitated TAC National Leadership School, Johannesburg.
- 30 May. Presentation to Wits University Faculty of Law, Commerce and Management AIDS Forum on “The Poverty of Prevention:

Identifying and Overcoming Obstacles to an Effective National Response to AIDS”.

- 12 June. Presentation to Save the Children’s Fund on “Advocacy for essential medicines: the experience of TAC and ALP”.
- 13 June. Presentation to Executive Committee of Meadowlands Youth Empowerment.
- 21 June. Presentation to CEPPWAWU (trade union) on “Strategies to improve access to essential medicines and boost jobs in the SA pharmaceutical industry”.
- 27 June. Presented paper to ALP seminar on “Options for protection of PWA’s under the Equality Act”.
- 30 June. Presentation to SAIMR Infection Control on “Legal issues around treatment of people with HIV: rights of patients and health professionals”.
- 9 July. AIDS Foundation training course, Durban on “Understanding Legal Issues / Access to affordable medicines”.
- 14 July. Presentation to SAMA Committee on Law, Ethics and Human Rights, Pretoria on GRIP, MTCT and revision of MASA Guidelines.
- 20 July. Presentation to Church Unity Commission on MTCT and TAC court case.
- 24 July. Presentation to Management and trade union representatives of Robert Bosch Ltd., Brits on “Legal and policy questions around HIV/AIDS in the workplace”.
- 24 July. Presentation to Marcus Evans Corporation Strategic on HIV/AIDS Conference on “Legal and policy questions around HIV/AIDS in the workplace”.
- 31 July. Presentation at AIDS Consortium General meeting on TAC’s MTCT court case.
- 14 August. Presentation at TAC Nkosi Johnson Treatment Literacy School on “SA’s Constitution as a tool for advocacy”.

- 15 August. Presentation at Anglican All Africa Conference on HIV/AIDS breakaway group re: “Advocacy: what it is and how to deal with it”.
- 19 August. Presentation at Wits University ‘Physicians Update’ on “AIDS, law and ethics”.
- 20 August. Presentation at Department of Education Conference, Midrand on “Sexuality Education and the Constitution”.
- 23 August. Presentation to NUM AIDS Committee on “Approaches to treating HIV/AIDS”.
- 30 August. Presentation to Cross Border Transport Agency HIV/AIDS Workshop, Pretoria on “Legal issues affecting the road transport sector”.
- 1 September. Presentation at Nkosi Johnson Treatment Literacy School on “Advocacy, Human Rights and the Constitution”.
- 21 September. Keynote speaker at Canadian HIV/AIDS Legal Network (CHALN) Annual General Meeting and Skills Building Workshops. “Access to HIV/AIDS Treatments in Developing Countries – a South African perspective”.
- 23 September. Keynote speaker at closing of CHALN Annual General Meeting and Skills Building Workshops: “Some Reflections on Globalisation, Development, Human Rights, and Access to Medicines”.
- 25 September. Presentation at Duke University, North Carolina, on “Law, the HIV Epidemic and their relationship to the new South Africa: Where are we? How did we get there? Where are we going?”
- 26 September. Presentation to undergraduate class at Duke University, North Carolina, on “Norms Entrepreneurs: Reconfiguring Law and Politics in Access to Health Care”.
- 27 September. Presentation to Concordia University Community Symposium on “Frontline South Africa: Treatment Access on Trial”, Montreal.
- 1 October. Presentation to American Society of Law, Ethics and Medicine Conference on “Debunking ‘Conglomo-talk’: A Case Study of

the *Amicus Curiae* as an Instrument for Advocacy, Investigation and Mobilization”.

- 1 October. Presentation to ASLME Conference closing plenary session on “Legal advocacy for health – next steps”.
- 8 October. Presentation at joint workshop – SANEF, Soul City, Health-e on “Representations of AIDS in the media”.
- 18/19 October. Presentation at TAC National ARV Consultation on “Summary of consensus and way forward”.
- 22 October. Presentation to Department of Public Service & Administration Conference on: “Legal aspects of HIV in the workplace”.
- 22 October. Presentation to Zenex Foundation on “Implication of HIV for Education and Development in SA”.
- 14 November. Presentation to Marcus Evans, Cape Town on “Legal issues around HIV/AIDS in the workplace”.
- 17 November. Presentation to TAC Gauteng Provincial Meeting on “ARVs: what are they, they do they do?”
- 29 November. Presentation to Department of Transport, Mdantsane, East London (national launch of Dept of Transport programme of Action on HIV/AIDS) on “Legal issues on AIDS in the Transport Sector” (keynote speaker with Dullah Omar, Rvd Stofile and ILO).
- 30 November. Presentation at HIV Vaccine Ethics Group, University of Natal, Pietermaritzburg campus on “What is the most appropriate treatment for volunteers who might become infected during the course of an HIV vaccine trial?”
- 5 December. Presentation to National Union of Mineworkers Southern Africa Energy Workers Workshop on “Current issues on HIV/AIDS”.
- 7 December. Presentation to COSATU People’s Budget Committee on “Costs of HIV/AIDS”.

