



Testing Constitutionalism in Health Care

AIDS LAW PROJECT

Centre for Applied Legal Studies
University of the Witwatersrand

Annual Review
2004



ACKNOWLEDGEMENTS

The ALP acknowledges the following donors who funded our activities in 2004:

The European Union
The Ford Foundation
HIVOS
Development Co-operation Ireland
The European Union Foundation for Human Rights
The Royal Netherlands Embassy
The John M Lloyd Foundation
The Swedish International Development Cooperation Agency (SIDA)

During 2004 the ALP received expert assistance in many areas of our work. In particular we would like to thank the following people and organizations:

Adv. Daniel Berger SC, Adv. Tim Bruinders SC, Adv. Gilbert Marcus SC, Adv. Wim Trengove SC, Adv. Matthew Chaskalson, Adv. Faizel Ismail, Adv. Mahlape Sello, Adv. Brian Slon, Adv. Robert la Grange, Adv. Karel Tip SC,

Dr Mark Cotton, Zackie Achmat (TAC), Prof Di McIntyre (Health Economic Unit, UCT), Alex van den Heever (Council for Medical Schemes), Alison Hickey (AIDS Budget Unit, IDASA), Duane Blaauw (Centre for Health Policy), Brenda Khunoane (Department of Health), Neva Makgetla (COSATU), Mr Daryl Burman (Burman & Katz Attorneys, Port Elizabeth), Ms Suzette Gerber (Newtons Inc, Pretoria), Mr Sherlan Archary (DK Singh, Vahed and Partners, Durban), Mr Khaya Pondo, AIDS Training, Information and Counselling Centre (ATICC, Port Elizabeth), Ms Elizabeth Malela (Kalafong Hospital), Ms Matshepo Nefale, Ms Mapula Mojapelo- Batka, Dr Robin Wood, Sindiswa Moya, Prof Andy Gray, Willbert Bannenberg, Professor Anton Harber, Sister Sue Roberts (Helen Joseph Hospital HIV Clinic), Dr Francois Venter (RHRU), Dr Harry Moultrie (Harriet Shezi Clinic) and Dan Pretorius (CALs Labour Project)

We would like to acknowledge the support of the Centre for Health Policy (CHP), Health Systems Trust (HST), Institute for Democracy in South Africa (IDASA), Open Democracy Advice Centre (ODAC), Public Service Accountability Monitor (PSAM), South African Business Coalition on HIV/AIDS (SABCOHA), Southern African HIV Clinicians' Society, Treatment Action Campaign Treatment Project, Treatment Action Campaign, Bills for Africa (Cape Town), Women's Legal Centre, BIG Coalition, Médecins Sans Frontières, Mallinicks, Parliamentary Monitoring Group, Bowman Gilfillan Inc., Community AIDS Response, and the Wits Law Clinic

Most importantly we acknowledge the courage of people living with HIV who stand up for their rights and take up and pursue their cases through the ALP. We dedicate this edition of the annual report to Mr "A" who pioneered public impact litigation on HIV in South Africa by challenging South African Airways' refusal to employ him as a cabin attendant. Sadly Mr "A" died in 2004.

The photograph on the front cover is of the Constitutional Court's hearing of the dispute over regulations introduced under the The Medicines and Related Substances Control Amendment Act, 90 of 1997. The ALP was an *amicus curiae* in the matter. Photograph: Nonhlanhla Kambule

CONTENTS

Mission Statement	2
ALP staff, students and volunteers in 2004	3
Glossary	5
Overview and Outcomes	6
Legal and Advocacy Campaigns	8
Using the law to ensure access to health care services for people living with HIV/AIDS	8
Legal interventions to ensure implementation of the Operational Plan	9
Ensuring a sustainable supply of affordable medicines	11
Supporting the TAC's campaign for a People's Health Service	13
Using the law to uphold ethics and accountability in health care provision	14
Using the law to protect vulnerable workers from discrimination	15
Using the law to protect the rights of children to access medical treatment and HIV testing	17
Using the law to protect rights to privacy and confidentiality and freedom of expression	17
Legal Advice, Education and Information Services	19
Policy Submissions and Research Reports	24
Project Management and Administration	27
Appendix A: Presentations and papers of workshops, seminars and conferences	29
Appendix B: Publications by staff members	39
Appendix C: Positions held by staff	43



Mission Statement

Discrimination against people with HIV/AIDS undermines society's efforts to prevent HIV infection and limit the impact of the HIV/AIDS epidemic on our society. Discrimination is also contrary to internationally accepted principles of human rights. The AIDS Law Project operates according to the principles set out in the 1998 United Nations *International Guidelines on HIV and Human Rights* as well as *Revised Guideline 6* which provides guidance on issues related to treatment and care.

In particular, the ALP focuses on removing obstacles that:

- Prevent people with HIV/AIDS from having access to adequate health care and treatment in both the private and public sectors;
- Prevent people with HIV/AIDS from contesting unfair treatment and discrimination and having access to legal remedies to protect their fundamental rights; and
- Deny people with HIV/AIDS access to employment, employee benefits, insurance, education and other services.

The AIDS Law Project aims to:

- Carry out litigation and legal advocacy campaigns to counter wrongs that have occurred and, where possible, to establish legal precedents that prevent them from recurring;
- Build capacity within existing legal advice service providers to offer free legal advice that will empower people living with HIV/AIDS to seek legal remedies in response to acts of unfair discrimination;
- Carry out research to support policy formulation and legislation that brings about systemic and sustainable changes in the provision of public health and other public amenities;
- Conduct research and carry out legal campaigns to ensure the removal of barriers that unfairly limit access to health care services for people living with HIV/AIDS;
- Develop print and electronic media that create an awareness of rights in government and civil society and promote effective monitoring, lobbying and advocacy;
- Establish and transfer skills and knowledge of HIV/AIDS and human rights to civil society organisations in other SADC countries; and
- Establish greater paralegal capability on HIV/AIDS and the law at the level of the community in South Africa.

The ALP is committed to a code of professional ethics, to respecting confidentiality and to the principle of the maximum inclusion of people living with or affected by HIV/AIDS. We will oppose all forms of unfair discrimination and promote a culture of human rights and equality for all.

ALP STAFF, STUDENT ASSISTANTS & VOLUNTEERS IN 2004

The work described in this report would not have been possible without the dedication, commitment, skill and passion of the ALP's staff. We acknowledge the following staff for their efforts in 2004:

Ayanda Bekwa has a Masters Degree in International Relations. Prior to joining the ALP, Ayanda worked at Gender Links as a Programme Officer. She joined the ALP in June 2004 as an Associate Researcher and resigned in October 2004 to join the Department of Foreign Affairs.

Jonathan Berger is head of the ALP's Law and Treatment Access Unit. Prior to completing his masters thesis on international trade law, patents and access to treatment for HIV/AIDS at the University of Toronto, he worked as a researcher for Justice Kate O'Regan of the Constitutional Court of South Africa. A former legal education and advice officer at the National Coalition for Gay and Lesbian Equality (NCGLE), he is chairperson of the board of the Lesbian and Gay Equality Project (successor to the NCGLE) as well as a member of the TAC Treatment Project's Gauteng Selection Committee.

Althea Cornelius is the litigation secretary at the ALP and acts as PA to the Project Head. She holds a Diploma in Theology from the Baptist Theological College and has worked as a secretary for many years. She joined the ALP in 2000. Althea is also very involved in church work (Sunday School Teacher, Secretary for the Ladies Meeting) and, since 1973, has been involved on a voluntary basis with The Star Seaside Fund.

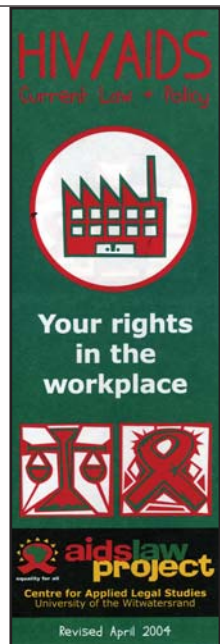
Adv Liesl Gerntholtz is the head of the HIV/AIDS Law and Policy Unit at the ALP. Prior to joining the ALP in 2001, she practiced as an advocate from 1991 until 1996 when she joined the South African Human Rights Commission as its Senior Legal Officer. In 1998 she joined the Commission on Gender Equality as the head of its Legal Department. Liesl remains active in the gender field and is presently a board member of Tshwaranang Legal Advocacy Centre to End Violence Against Women and Let Us Grow. She holds a BA LLB from the University of the Witwatersrand.

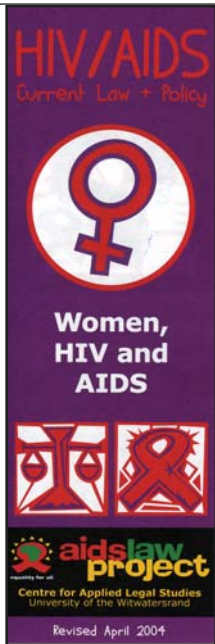
Chloe Hardy is the ALP's paralegal co-ordinator. She grew up in Polokwane and was previously employed as a Complaints Officer at the Commission on Gender Equality,

and as an independent researcher, specialising in gender equality and human rights issues. She has also worked as a volunteer counsellor for Child Welfare, as PA to the Deputy Speaker of the Northern Province Legislature, and as a tea-maker at a large textile company in Manchester. She is presently studying towards an LLB through UNISA and holds an Honours degree in Psychology from Rhodes University. During 2004 she was the Chairperson of the AIDS Consortium Executive Committee.

Fatima Hassan is an attorney and former deputy head of the AIDS Law Project (ALP). During her student years she was an active member of a number of student organisations that were aimed at political change. She graduated from WITS in 1994 with an LL.B and completed her articles at the WITS University Community Law Clinic. She joined the ALP in 1996 where she conducted public interest litigation, education, training and legal reform in the area of HIV/AIDS and discrimination. During this time she was appointed by the Minister of Health as a board member of the Council for Medical Schemes. In 2000 Fatima joined the Constitutional Court of South Africa for a year to complete a research clerkship with Justice Kate O'Regan. She was awarded the Franklin Thomas Fellowship to pursue an LLM at Duke University which she completed in 2002. She is now working in the Law & Treatment Access Unit of the ALP.

Adila Hassim joined the ALP in June 2004 as an advocate and researcher within the Law and Treatment Access Unit. She has a BA LLB from the University of Natal and has worked at the Constitutional Court as a clerk for Deputy Justice Pius Langa, as well as then Acting Justice Edwin Cameron. In 1998 she was awarded the Franklin Thomas Fellowship to pursue an LLM at St Louis University in the USA, which she completed with distinction in 1999. She is duly admitted as an advocate of the High Court of South Africa. In 2000 Adila received a Bradlow Foundation/ Rev Lewers, CSC Scholarship to further her studies. She is currently enrolled as a doctoral candidate at the University of Notre Dame, USA.





Mark Heywood has been the head of the AIDS Law Project since 1997. Mark received his B.A. Hons. in English Language and Literature from Balliol college at Oxford in 1986 and in 1994 completed an MA in African Literature at Wits University. Prior to joining the ALP Mark was active in a number of human rights campaigns both within and outside of South Africa. Mark is currently the Treasurer of the TAC and a member of South Africa's National AIDS Council (SANAC).

Mapula Hlaba is a final year LLB student at the University of the Witwatersrand. She joined the ALP as an assistant researcher. Mapula completed her BCom degree in 2003. She majored in Law, Insurance and Marketing. She was a member of KASI Youth Project and was the secretary of the

Commerce Student Council.

Tshepo Hlatshwayo has been a volunteer at the ALP. He was trained as a paralegal intern. His experiences at the ALP motivated him to enrol for an LLB degree in 2005.

Lindiwe Kunene is the administrator at the ALP and also answers telephone queries for people needing legal advice. She has completed a diploma secretarial course, and a computer-programming course with Damelin Correspondence school in 1993. Lindi worked at Dorbyl between 1994 and 1996 as a receptionist and switchboard operator, and she temped with Italtile and Orbicom as a switchboard operator. She joined the ALP in March of 1999.

Manana Madiba worked as a paralegal intern at the ALP from January 2003 to July 2004. She graduated in April 2002 with an LLB degree from the University of the North (Turfloop University). Prior to working at the ALP she was employed by Rights Africa.

Anneke Meerkotter joined the ALP as an attorney from the Children's Rights Project at the Community Law Centre where she worked as a co-ordinator for a diversion project for young sex offenders. She holds BProc and LLB degrees from the University of the Western Cape, and went on to serve her articles with the Legal Resources Centre in Cape Town.

Mandla Mgogoshe was a paralegal intern at the ALP from August 2003 until July 2004. He holds a B. Juris degree from Vista University in Port Elizabeth as well as a

LLB degree from the University of the Witwatersrand. Mandla also worked at the Land Rights Project at CALS as an Associate Researcher before joining the ALP.

Marlise Richter is a research officer at the ALP. She holds a BA Honours degree in English Literature from Wits University. In 1999 Marlise was awarded a Fulbright Scholarship to continue her studies in the USA, where she completed an MA degree in International Peace Studies at the University of Notre Dame. Upon her return, she was contracted by Project Literacy to co-ordinate an adult literacy book on HIV/AIDS and the workplace and community. Marlise joined the ALP in May 2001.

Yusuf Saloojee worked for the ALP as an attorney from January 2004 until February 2005. He completed his LLB degree at Wits University. Prior to working at the ALP he worked at the Wits Law Clinic for the Rural Legal Trust.

Mosa Seloane first came to the ALP in June 2002 as a Resource Centre Assistant, while she was still a postgraduate student at Wits University. She became a full-time staff member in May 2003. After matriculating in 1998, Mosa studied for a BA degree and she completed her BA Honours in Journalism in 2002, both at Wits University. Mosa is also the webmistress for the ALP website.

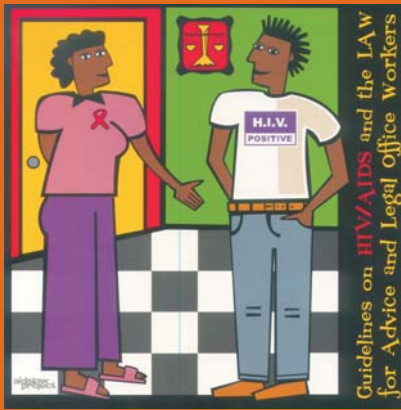
Fatima Shaik is the Project Manager of the ALP. She joined the ALP in 2003. Prior to her joining the ALP she was employed by the Gauteng Department of Health. Fatima is a social worker by profession and has an honours degree in Psychology and Criminology as well as a Masters Diploma in Human Resource Management and HIV/AIDS in the workplace. Her responsibilities include ensuring the smooth running of the project, co-ordinating the administration unit, securing funding, liaising with donors and managing the human resources within the ALP.

Thulisile Shembe was employed as a student assistant and paralegal intern at the ALP. She is a final year law student at the University of the Witwatersrand. She was nominated and participated in the first and second phase of the Integrated Bar Project in 2004.

Bongumusa Sibiya joined the ALP as an assistant researcher after successfully completing the HIV/AIDS and the Law course run by the ALP at Wits University. He is currently employed as a paralegal intern and is completing his final year LLB degree. In 2003 he was elected class representative for the Law of Taxation.

GLOSSARY

ARASA	AIDS and Rights Alliance for Southern Africa	MTCT	Mother-to-Child Transmission
ARVs	Antiretroviral Medicines	NAPWA	National Association of People Living with HIV/AIDS
BI	Boehringer Ingelheim	NEDLAC	National Economic, Development and Labour Council
CALS	Centre for Applied Legal Studies	NGO	Non-Governmental Organisation
CHALN	Canadian HIV/AIDS Legal Network	NPG	National Pathology Group
COSATU	Congress of South African Trade Unions	PEP	Post-Exposure Prophylaxis
DoH	Department of Health	PLWAs	People Living with HIV/AIDS
GARPP	Generic Antiretroviral Procurement Project	PSSA	Pharmaceutical Society of South Africa
GSK	GlaxoSmithKline	SCA	Supreme Court of Appeal
HIV	Human Immunodeficiency Virus	SALC	South African Law Commission
HPCSA	Health Professions' Council of South Africa	TAC	Treatment Action Campaign
LTAU	Law and Treatment Access Unit	TRIPS	World Trade Organisation's Agreement on Trade-Related Aspects of Intellectual Property Rights.
MCC	Medicines Control Council	UN	United Nations
MEC	Minister of the Executive Council	WHO	World Health Organisation
MinMEC	The Minister and all nine provincial MECs	WTO	World Trade Organisation
MRC	Medical Research Council		
MSF	Médecins Sans Frontières		



Overview & Outcomes

On behalf of the AIDS Law Project, I am pleased to be able to present our annual report for 2004. As this report shows, 2004 was yet another challenging and demanding year for the ALP. It was a year in which the HIV epidemic continued to grow in South Africa and in which many, many people with HIV died. Amongst those that died were several people who had come to the ALP for support, including one of the ALP's bravest clients – "Mr A" – a young man whose challenge to the pre-employment testing policy of South African Airways was a watershed in the fight against unfair discrimination in South Africa. The loss of such brave young people continues to haunt our work, just as the loss of hundreds of thousands of ordinary South Africans casts a shadow over the whole of our new society.

However, after half a decade of government-sanctioned AIDS denial, 2004 did bring about certain signs of hope. With the direct assistance of the ALP and under the threat of renewed litigation, public sector treatment programmes began from April 2004, after government had relented and agreed to procure medicines on an interim basis. By the end of the year 20,000 people were on treatment – far from enough, but a cause for hope nonetheless.

One of the challenges throughout the year was to establish an effective monitoring system for the ARV roll out, something we are pleased the ALP

was able to succeed with in collaboration with a number of other organisations.

Another sign of hope could be found in the continued drop in the price of essential medicines and the growth in availability of generic antiretrovirals in particular. By the end of 2004, for example, the settlement with two major pharmaceutical companies reported in our 2003 annual report had led to the issuing of a number of voluntary licences and to growing affordability of these medicines. Unexpectedly, the ALP was acknowledged at the beginning of 2004 for its work in this field when we were awarded the Department of Trade and Industry's Consumer Champion prize for 2004, together with a cheque for R10 000! In the face of continued obstinance and hostility to working with the ALP and other civil society organisations that comes from the Minister of Health, this recognition from another government department was indeed rewarding.