### **Jennifer Joni**

- 15 February. Presentation to Eskom employees on HIV and the Law, Johannesburg.

- 22 February. Presentation to Eskom employees on HIV and the Law, Johannesburg.
- 05 April. Presentation at a training workshop for **SANUS**, on “legal aspects of HIV”, Johannesburg.
- 19 April. Presentation to National Policy Conference of (South African Democratic Teachers Union (SADTU) on “Gender, Schooling and HIV,” Johannesburg.
- 25 April. Presentation to Health Care workers at Cosmos Hospital, on “Legal aspects of HIV,” Witbank.
- 18 May. Presentation to Eskom employees, Lethabo Power Station, on “HIV and employment,” Sasolburg.
- 18 June. Presentation to Home Based Care workers on “Legal aspects around HIV/AIDS, Boksburg.
- 06 July. Presentation to staff of St Francis Care Centre on “Legal Aspects of HIV/AIDS, Boksburg.
- 11 July. Presentation to seminar of the SA Society of Occupational Health and Nursing Practitioners on “Legal issues around HIV,” Boksburg.
- 04 August. Presentation to the Anglican Youth Group on “HIV Prevention”, Bredell, Kempton Park.
- 17 August. Presentation to NACTU worker’s congress at Unilever Foods on “HIV and employment”, Boksburg.
- 21 August. Presentation to Manager’s orientation workshop at Unilever Foods on “HIV and the Law”, Boksburg.
- 15 September. Presentation to a peer educator’s workshop, Rand Afrikaans University, on “HIV in the workplace”, Johannesburg.
- 01 October. Presentation to a training workshop organised by the Clinical Trials Unit, Wits AIDS Consortium on “Ethics of: Access to HIV Therapy, Resource Allocation, Notification and Workplace and legal issues.” Johannesburg.
- 22 October. Presentation to managers at SAA on “HIV in the workplace,” Johannesburg.

- 30 October. Presentation to Dept of Communications employees of “HIV in the Workplace,” Pretoria.
- 17 November. Presentation to an African Focus Conference, on “Human Rights and legal implications of HIV/AIDS in Africa,” Auckland, New Zealand.
- 03 December. Presentation at a Conference organised by the University of Connecticut on “Access to affordable treatment for HIV/AIDS: A Human rights issue in the developing world,” New Haven, Connecticut (US)

### **Anita Kleinsmidt**

- 9 February. Presentation to Trade Union on ‘Workplace policies on HIV/AIDS’.
- 14 March. Presentation to Volunteer Service Organisation orientation on ‘HIV and the Law in SA’.
- 14 May. Presentation to Canadian treatment activists in Toronto on ‘the PMA case and NGO Mobilisation’.
- 16 May. Presentation to Dept Foreign Affairs Ottawa, Canada on ‘ The Human Rights Perspective on Intellectual Property in the PMA case’.
- 16 May. Presentation to Health Canada on ‘ The PMA case and Legal Consequences’.
- 29 May. Presentation to Human Resources Managers on ‘Labour Law and HIV Best Practice’. Convened by Discovery Health.
- 10 July. Presentation to CEPPWAWU on ‘The PMA Case’.
- 31 July. Presentation to Human Resources Managers on ‘Labour Law and HIV Best Practice’. Convened by Discovery Health.
- 31 July. Presentation to the AIDS Consortium on the GRIP case.
- 3 December. Presentation to Helen Joseph Hospital staff on ‘HIV Law and Ethics’.
- 6 December. Presentation to Kenyan Govt HIV Legal Task team on ‘Overview of HIV Law in South Africa’ .
- 7 December. Presentation to Kenyan Govt HIV Legal Task team on ‘Criminalisation of HIV Transmission’.