However, in the face of high profile campaigns for access to treatment, the ALP is proud that it has not lost sight of its original mission to help individuals to challenge the unfair discrimination they experience because they have HIV. Proof of this lies in the fact that the ALP's paralegal services remained in demand throughout 2004, notching up a succession of 'small' victories on behalf of people who had requested our assistance.



In addition, several high profile court cases were run, challenging stigma and exclusion. Regrettably, one of the most important of these, concerning a school's unwillingness to admit a child with HIV, was lost when the Johannesburg High Court dismissed our application for leave to appeal in June 2004. But, although the ALP lost the legal battle, largely on technical as opposed to substantive grounds, we won the public battle, evoking sympathy for the family as well as much better public understanding of issues concerning the management of HIV in South African schools.

The ALP's ability to continue to impact on the HIV epidemic depends upon a range of successful partnerships. Within the ALP, staff with different job descriptions and different backgrounds collaborated effectively, despite great pressure sometimes, to deliver a free service to the disadvantaged. Externally, the ALP is a strong link in a chain of organizations that are committed to HIV prevention and treatment. Once again, our most valued partner has been the Treatment Action Campaign but, as the acknowledgement section

of this report indicates, the TAC is but one of a wide variety of partners.

In conclusion, I would like to reflect on the possibility that the ALP is going through a process of renewal and recommitment. In 2004 several staff members left the Project. But in addition several new people joined us. We also benefited from the assistance of a number of volunteers and interns, some of them law students, who we hope will be inspired to become part of a new generation of people who use human rights law to try to address some of the greatest challenges of the 21st century.

The road ahead for the ALP has been mapped out – it continues to be to advocate and litigate on behalf of people affected by HIV in order to ensure that fundamental rights to dignity, autonomy, life, equality and access to health care services are protected and advanced.

MJ Heywood
ALP Head



Legal and Advocacy Campaigns

Using the law to ensure access to health care services for people living with HIV/AIDS

Section 27 of the Constitution guarantees everyone the right to have access to health care services. This includes a right of access; to essential medicines and health services for preventing and treating HIV infection and AIDS-related illnesses, as well as a right of access to medical care of the highest professional and ethical standard. As a key component of the ALP's mission is to protect and advance the rights of people living with HIV/AIDS, a significant focus of the project's work in 2004 was placed on the rights of people living with HIV/AIDS to health care. This work concentrated on the following four areas:

- Implementation of the *Operational Plan for Comprehensive HIV and AIDS Care, Management and Treatment for South Africa* ("the Operational Plan");
- Ensuring a sustainable supply of affordable medicines;
- Supporting the TAC's campaign for a People's Health Service; and
- Holding health care providers to account.

Monitoring the Implementation of the Operational Plan

The ALP's 2003 report speaks to the extensive campaigning undertaken by the TAC and ALP to ensure that the South African government developed and implemented a national HIV/AIDS treatment plan. Adopted on 19 November 2003, the Operational Plan is a comprehensive strategy for HIV/AIDS care, management and treatment that aims to accomplish two interrelated goals: to provide comprehensive care and treatment for people living with HIV/AIDS, including access to antiretroviral (ARV) medicines where appropriate; and to facilitate the strengthening of the national health system in South Africa.

With the plan in place, the ALP stepped up efforts to support and monitor its implementation. This work received a significant boost when two additional staff members joined the ALP's Law and Treatment Access Unit (LTAU) in June 2004, one of whom focused her attention entirely on this key area of work.

The ALP's monitoring work is divided into two overlapping and mutually reinforcing areas. First, it contemplates the specific role that the ALP can play as an organisation that uses the law as a tool of social change. In general, this means identifying the various opportunities for – and the numerous barriers that prevent people living with HIV/AIDS from – accessing the HIV/AIDS treatment, care and support promised in the Operational Plan, as a basis for developing and implementing legal strategies for challenging these barriers. Second, the monitoring work considers the support that the ALP can provide and obtain by working in close collaboration with a range of key stakeholders that also have an interest in realising the health care rights of people living with HIV/AIDS.

First joint ALP/TAC monitoring report on the Operational Plan

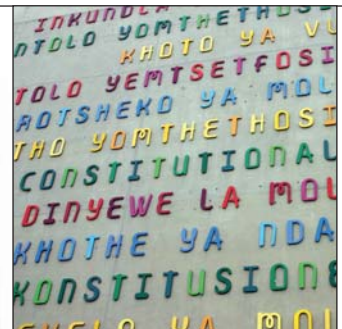
A significant aspect of the monitoring work in the early part of the year was the collation of information for and the public release of a joint ALP/TAC monitoring report on the implementation of the Operational Plan, which was launched at the People's Health Summit (PHS) in early July 2004 (discussed in more detail below). The release of the report prompted many government officials to provide the ALP with new information, resulting in an updated version which was published on the TAC website (www.tac.org.za/Documents/ARVRollout/FinalFirstARVRolloutReport.pdf). The monitoring work included engaging with government at both national and provincial level, requesting information and documents in respect of various aspects of the plan, such as interim procurement of supplies of ARV medicines and provincial business plans.

Joint Civil Society Monitoring Forum (JCSMF)

The ALP helped to form the Joint Civil Society Monitoring Forum (JCSMF), launched on 7 September 2004 in Polokwane, Limpopo. Initially composed of 11 civil society organisations, including the Health Systems Trust, the TAC, IDASA, the Open Democracy Advice Centre, the Centre for Health Policy, the Southern African HIV Clinicians' Society,

the South African Business Coalition on HIV/AIDS and the Public Service Accountability Monitor, the JCSMF aims to monitor and assess implementation of the Operational Plan from a public health and human rights perspective.

In particular, the JCSMF sees its role as providing an ongoing and accurate assessment of the plan's implementation, acting as an early warning system for problems and helping communicate successes. While it is largely made up of civil society organisations, its meetings are open to Department of Health officials at both national and provincial level. The reports of the forum's two meetings held in 2004 (Polokwane, 7 September and Bloemfontein, 19 November) are available online at www.tac.org.za/newsletter/2004/ns13_09_2004.htm and www.hst.org.za/uploads/files/jcsfm_191104.pdf respectively. It is anticipated that the work of the JCSMF will continue in 2005, with its members meeting quarterly and communicating regularly via email and a dedicated list serve.



Legal interventions to ensure implementation of the Operational Plan

One of the benefits of the ALP's monitoring work is to highlight opportunities for legal interventions that have the potential to ensure that the Operational Plan is implemented with as much urgency as is reasonably possible. In 2004, two such opportunities arose – the first dealing with the procurement of ARV medicines and the second with access to the plan's implementation schedules.

Compelling the Minister of Health to procure an interim supply of ARV medicines

A key obstacle standing in the way of provincial implementation of the Operational Plan in early 2004 was the failure of the national Department of Health (DoH) to procure an interim supply of ARV medicines pending the finalisation of the formal tender. Funds had already been allocated to the provinces for the purchase of ARV medicines, with many public health facilities at that stage



being in a position to begin providing treatment. But treatment could not be provided until ARV medicines had been procured by the DoH on behalf of the provinces.

Initially the DoH would only commit itself to procuring ARV medicines on behalf of the provinces in terms of a formal tender process that was not expected to deliver ARV medicines until late 2004. By the end of 2004, the tender had yet to be awarded. Of concern to the ALP was the fact that the DoH chose not to make use of a regulatory framework that permits it to procure goods and services in the interim pending the finalisation of a formal tender process. In this case, the delay in procuring ARV medicines was costing lives.

Acting on behalf of the TAC, the ALP began taking the necessary legal steps to compel the DoH to use its interim procurement procedures. Litigation was averted when the health MinMEC (the Minister and the nine provincial members of the executive councils (MECs)) decided on 23 March 2004 to procure ARV medicines in the interim through a national price quotation system. This decision was communicated to the ALP on 24 March 2004, a day before an urgent application was to be filed in the Pretoria High Court. As a result of the MinMEC decision, provinces such as Gauteng were able to begin providing ARV treatment on 1 April 2004.

Access to the implementation plan timetable

When the Operational Plan was published by the cabinet in November 2003, it referred to – but did not include – an implementation timetable called “Annexure A”, which it described as “a detailed schedule for the next six months that describes the tasks that need to be accomplished in parallel in order for this plan to work”. The Operational Plan also stated that “if one or two steps are not completed on time, the whole programme may be jeopardized”. Further, it also referred to a “task list associated with every chapter of this plan”.

However, this detailed schedule of tasks was not made public. Therefore, on 20 February 2004, the ALP (acting on behalf of the TAC) asked the Minister to release

Annexure A. In the TAC’s view, the information sought was necessary to enable it to play its role in ensuring the speedy and reasonable implementation of the Operational Plan. Relying on the fact that the Constitution recognises that everyone “has the right of access to ... any information held by the state”, which in turn places a duty on government to promote and not deny access to life-saving information, the TAC demanded access to Annexure A on two grounds: first, because it believed access was necessary to save lives; and second, because it was entitled to gain access as of right.

After the Minister failed to respond to the initial request for access, the ALP made several further additional formal and informal requests for Annexure A to be publicly available. But it was only some seven months later – in September 2004 and in answer to the legal papers filed in the Pretoria High Court – that her department informed the TAC in an affidavit signed by the then acting Director-General (DG) of Health that Annexure A was a draft that had not been adopted by Cabinet, MinMEC or the task team that drew up the Operational Plan. In her affidavit, the acting DG said that all references to Annexure A in the Operational Plan were made in error.

While the TAC’s replying affidavit accepted – in good faith – that the acting DG was telling the truth, it also mentioned that had the Minister displayed a modicum of conscientiousness, she would have informed the TAC of the true status of Annexure A much earlier. Because she failed to do this and because her department did not respond to the request for access to information, the ALP was forced to bring legal proceedings on behalf of the TAC. Once advised of the true status of Annexure A, the TAC did not persist in asking for its publication, as its case had always been about access to the approved implementation plan timetable. However, had the state informed the ALP earlier of the true status of Annexure A, it would not have taken legal steps and in so doing incurred significant costs. Because of this the TAC pursued a costs order against the state, asking the High Court to hold the Minister to account by making her pay the wasted legal costs. Despite opposition, a punitive costs award in the TAC’s favour was made on 14 December 2004. Not only were costs awarded against the state, but on a scale reserved for occasions when the behaviour of the one party is so bad that it justifies a punitive costs order. The ALP trusts that this ruling will deter the DoH and provincial departments from failing to

take the constitutional right of access to information seriously.

Ensuring a sustainable supply of affordable medicines

In this area of work, the ALP has two objectives. First, it seeks to play an integral role in the development and implementation of a comprehensive statutory and legal framework that ensures access to a sustainable supply of affordable medicines for the prevention and treatment of illnesses, including HIV infection and AIDS-related infections. Second, it seeks to use the existing legal framework to increase access to these medicines.

Intervention in the legal dispute between the Minister of Health and pharmacists

Many poor people use the private health sector in South Africa because they do not live near adequate public health facilities or are unable to access the services that they need in the public sector. Put simply, many users of the public health system often have no choice but to purchase medicines from private pharmacies or their doctors. In some cases, this is because the medicines they need are not available in the public sector. Some essential medicines are unavailable in state hospitals and clinics, often because of their cost.

The Medicines and Related Substances Control Amendment Act, 90 of 1997, was introduced to address these and other problems regarding access. It correctly targets the entire medicines supply chain for regulation, from manufacturers through distributors and wholesalers to retailers, including both pharmacists and dispensing doctors and nurses. Generally it seeks to eliminate practices that limit access to medicines. This is to be done by the Act as well as two sets of regulations: the general regulations and the pricing regulations.

The general regulations came into effect on 2 May 2003. However, the pricing regulations, which started to come into effect a year later on 2 May 2004, were set aside by the Supreme Court of Appeal (SCA) on 20 December 2004. These regulations dealt with various aspects of medicine pricing, such as dispensing fees to be charged by

pharmacists and dispensing health practitioners, and the price of medicines sold by pharmaceutical manufacturers.

The challenge to the pricing regulations started in the Cape High Court when the Pharmaceutical Society of South Africa (PSSA), New Clicks and others applied for an order declaring the regulations invalid. The application was dismissed in August 2004 and the applicants applied to the Cape High Court for leave to appeal. More than three months later, on 3 December 2004, leave to appeal was denied. In the meantime, however, the PSSA and others had already applied directly to the SCA for leave to appeal.

It was at that stage when the ALP, acting on behalf of the TAC, took steps to be admitted as *amicus curiae* (friend of the court). After being granted admission, the ALP filed legal papers that argued that the level at which the pharmacists' dispensing fees was set by the pricing regulations was decided arbitrarily, without adequately considering the evidence that showed that the proposed fee posed a threat to the sustainability of many pharmacies serving under-resourced areas. The TAC *amicus* intervention stressed that if pharmacies shut down, especially those serving poor and under serviced areas, access to medicines will be further limited. A prior joint ALP/TAC oral and written submission to the Department of Health and its Pricing Committee in March 2004, which considered various aspects of the draft pricing regulations issued in January 2004, had urged government to ensure that the dispensing fee that was set expanded access to affordable medicines – but at the same time did not threaten the viability of smaller community pharmacies. The submission was included as part of the TAC's legal papers.

Several of the arguments advanced were taken on board by the SCA. In evaluating the appropriateness of the dispensing fee, the SCA considered its impact on the viability of pharmacies. In particular, it drew attention to the need for an appropriate balance to be struck between the interest of the public in being able to purchase affordable medicines and the interests of pharmacists as suppliers of medicines. The SCA held that access requires





both affordability and availability, and that low medicine prices do not necessarily guarantee access. Medicines also need to be available. Therefore, a dispensing fee that is so low that it threatens the viability of pharmacies cannot be considered appropriate, because its effect is generally to limit access to medicines by ensuring that they are only available for purchase from a “few large dispensers located in relatively affluent areas”.

Although a significant victory in terms of safeguarding the survival of smaller community-based pharmacies, it remains a matter of urgency to ensure that fair and transparent pricing regulations that have the potential significantly to increase access to

affordable medicines for all people in South Africa are developed and implemented. But at the end of 2004, it was clear that this would not happen in the short term. The decision of the SCA was set to be appealed to the Constitutional Court.

Using the existing statutory and regulatory framework

Much of the medicines access work of the ALP is focused on making use of the existing – albeit somewhat limited – legal framework to increase access to essential medicines. In 2004 this concentrated on the ARV medicines that are currently being prescribed in the public health system. In future it is anticipated that this work will expand to include a focus on other HIV-related medicines, such as medicines for the prevention and treatment of opportunistic infections associated with HIV/AIDS.

Enforcing GSK and BI settlements

The ALP’s 2003 annual report described the resolution of the complaint lodged at the Competition Commission by the ALP on behalf of the TAC and other stakeholders against two multinational pharmaceutical companies – GlaxoSmithKline (GSK) and Boehringer Ingelheim (BI). In December 2004 that complaint, which alleged that the two companies were charging excessive prices for certain of their key ARV medicines to the detriment of people living with HIV/AIDS, was withdrawn on the basis of commitments made by the two companies to licence local pharmaceutical

companies to import and/or produce generic versions of the essential medicines.

Throughout 2004, the ALP monitored the implementation of the settlement agreements. These agreements represented an important example of how the existing legal framework – with all its imperfections – may be used effectively to expand access to essential medicines in a developing country. By the end of 2004, both GSK and BI had discharged their obligations arising from the settlement agreements: GSK had awarded five licenses for the importation and/or local production of generic ARV medicines, while BI had awarded all three of the licenses it was obliged to grant in terms of its settlement agreement.

Ensuring sustainable supplies of ARV medicines

The Operational Plan recognises that a “central component of HIV and AIDS care and treatment is the production, procurement and supply of medicines, in particular antiretrovirals.” However in particular, access to a sustainable supply of two of the seven key ARV medicines used in the public sector has yet to be attained. These two drugs are efavirenz (marketed by MSD as Stocrin®) and lopinavir/ritonavir (marketed by Abbott Laboratories as Kaletra®). Efavirenz is used as part of the first-line ARV treatment regimen, whereas lopinavir/ritonavir is saved for the second-line regimen.

Early in 2004 the ALP began to receive a number of reports regarding problems with the availability of MSD’s efavirenz. 2004 thus saw the ALP step up pressure on MSD, which holds the patent on efavirenz and is currently the only supplier in South Africa, to follow the example of GSK and BI and issue multiple local licenses. MSD has resisted this and it is, therefore, quite likely that in 2005, this matter will result in legal action to compel MSD to issue licences.

Boosting the domestic industry: Aspen Pharmacare/Fine Chemicals Corporation merger

At the request of the Competition Commission, the ALP made a written submission considering the possible public interest impact of the proposed merger between Aspen Pharmacare, the largest locally-based generic medicine manufacturer, and Fine Chemicals Corporation, the only local manufacturer of active pharmaceutical ingredients (APIs).

The focus of our submission was the potential impact of the proposed merger on access to a sustainable supply of affordable medicines. While concerned that the merger had the potential to limit access to APIs for other domestic manufacturers, the submission also considered the positive impact in South Africa if Aspen were to become more competitive globally by enhancing its local technological capacity. In short, the submission recognised the relevance of a strong internationally competitive domestic generic industry for local access. The merger was approved with conditions that take into account the concerns regarding access to APIs.

Other

In other work to ensure access to affordable essential medicines, the ALP:

- Took action to assist in speeding up the registration of 600mg efavirenz, which is significantly cheaper than the equivalent dosage in 200mg capsules and assists with improving patient adherence because it can be taken once-daily;
- Supported the TAC in improving the functioning of the Diflucan Partnership Programme, in terms of which fluconazole is donated by Pfizer to the government and dispensed in the public health sector;
- Drafted and presented a joint ALP/TAC memorandum at the National Economic, Development and Labour Council (NEDLAC) setting out the two organisations' concerns regarding the potential implications of the United States/Southern African Customs Union Free Trade Agreement negotiations for access to essential medicines and health care services; and
- With the TAC, drafted a short submission on Canada's Bill C-9, which amends Canadian patent law to increase access to generic medicines for developing countries as contemplated by the World Trade Organization decision of 30 August 2003. The Canadian HIV/AIDS Legal Network presented the joint ALP/TAC submission to Canada's Parliament.