### **Teboho Motebele**

- 17 February. Co-facilitated Commission on the TAC Constitution at the TAC

#### Gauteng Conference

- 3 April. Muslim AIDS Programme, JHB – “ HIV/AIDS and the law”.
- 16 May. Muslim AIDS Programme, JHB (housewives and their domestic workers) – “HIV/AIDS & the law”.
- 7 July. “Access to treatment” at the 2<sup>nd</sup> Canadian Skills Building Symposium: A project of the Canadian AIDS Society.
- 8 July. Co-presented on “Patent 101: the PMA Case” with Richard Elliot of the Canadian AIDS Legal Network at the 2<sup>nd</sup> Canadian Skills Building Symposium: A project of the Canadian AIDS Society.
- 22 August. St John Ambulance - “HIV, Ethical & legal Issues”.
- 22 October. SAA – “HIV in the workplace”.

### **Fatima Rahiman**

- 11 September. Presentation to Midrand Campus, 2<sup>nd</sup> year Graphic Design students on “HIV/AIDS – how it infects, affects and its effects”.

### **Marlise Richter**

- 16 July. Interview on wilful transmission, Radio Spektrum.
- 19 July, Nature and extent of AIDS discrimination in South Africa, Department of Health.
- 31 July. Aspects of AIDS discrimination in South Africa, AIDS Consortium
- 31 September. Interview on government budget allocations to HIV/AIDS, Radio Spektrum.
- 26 November. Interview on mother-to-child-transmission court case, SABC3 News.

<b>Speaking engagements</b>				
	<b>Jan-Mar</b>	<b>Apr-Jun</b>	<b>Jul-Sep</b>	<b>Oct-Dec</b>
AK	3	4	0	5
CH	-	0	0	0
TM	-	2	5	0
MH	15	18	22	10
MR	-	0	3	0
LG	-	1	4	2
JJ	2	5	6	5

<b>Summary of Media Presentations</b>	
<i>Radio National</i>	80
<i>Radio International</i>	22
<i>TV National</i>	29
<i>TV International</i>	27

<b>Summary of Publications</b>	
<i>Print National</i>	70
<i>Print International</i>	20
<i>Publications</i>	29



## Appendix B:

### Publications: Academic, research and memoranda

#### Liesl Gernholtz

- Chapter 3 in “Introduction to the Promotion of Equality and Prevention of Unfair Discrimination Act”, Albertyn *et al*
- Written submission to the Joint Monitoring Committee on the Improvement of the Quality of Life and Status of Women on “How best can South Africa address the impact of HIV/AIDS on women and girls?”, co-authored with Marlise Richter

#### Mark Heywood

##### *Academic*

- “Debunking ‘Conglomo-talk’: A Case Study of the *Amicus Curiae* as an Instrument for Advocacy, Investigation and Mobilisation”. Accepted for publication in *Law, Democracy and Development*, 2002.
- “Chaffed and waxed sufficient”: Drug access, patents and global health”. Accepted for publication in *Third World Quarterly, Journal of Emerging Areas*, 2002.
- “Confronting AIDS: Human rights, law and social transformation.” Published in *Health and Human Rights: An International Quarterly*, Vol. 5 No 1.

##### *Research papers*

- “Current legislation, policies and practice in South Africa in relation to HIV prevention and testing.” Research paper prepared for an African regional consultation of the Joint United Nations Programme on HIV/AIDS (UNAIDS), February 2001.
- “Human Rights and HIV/AIDS in the Commonwealth.” Prepared for the CHRI by Cathi Albertyn and Mark Heywood.

*Professional and popular media*

- “SA’s Constitutional Court declares pre-employment testing a human rights violation.” Published in AIDS Analysis Africa Vol. 11(4), Dec 00/Jan 01. Co-authored with Teboho Motebele.
- “The Constitutional Court sets the matter straight: applicants for employment who are HIV positive”. Published in AIDS Analysis Africa Vol 11(5), Feb/Mar 2001.
- March. Article for the Guardian, UK, on Court case, published 5 March.
- “Pharmaceutical companies stand up for their patents”. Published in AIDS Analysis Africa Vol. 11 (6), Apr/May 2001.
- “Pharmaceutical case ends ... not with a bang but a whimper”. Published in AIDS Analysis Africa Vol. 12 (1), June/July 2001.
- “When racism goes underground”, published in Mail & Guardian, 31 August.
- “After the storm: let the market decide”. Published in AIDS Analysis Africa Vol. 12(2), Aug/Sept 2001.
- “Error in judgment or failure by the judiciary to give clarity on the interpretation of the law?” Published in AIDS Analysis Africa Vol. 12 (3), Oct/Nov 2001. Co-authored with Jennifer Joni.
- “Mainstreaming HIV/AIDS: Progress and challenges in South Africa’s HIV/AIDS campaign”. Co-authored with Chris Kenyon, Shaun Conway and David McCoy. Published in SA Annual Health Review, 2001.
- “Judgement awaited in mother-to-child HIV transmission case”. Published in AIDS Analysis Africa Vol. 12 (4), Dec 2001/Jan 2002.
- HIV/AIDS and the Law Resource Manual. Introduction.
- HIV/AIDS and the Law Resource Manual. Chapter 2: HIV/AIDS, power and discrimination.
- HIV/AIDS and the Law Resource Manual. Chapter 5: International Law.