Supporting the TAC's campaign for a People's Health Service

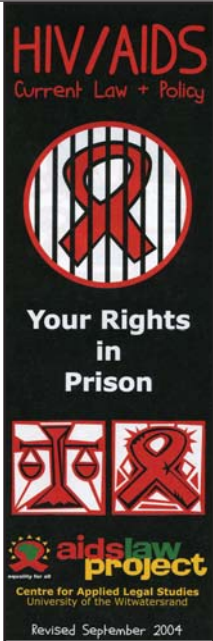
The first decade of democracy has seen the beginnings of health sector transformation, with government's aim being to ensure that every person has access to essential health care services and that the provision of these services is done in a manner that respects, protects and promotes the constitutional values of and rights to dignity, equality and privacy. Since 1994, important laws and policies have been introduced to make sure that this happens. However, much more can (and should) be done to build the public health sector and regulate private health care better. This will result in increasing access to health care services for all.

With this in mind, the ALP hosted a seminar on health sector transformation in February 2004. The purpose of the seminar was twofold: first, to provide treatment activists with an opportunity to develop an understanding of the context within which health sector transformation is taking place; and second, to facilitate debate between them and key experts on relevant legal, regulatory and policy issues. A detailed seminar report was thereafter drafted and circulated.

Building on this early work, the ALP supported the TAC and other civil society organisations to host the first ever People's Health Summit (PHS) which took place in East London from 2 – 4 July 2004. The ALP co-ordinated and conducted much of the research into and the drafting of discussion documents that formed the basis of the conference package presented to delegates for debate and resolution.

It is expected that health sector transformation will be an ongoing focus of the ALP's work on access to health services for people living with HIV/AIDS.





In addition to its work using the law to promote the right of access to health care services, the ALP continues to carry out substantial advocacy and legal work around HIV discrimination generally. This is conducted by staff who work in the ALP's law and policy unit. In 2004 the ALP took up a number of new cases stemming from calls to the Project's Paralegal Unit, as well as cases referred by other civil society partners including community-based advice offices. These cases range from the rights of children to access medical treatment to the proper procedures to be followed when testing for HIV, to issues of freedom of expression. The ALP's law and policy unit has a number of qualified attorneys who initiate legal action

when the matter is one of public importance which could help to expand legal recognition of the rights of people with HIV and AIDS.

Using law to uphold ethics and accountability in health care provision

Protecting patient's rights

The vision of the Health Service in South Africa is one where patients' rights are respected and protected. But despite this, the ALP continues to receive complaints against doctors and other health care workers who have violated the rights of people living with HIV/AIDS. These cases often involve people who were tested for HIV without their consent, breaches of doctor / patient confidentiality, and doctors who refused to treat people living with HIV.

The Health Professions' Council of South Africa (HPCSA) is the regulatory authority for health care workers and is empowered to adjudicate on complaints against them from members of the public. In the past, many of the cases that the ALP referred to the HPCSA were subject to lengthy delays and were not properly considered as the HPCSA frequently accepted the version of the doctor over that of the ALP's clients. In two cases, ALP clients died before the HPCSA considered their matters. As a result the ALP, therefore, undertook a campaign to ensure that the HPCSA investigated all complaints it received from the ALP and

took appropriate action against health care workers who acted unethically and unprofessionally. In 2003, for example, the ALP successfully sued the HPCSA when it failed to investigate a complaint against a doctor. The judgment, *VRM v The Health Professions' Council of South Africa and others* represented an important victory for patients who make complaints to the HPCSA. The ALP used it as a basis to further engage the HPCSA in 2004.

In 2004, the ALP referred six complaints to the HPCSA and noted an improvement in the manner in which they were dealt with. Complaints were subject to fewer delays and the HPCSA's legal department proactively launched investigations into the complaints and requested the ALP to assist in these investigations, where necessary. At the end of 2004, only one complaint was still outstanding. All the other cases were resolved to the satisfaction of the ALP, with three of doctors found guilty of unprofessional conduct.

The ALP now looks forward to greater cooperation with the HPCSA, and hopes that these cases will send a strong message to doctors that HIV-related discrimination and unethical conduct will not be tolerated.

In addition to the matters raised with the HPCSA the ALP is proceeding with legal action on a number of other matters that relate to the quality and safety of health care services. These are described briefly below:

Nocosomial (hospital acquired) transmission of HIV

Baby A and others v The Red Cross Children's Hospital and another: In this case, the ALP is acting on behalf of an infant and her parents. The infant was allegedly infected with HIV during a period of hospitalization. The respondent hospitals have denied that they were negligent in their care of the infant and the ALP is preparing the matter for trial in the Cape High Court in 2005.

Unlawful and improper HIV testing

K v Highveld Mediclinic and two others: This case concerned the unlawful HIV testing of a newborn baby at a private clinic. The baby was tested without her parents' permission. The ALP issued summons on behalf of the baby's mother against the hospital, the treating doctors and the pathologists, for damages as a result of the

unlawful test. Before the case was heard, the parties offered an amount of R80 000 to the ALP's client, which she decided to accept. The ALP now intends to meet with various stakeholders in private health care to advise them of the outcome of the case and to discuss how HIV testing should take place in their institutions.

QM and another v the Minister of Defence (One Military Hospital): In this case, the ALP is suing the Minister of Defence for negligence based on the hospital's failure to inform the ALP's clients about the results of HIV tests conducted as part of fertility treatment. The clients allege that the HIV tests were conducted without proper pre- and post-test counselling and without informed consent. The hospital then failed to take any steps to inform the clients of the results of the test. At the time the clients sought treatment from the hospital, one had HIV and the other was negative. Since they were seeking to conceive a child, they continued to practice unprotected sex and HIV was eventually transmitted to the uninfected partner. The case will raise important issues concerning the management of HIV testing and the provision of pre and post-test counselling for couples. It will also cast light on the duties of institutions and individuals who initiate HIV testing. The matter has been set down for trial in 2005.

Using law to protect vulnerable workers from discrimination

Despite the Employment Equity Act's provisions outlawing workplace discrimination on the basis of HIV status, workers with HIV continue to experience prejudice in many workplaces. Clients of the ALP frequently allege that they have been forced to undergo unlawful HIV tests by their employers; have been unlawfully dismissed when their HIV status became known; and live in fear of employers and fellow employees discovering their HIV status. Workers in low income jobs, such as domestic workers and security guards, are particularly vulnerable to discrimination as they frequently do not know what their rights are or how to seek redress when these have been violated.

During 2004, the paralegal unit recorded no less than 119 queries relating to issues of workplace discrimination. These represented over 25% of all calls to the service. The legal unit took up six cases relating to workplace discrimination. Through educating employers and

employees on the law relating to HIV in the workplace, the ALP paralegals were able to resolve many other matters before they developed into disputes.

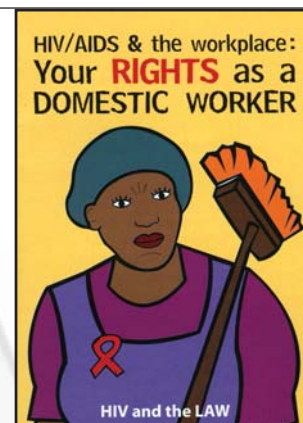
Domestic worker cases

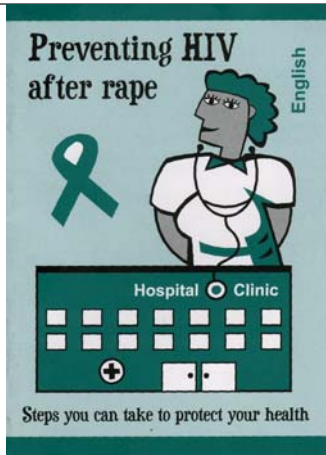
As with previous years, the ALP received a number of complaints from domestic workers with HIV. It is clear from these complaints that many employers remain ignorant about the manner in which HIV is transmitted and, therefore, exaggerate the risk of HIV transmission in the home. The ALP, therefore, used the opportunity presented by its cases, several of which are described briefly below, to educate both employers and employees.

MM v HM concerned the unlawful HIV testing of a domestic worker and her subsequent dismissal from employment as a result of her HIV status. The ALP issued summons against the employer, HM, on the basis that the dismissal constituted both a procedurally and substantively unfair dismissal and violated her rights to dignity and equality. HM, who is a practicing attorney, stated in her defense that MM constituted a danger to HM's young child due to the risks of HIV transmission and that it was an inherent requirement of the job for the domestic worker and child-minder to be HIV negative. The ALP obtained the services of an expert virologist, Dr Adrian Puren, whose report conclusively indicated that the risks of transmission between child-minder and child were minimal and the consistent use of universal precautions by the child-minder would be adequate to protect both the child and the child-minder from exposure to HIV.

The matter was set down in the Labour Court on 24 June 2004 and HM made an offer of settlement in the amount of R15 000 on the day before the trial, which was accepted by the ALP's client. The case was widely covered in the media and contributed to a raised awareness of the rights of domestic workers.

The ALP referred a second, similar case to Bowman Gilfillan (a large firm of attorneys who have agreed to assist the ALP with cases on a pro bono basis). The employer also agreed to pay R15 000 as settlement to a domestic employee claiming unfair dismissal and discrimination on the basis of her HIV status.





Although these settlements are relatively low, the clients would have been unlikely to receive higher awards, should they have elected not to accept the offers and go to court, as the awards would have been determined based on their income. In both cases, the settlements were equivalent to a year's salary and the ALP was therefore satisfied that their clients had received

adequate compensation.

Following the success of these two cases, the ALP initiated litigation against another employer in the Port Elizabeth Labour Court. The employer became aware of the domestic worker's HIV status after the domestic worker was raped and underwent an HIV test. The employer dismissed her immediately on the basis that she constituted a threat to the safety of the employer's children. The matter will go to trial in 2005.

Believing that these cases represent only the tip of the iceberg, the ALP was particularly concerned that many domestic workers are unaware of their rights and, therefore, do not act when their rights have been violated. As a result the ALP wrote and distributed a plain language booklet and poster for domestic workers setting out their rights in the workplace. The booklet is an important resource for both domestic workers and their employers. It was distributed extensively through the Domestic Workers Union and community-based paralegal Advice Offices and is available on the ALP website. The poster summarises the booklet and will alert domestic workers to rights violations.

Other vulnerable workers

X v ADT Security: In this case, the ALP acted on behalf of an employee of a private security company who had been unfairly dismissed as a result of an HIV-related condition. The matter was referred to the Labour Court and set down for hearing in July 2004. The case was settled on the day of the trial when the company offered a settlement of R13 000, which the client accepted. As with the domestic worker cases, this case is important as it begins to expose some of the discrimination that is rife within the security industry.

A v X (Pty) Ltd : The case concerns an employee who was allegedly dismissed from work in November 2001. Before the dismissal, the employee had fainted at work and was taken by his employer, Mr X, acting on behalf of X (Pty) Ltd, to a local clinic. At the clinic, the employer saw that Mr A was wearing a t-shirt with the words "HIV-positive" printed on it. When he returned to work, the employer questioned Mr A about this. An argument ensued about whether Mr A should go for an HIV test, after which Mr A alleged that he was dismissed. On 1 November 2004 judgment was handed down in the Johannesburg Labour Court in this matter. Judge Landman dismissed the case on the basis that Mr A had not discharged the onus of proving that he had been dismissed.

P v M: In this matter the ALP acted on behalf of a teacher at a primary school who was treated unfairly on the basis of her HIV status. The matter was referred to the Commission for Conciliation, Mediation and Arbitration (CCMA) and set down for hearing in September 2004. The case was settled on the day of the hearing with a monetary offer.

JL v The Minister of Defence and Others: The ALP remains concerned that the SANDF conducts routine pre-employment HIV testing of job applicants and excludes those with HIV, regardless of their actual health status. For a number of years the ALP has received complaints from job applicants who have been excluded from employment with the SANDF, despite being in good health. The ALP has referred two of these cases to Bowman Gilfillan and will litigate a third complaint itself.

The ALP has also sought to take this issue up through the SA National AIDS Council. In a meeting of the Council in November 2003, the Law and Human Rights Sector, chaired by the ALP, tabled a request for a review of the policy on mandatory HIV testing and exclusion of all new recruits who have HIV. The ALP also asked for the intervention of the Minister of Defense in resolving the number of complaints brought to the ALP by SANDF members or recruits alleging unfair discrimination on the grounds of their HIV status. The March 2004 SANAC meeting resolved to set up a Task Team to review the policy and make recommendations to SANAC that would then be forwarded to the Cabinet. The task team has met twice and the opposing views of the Human Rights Sector and the SANDF have been extensively discussed and efforts are being made to find a middle ground that may require that the existing policy be modified.

Using law to protect the rights of children to access medical treatment and HIV testing

Following the success of three cases brought on behalf of children without parents and/or legal guardians in 2003, the ALP continued to lobby government to ensure that the rights of these children were adequately protected and that barriers to their access to health care were removed.

In 2004, working together with members of the Wits Paediatric HIV Working Group, the ALP met with the Department of Health to discuss the implication of the court orders. The parties agreed to work together to seek solutions to the problem. Several meetings with the National Department of Social Development and the Gauteng Department, led to an agreement that provinces would put in place interim measures to assist health care workers to obtain consent from caregivers in the period before the Children's Bill is enacted. (The Children's Bill contains a ground-breaking provision that allows consent to be given by children's bona fide caregivers when they have no legal guardians).

In August 2004, the ALP and Human Rights Watch made a written submission to the Portfolio Committee on Social Development during the long awaited public hearings on the Children's Bill. The submission, based on the ALP's experiences with Wits Paediatric HIV Working Group, demonstrated how current legal requirements pose serious barriers to children accessing medical treatment. Accordingly the submission endorsed section 32 of the draft Children's Bill which, along with the broad definitions of 'caregiver' and 'primary caregiver' in the bill, represents a significant and welcome departure from the current law and consequent procedural difficulties. This provision will remove a major impediment to medical treatment for children.

Other activities undertaken in response to children's rights in the context of HIV were awareness-raising activities including seminars at Children's Homes and workshops with child rights organisations as well as a series of journal and media articles. The ALP also assisted the Children's Homes Outreach Medical Programme (CHOMP) with the



writing of a booklet that sets out the legal requirements for organizations or individuals who want to provide places of care to children to register these with the relevant authorities.

Using law to Protect Rights to Privacy, Confidentiality and Freedom of Expression

South African law is very clear about people's rights to privacy and – as far back as 1994 – one of the first cases the ALP ever brought to court concerned the duty of medical doctors to treat the HIV status of their patients as confidential. Nonetheless, many people continue to fear the implications of disclosure of their HIV status and it is important that the right to privacy of medical information, including information about HIV status, is protected. Without such protection, many people will be afraid to undergo HIV testing as they will fear the consequences of disclosure of their HIV status. The ALP is currently involved in three cases concerning the rights to privacy and freedom of expression.

NM and Others v Smith, De Lille and New Africa Books

In this case the HIV status of three women was revealed in a biography written by journalist Charlene Smith about politician Patricia De Lille. The women did not give permission for Smith to use their names or to identify them as living with HIV. In the court papers, the ALP has pleaded on behalf of its clients that the failure to obtain their



consent amounts to a violation of their fundamental rights to privacy, dignity, psychological integrity and mental and intellectual well-being and as a result of the unlawful disclosure, all of them have suffered trauma, including being assaulted and having their property destroyed. The case will

be heard in the High Court on 15 April 2005.

Gazi v Minister of Public Services and Administration

The ALP is acting on behalf of Dr Costa Gazi, who was the spokesperson for health issues for the PAC at the time that the complaint was made. The case concerns a public statement by Dr Gazi in April 1999, accusing the Minister of Health of manslaughter for refusing to provide antiretroviral drugs to pregnant women to reduce the risk of mother-to-child transmission of HIV. As a result of these comments, Gazi was found guilty of misconduct at a disciplinary inquiry. Dr Gazi requested the ALP to assist him to have the findings and sentence set aside on the basis that as a public servant (Dr Gazi was employed at a hospital in the Eastern Cape at the time he made these statements), he had an obligation to act in the best interests of his patients and to exercise his right to freedom of expression.

The ALP brought an application to review the decision in 2003, and a judgment dismissing the application with costs was handed down on 6 October 2004. Dr Gazi has been granted leave to appeal against the decision and the ALP has prepared the appeal. It will be argued in 2005.

N v Department of Health, Mpumalanga

The ALP acted on behalf of a doctor who provided assistance to GRIP (the Greater Nelspruit Rape Intervention Project), an NGO offering services, including post-exposure prophylaxis (PEP) to rape survivors in Mpumalanga. At the time, the Department of Health refused to provide PEP and had instructed doctors and health care workers not to assist GRIP in its attempts to provide access to PEP to survivors of sexual violence. As a result of the support provided by Dr N, GRIP was able to continue to ensure that adult and child survivors of sexual violence were able to access this potentially life- saving medication. The Department of Health dismissed the doctor as a result of his involvement with GRIP. The ALP referred a complaint to the relevant Bargaining Council but the parties were unable to reach a settlement. The case has now been referred to the Labour Court. Pleadings have been finalised and the ALP is waiting for a trial date.



Legal Advice, Education and Information Services

Advice

The ALP provides free legal advice and assistance to PWAs, and works closely with other organisations that provide support to PWAs, including NGOs, advice offices and clinics. People are able to access the service telephonically, via the internet and through face-to-face consultations with paralegals. This is a unique service and the only one in South Africa currently dedicated to the needs of people with HIV and AIDS. It is a completely confidential service and callers are able to obtain immediate advice on a broad range of legal issues, including workplace discrimination, social security, insurance, confidentiality and disclosure, HIV testing, treatment and medical aid.

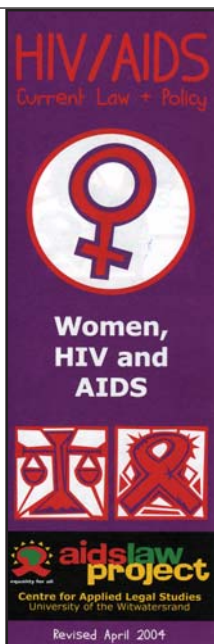
During 2004, the paralegal unit recorded over 470 complaints.

Below are some examples of cases dealt with by the paralegal unit.

Telkom Champions Case:

In this matter the ALP's client, a Telkom employee who is living openly with HIV, was asked to join a workplace ambassadors' programme, where she would provide education and training to her colleagues in the workplace. In exchange, Telkom offered to pay for her antiretroviral medication. She was delighted, but this turned to dismay, as the ambassadors' programme ("Telkom Champions") never got off the ground. She was eventually told that Telkom had decided not to run the programme, but our client felt that she had been given a legitimate expectation that she would receive ARV treatment.