### *Memoranda*

- May. Assisted with drafting of paragraphs on post-trial benefits for MCC clinical trials committee.
- August. Submission on report for Equality Review Committee, with M Richter.
  - October. Drafted Bredell Consensus Statement on Appropriate use of ARVs in South Africa.
  - October. Legal opinion on Aspects of Workplace Policies of MTN and Global Gerling (private work).
  - October. Drafted comment on Research Proposal to HSRC regarding behavioural and Sero-prevalence survey (in capacity as Ethics Committee member).

### **Jennifer Joni**

- Error in judgement or failure by the judiciary to give clarity on the interpretation of the law? *AIDS Analysis Africa*, Vol. 12 (3) Oct/Nov 2001.
- January. Opinion for Transnet: HIV Testing of retrenchees.- February. Edited an article for NUMSA for publication in the NUMSA Bulletin, "HIV and the Law in relation to the Medical Schemes Act."

### **Anita Kleinsmidt**

- Pharmaceutical companies abandon case against South Africa: Victory for people with HIV/AIDS, *Canadian HIV/AIDS Policy and Law Review*, Issue 1, Feb 2001.

### **Teboho Motebele**

- HIV and Insurance: *The Sowetan*, November 29.

### **Marlise Richter**

- "Preliminary Assumptions on the Nature and Extent of Discrimination against PWA in SA" – discussion document, June 2001.

- Evaluation report on the ALP/Canadian HIV/AIDS Legal Network's project on Treatment Access, June 2001.
- "ALP gets a GRIP", *The Wits Edge*, June 2001.
- ALP pamphlet. "Guidelines on HIV/AIDS & the Law for Advice and Legal Office Worker"
- Ethics and Health Care Workers, memo, June 2001.
- HIV/AIDS and the military, memo, June 2001.
- TAC National Treatment and Prevention Plan, memorandum: mother-to-child-transmission, opportunistic infections, anti-retroviral therapy, voluntary counselling and testing, July 2001.
- Appraisal on the HIV/AIDS provisions of the Equality Review Committee draft report, with Mark Heywood, 31 August.
- Written submission to The Joint Monitoring Committee on the Improvement of the Quality of Life and Status of Women on "How best can South Africa address the impact of HIV/AIDS on women and girls?", co-authored with Liesl Gertholtz, 31 September.
- New developments on Mother-to-child-transmission, memorandum, October.
- Ethical considerations in HIV vaccine trials, memorandum, November.

## Appendix C

### Advisory Boards

#### Mark Heywood

- Member, HSRC Interim Ethics Committee.
- National Secretary, Treatment Action Campaign.
- Board member, AIDS Legal Network.
- Chairperson, SANAC Law and Human Rights Technical Task Team

#### Jennifer Joni

- Executive Committee Member, AIDS Consortium.
- Member of the Trade Union Task Team (Solidarity Centre).

#### Teboho Motebele

- Member, Civil Aviation of South Africa HIV Forum
- Member, Wits Health Community AIDS Advisory Board

## Appendix D

### Editorship

#### Liesl Gerntholtz

- Co-editor, “Your Victory is our Victory ‘ the case of “A” v South African Airways”, ALP pamphlet.
- Co-editor, ALP pamphlet. “Guidelines on HIV/AIDS & the Law for Advice and Legal Office Worker”.

#### Mark Heywood

- Editor, HIV/AIDS and the Law Resource Manual, 2<sup>nd</sup> Edition, 2001.
- Co-editor, “Your Victory is our Victory ‘ the case of “A” v South African Airways”, ALP pamphlet.

- Co-editor, ALP pamphlet. "Guidelines on HIV/AIDS & the Law for Advice and Legal Office Worker".

<b>Media</b>					
<i>Radio National</i>					
	<b>Jan-Mar</b>	<b>Apr-Jun</b>	<b>Jul-Sep</b>	<b>Oct-Dec</b>	<b>Total</b>
AK	4	- 0	0	0	<b>4</b>
CH	- 0	0	0	0	-
TM	-	- 0	0	0	-
MH	18	10 6	26		<b>60</b>
MR	-	- 1	1		<b>2</b>
LG	-	3 0	5		<b>8</b>
JJ	-	5 0	1		<b>6</b>
					<b>80</b>

<i>Radio International</i>					
	<b>Jan-Mar</b>	<b>Apr-Jun</b>	<b>Jul-Sep</b>	<b>Oct-Dec</b>	<b>Total</b>
AK	2	1 0	0	0	<b>3</b>
CH	- 0	0	0	0	
TM	-	- 0	0	0	-
MH	2	3 6	6		<b>17</b>
MR	-	- 0	0	0	-
LG	-	- 0	1		<b>1</b>
JJ	-	- 1	0		<b>1</b>
					<b>22</b>

<i>TV National</i>					
	<b>Jan-Mar</b>	<b>Apr-Jun</b>	<b>Jul-Sep</b>	<b>Oct-Dec</b>	<b>Total</b>
AK	-	- 1	0		<b>1</b>
CH	- 0	0	1		<b>1</b>

TM	-	-	0	0	-
MH	9	5	3	8	<b>25</b>
MR	-	-	0	1	<b>1</b>
LG	-	-	0	1	<b>1</b>
JJ	-	-	0	0	-
					<b>29</b>

*TV International*

	Jan-Mar	Apr-Jun	Jul-Sep	Oct-Dec	Total
AK	-	3	0	1	<b>4</b>
CH	-	0	0	1	<b>1</b>
TM	-	-	0	0	-
MH	6	7	2	6	<b>21</b>
MR	-	-	0	0	-
LG	-	-	0	1	<b>1</b>
JJ	-	-	0	0	-
					<b>27</b>

*Print National*

	Jan-Mar	Apr-Jun	Jul-Sep	Oct-Dec	Total
AK	8	3	0	2	<b>13</b>
CH	-	0	0	1	<b>1</b>
TM	-	-	0	1	<b>1</b>
MH	9	4	9	18	<b>40</b>
MR	-	-	1	0	<b>1</b>
LG	-	6	0	4	<b>10</b>
JJ	-	2	2	0	<b>4</b>
					<b>70</b>

*Print International*

	Jan-Mar	Apr-Jun	Jul-Sep	Oct-Dec	Total
AK	-	2	0	1	<b>3</b>
CH	-	0	0	0	-
TM	-	-	0	0	-

MH	11	2	2	1	<b>16</b>
MR	-	-	0	0	-
LG	-	-	0	1	<b>1</b>
JJ	-	-	0	0	-
					<b>20</b>

*Publications*

	Jan-Mar	Apr-Jun	Jul-Sep	Oct-Dec	Total
AK	-	-	0	0	-
CH	-	0	0	0	-
TM	-	-	0	0	-
MH	10	3	3	1	<b>17</b>
MR	-	3	4	2	<b>9</b>
LG	1	-	0	0	<b>1</b>
JJ	1	-	1	0	<b>2</b>
					<b>29</b>



## Need legal advice on HIV/AIDS?



## HIV/AIDS: know your rights!



**You have the right to equality, human dignity, privacy, freedom of association and access to health care.**

*(Bill of Rights, the Constitution)*



**You cannot be asked to take an HIV test when you apply for a job, unless your employer has been granted permission by the Labour Court.**

*(Employment Equity Act of 1996)*



**You cannot be unfairly discriminated against because of your HIV status at work, or when you apply for a job.**

*(Employment Equity Act of 1996)*



**You are entitled to basic working conditions as all other employees are, including sick leave.**

*(Basic Conditions of Employment Act of 1997)*



**You cannot be dismissed just because you have HIV. If you have AIDS and are very sick, your company must follow fair dismissal procedures.**

*(Labour Relations Act of 1995)*



**You cannot be refused membership of a Medical Aid scheme because you have HIV. You are entitled to treatment for opportunistic infections.**

*(Medical Schemes Act of 1998)*



**You have the right to make decisions about whether or not to have children.**

*(the Constitution)*



**As a pregnant woman you have the right to medicine that reduces the risk of HIV transmission to your baby.**

*(the Constitution)*



equality for all

# aidslaw project

For legal advice on HIV/AIDS, call the AIDS Law Project advice line: 011-717-8600 or access our website: [www.law.wits.ac.za/cals/alp](http://www.law.wits.ac.za/cals/alp)