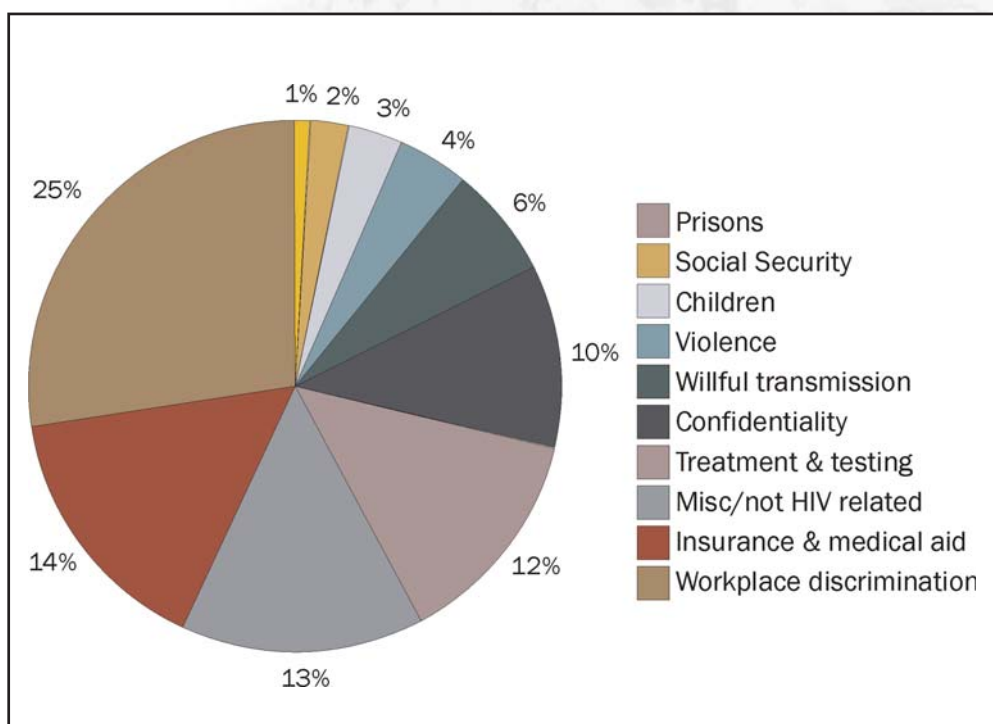
The ALP entered into negotiations with Telkom, and the matter was settled amicably, with our client receiving a financial settlement, and being invited to participate in the existing Telkom HIV workplace education programme. Telkom has also announced that it will launch an ARV programme, and provide ARV treatment to all employees who require it.



HIV/AIDS and Insurance:

A client approached the ALP after her spouse had died of an HIV-related illness and the bank had requested medical information on his HIV status. The client had a home loan and life insurance with First National Bank (FNB), and the life insurance policy contained an HIV exclusion clause. However, FNB now provides insurance to people who take out low cost bonds, regardless of their HIV status. After providing the information, FNB decided to ignore the exclusion and has paid the insurance claim in full. This is a significant development in the insurance sector with regard to HIV and AIDS. The ALP hopes that more financial services organisations will adopt this attitude towards HIV-related claims.

Members of the paralegal unit in particular, and the ALP generally, are frequently called upon to offer telephone and e-mail advice on issues related to human rights, law, discrimination and treatment access. The pie chart below summarises the record of calls received and logged by our paralegal unit in 2004.



Support to other AIDS organizations:

Part of the ALP's mandate is to provide legal advice and assistance to AIDS organisations in South Africa and internationally. In line with this mandate, the ALP continues to provide support to the AIDS Consortium, the TAC and the AIDS and Rights Alliance for Southern Africa (ARASA). In 2004 the ALP was:

- involved on an on-going basis in ARASA advocacy strategies and initiatives on the proposed SADC Code on Gender and HIV, and in drafting a manual on HIV and Human Rights for the SADC region.
- acting as the TAC's legal representatives, including extensive follow-up of a complaint lodged on behalf of TAC with the Auditor General regarding allegations of financial mismanagement and transgressions of the Public Finance Management Act by the Department of Health in its funding of NAPWA; drafting proposed amendments to the TAC constitution; editing various TAC letters, press statements and publications; and assisting the TAC with its complaint with the Advertising Standards Authority against misleading and false advertising placed by the Rath Foundation Africa. In addition, the ALP worked with TAC structures in Gauteng to identify and deal with obstacles in the way of accessing treatment in the Orange Farm informal settlement.
- providing extensive support to the AIDS Consortium, including assisting it with investigating complaints of misconduct against two senior staff members and instituting appropriate disciplinary action. The ALP also assisted the Consortium to regularise its corporate governance structures and to put appropriate mechanisms in place to ensure that the Consortium complied with all relevant legislation, including the Labour Relations Act and the Companies Act.

Education and Training:

Paralegal internships:

In 2004 the ALP continued to run a successful paralegal intern programme, initiated in 2002, that trains budding lawyers in HIV and the law. Paralegal interns receive in-depth training from ALP staff members and work under the supervision of the ALP paralegal manager and attorneys.

Training lay counsellors, support groups and advice centres

As part of its commitment to building capacity within other legal service providers, the ALP paralegal unit has begun to formalise the training that it has been offering on an *ad hoc* basis to other advice centres, support groups and lay counsellors. In 2004, on-going training was provided at the Helen Joseph Support Group and the Harriet Shezi Paediatric HIV Clinic at the Chris Hani Baragwanath Hospital. In both cases it is hoped that the provision of basic legal and rights training to volunteers, counsellors and other staff will increase their capacity to deal with problems experienced by their patients and allow them to make more effective referrals when they are unable to provide direct assistance. Training included sessions on *HIV and Employment* and *HIV and Social Assistance*.

In addition ALP staff:

- Co-ordinated a week long workshop for Lesotho Law Advisors to identify gaps in Lesotho legislation dealing with HIV/AIDS. At the workshop the ALP emphasized the need to couple legislation with campaigns to alert the public of their rights and to effective government, private sector and civil society partnerships to address the epidemic.
- Co-ordinated and taught the HIV/AIDS and the Law LLB course for the first time in 2004. More than 30 students enrolled for this course. The ALP also offered the law school assistance with mainstreaming HIV/AIDS into the law school's curriculum.
- Provided training at the annual Youth Power Congress, a week-long workshop on HIV / AIDS for high school learners and youth organisations, held during the June / July school holidays. The ALP's module on HIV and human rights was well attended, and many of the

participants indicated that the training had provided them with valuable information on the rights of people living with HIV, which they intended to take back to their schools and communities. Several participants also said that the workshop inspired them to consider a career in human rights law.

General ALP training on key legal and human rights issues has been provided to a wide range of NGOs, CBOs, government departments and the private sector including:

- AIDS & Rights Alliance for Southern Africa (ARASA)
- Barlow World
- BMW
- Centre for the Study of Violence & Reconciliation (CSVR)
- Oxfam
- Child Welfare
- Eskom
- Foundation for Human Rights (FHR)
- Life Line
- Legal Resources Centre
- Mapetla Hospice
- Mofolo Hospice
- Mpumalanga Department of Social Welfare
- Red Cross
- SABC
- South African Business Coalition on HIV/AIDS (SABCOHA)
- Total Control of the Epidemic (TCE)
- Township AIDS Project
- Treatment Action Campaign, UCT (paralegal training for approximately 100 students)





As with previous years the ALP continues to receive a large number of unsolicited requests to make presentations to a range of public platforms, seminars, workshops and conferences. During 2004, ALP staff made some 312 presentations on a range of topics about AIDS,

development, employment, human rights and the law. The table below provides a breakdown of the numbers of

services organizations, by offering training in various aspects of HIV and the law. This way the ALP hopes to increase access to legal services for people with HIV and AIDS.

Information:

The ALP puts a prime on increasing legal literacy on HIV/AIDS among people and organisations affected by HIV/AIDS. We publish easy-to-read pamphlets in a number of languages, as well as handbooks, research reports, media and academic articles.

presentations by sector:

Presentations made by ALP staff by sector

Sectors	Government	NGO	Education	Health	Religious	Other	Int'l	Total
Numbers	42	145	47					
	26	2	40	10				
312								

In addition to these presentations the ALP also had the opportunity to present its work at a number of national and international conferences during 2004. For example, three staff members had abstracts accepted for and made presentations to the International AIDS conference, which took place in Bangkok, Thailand. In addition the ALP co-hosted a high-profile Symposium on HIV/AIDS in the workplace, with a number of other departments from the University of the Witwatersrand.

In 2005 the ALP will continue to build capacity in civil society organizations, including advice offices and AIDS

Four ALP publications were revised and republished in 2004: *Privacy and Confidentiality*, a booklet on the rights to privacy and confidentiality with regard to HIV/AIDS status; *Testing for HIV – Know Your Rights*, a booklet on your rights when testing for HIV/AIDS; *Your Rights in the Workplace*; and *Women, HIV and AIDS* booklets. The ALP together with the CSVR, launched the long awaited “*Health and Hope in Our Hands – Addressing HIV and AIDS in the aftermath of Rape and Woman abuse*”, a manual for rape and sexual abuse service providers.

The ALP’s publications are provided free on request and

ALP Publications distributed in 2004

Guidelines on HIV/AIDS and the law for advice and legal office workers	286
HIV/AIDS & the workplace: your rights as a domestic worker	21 057
Preventing HIV after rape: steps you can take to protect your health	12 684
The Price of Life: A Report on the excessive pricing complaint to South Africa’s Competition Commission	181
HIV/AIDS Current Law and Policy: Testing for HIV, know your rights	6 160
HIV/AIDS Current Law and Policy: Privacy and confidentiality	6 642
HIV/AIDS Current Law and Policy: Women, HIV and AIDS	6 452
HIV/AIDS Current Law and Policy: Your rights in the workplace	7 378
HIV/AIDS Current Law and Policy: Your rights in prison	330
Proposed Code for SADC: Urgent measures needed to promote the equality of women and the reduction of women’s risk to HIV infection	1 829

Demand for the 3rd Edition of the ALP's HIV/AIDS and the Law Manual remained significant. Over 1200 copies of the Manual were distributed, 357 donated and 918 sold.

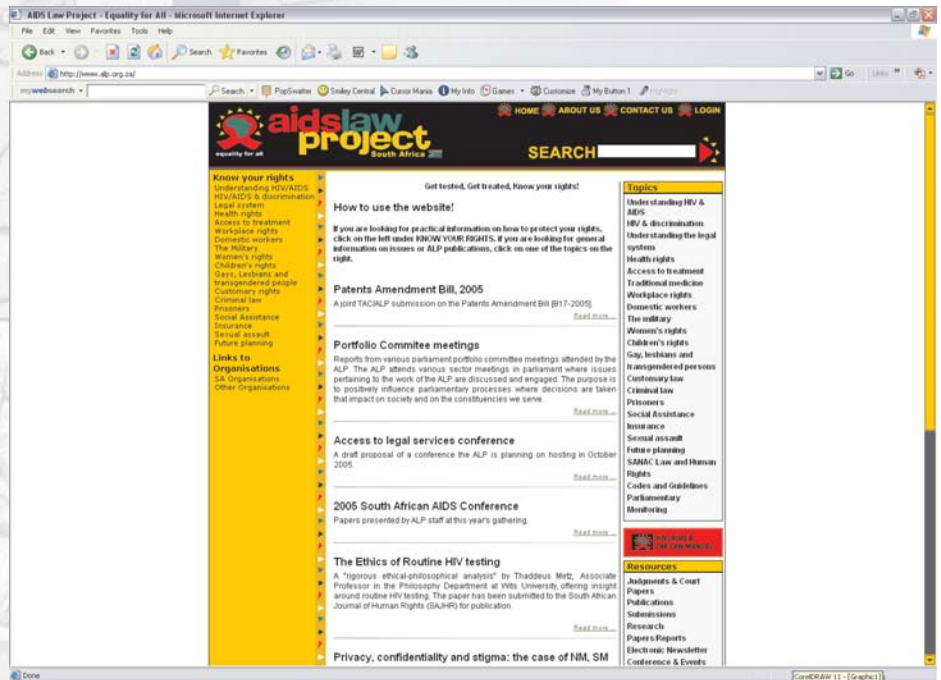
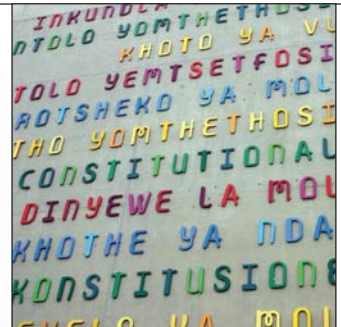
In the course of the year ALP staff commenced the research and writing of a new book, "*Handbook on Health, Law and Policy in South Africa*". It is hoped that this will be completed by mid-2005. The book is intended to be the first comprehensive guide to all aspects of the law around health. For example, it will include chapters on traditional health, the rights of users of the health system, women's health rights, children's health rights and international health law.

Interaction with the Media:

The ALP continues to have a very good relationship with both the South African and international media. ALP staff are frequently interviewed on radio and television, or quoted in newspapers. ALP staff are contacted by journalists to provide background briefings and explanations on issues relating to treatment and HIV/AIDS and the law. ALP staff also pro-actively seek public education opportunities through drafting op-ed pieces and getting these into the mainstream media. In 2004, the ALP wrote a monthly column, "Health Matters", in the daily newspaper, *ThisDay*. The column dealt with health, law and human rights, with a particular focus on controversial aspects of health-related legislation, regulation and policy. Op-ed pieces were also carried in other media, including the *Mail and Guardian*. ALP staff keep records of all media interviews in their monthly reports. These are summarized in the table below.

Resource Centre and Website:

In 2004, the ALP was pleased to finally expand the ALP Resource Centre and to upgrade the website, adding a new section on self-help paralegal issues. The website has also been revamped to ensure easier navigation for users. Most of the ALP's publications, articles, submissions and research papers can be downloaded from the website. The ALP has also begun the production and distribution of a bi-monthly electronic newsletter detailing the work of the organisation and key issues in the HIV/AIDS field.



Media interviews with ALP staff			
	TV	Radio	Print
National	37	182	200
International	9	18	35
Total	46	200	235



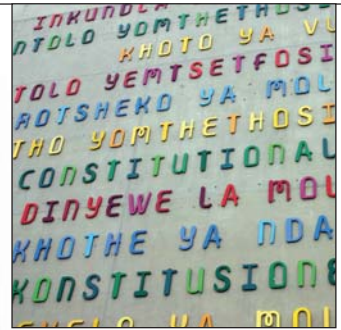
Policy Submissions and Research Reports

Underlying almost all of the ALP's advocacy and legal action is high quality research on applied law, constitutionalism and human rights. This research is evident in legal opinions and memoranda that are drafted in preparation for legal action; written and oral submissions to parliament's Portfolio Committees; and research reports. Some of this research is reflected in the 49 articles by ALP staff that were accepted for publication in 2004. Below is a summary of main areas of research and a description of its application to human rights advocacy.

Submissions to Public Bodies

During 2004 the ALP contributed to a number of public enquiries, parliamentary hearings and other processes:

- In February a submission was made to the Department of Health concerning the regulation and marketing of replacement food for infants of HIV/AIDS positive mothers.
- In March, the Project made a written and oral submission to the Jali Commission of Inquiry set up to investigate conditions in prisons. The submission focused on the origin and causes of HIV infection in prison, the prevalence of HIV/AIDS in South African prisons, the HIV/AIDS policies of the Department of Correctional Services (DCS) and proposed solutions and recommendations. A second written submission dealt specifically with the issue of early release of prisoners in the later stages of terminal illness and examined current and new legislation, existing case law and made several recommendations concerning the current policy of the DCS. The submissions received wide-spread media attention and were instrumental in re-opening the debate about HIV in prisons and the rights of prisoners to access treatment. To increase understanding of prisoners' rights, the Project also published a booklet entitled *"Your Rights in Prison"*.
- In July a submission was made to the Department of Health on the draft amendments to the regulations issued in terms of the Medical Schemes Act regarding the expansion of the prescribed minimum benefit to include ARVs.



- In October a Memorandum was written for the Chief Inspector of Mines (Department of Energy and Mineral Affairs) on the legal implications of a judgment concerning so-called HIV-related accidents in the mining industry.
- In November the ALP made a submission to the Commission on Employment Equity regarding a Draft Human Resources Code of Good Practice. The submission *focused* on how HIV should be addressed in matters relating to appointment, reasonable accommodation in cases of incapacity, record keeping, grievance procedures and termination of employment.

While the ALP does not provide a formal legal advice service, staff members are regularly called upon to provide advice on HIV and treatment-related matters. During 2004, legal opinions, memoranda or reports were provided to local and international civil society organisations, academic institutions, individuals, private sector bodies and government institutions including the Chief Inspector of Mines, the Medicines Control Council, the United Nations Development Programme (UNDP), UK Asylum seekers, the University of Cape Town Forensic Medicines Department, Parliament's Portfolio Committee on Finance, the International Dispensary Association, NEDLAC, the Legal Resource Centre, Community Health Media and Tiger Brands. Issues covered included HIV/AIDS, confidentiality and organ donation, the fringe benefit tax implications of HIV/AIDS workplace treatment programmes, the provisions of the Medical Schemes Act and the patent implications of holding buffer stocks of ARVs. Full lists of the memoranda, legal opinion or reports provided by ALP staff are contained in Appendix B.

Research Reports

In addition to research and writing that is carried out in response to public processes, the ALP has identified several issues and emergent human rights questions where we have initiated our own enquiry. Below is a description of some of this work.

The issue of **establishing a human rights framework for the integration of traditional and allopathic medical systems** has become an

important question in South Africa as a result of greater recognition that is being given to traditional medicine by the government. The outcomes of ALP research into Traditional Healers and Traditional Medicines in South Africa were presented at a human rights seminar in March 2004 and widely distributed within the health sector. A full copy of the report is available on the ALP and TAC websites. The research also formed the basis of a submission to the MCC on behalf of TAC on the proposed regulation of traditional medicines.

The intersection between **violence against women**, particularly rape, and HIV in South Africa necessitates special advocacy to ensure that services for rape survivors are in place. An ALP study on the extent of roll-out of post-exposure prophylaxis (PEP) for rape survivors in the public health system was extended to include an analysis of the roll-out 18 months after the inception of government policy in this area. The research generated particular interest and requests for presentations on the findings were made from various groups – both civil society and government.

The ALP also worked closely with the AIDS and Rights Alliance for Southern Africa (ARASA), to develop a proposed **SADC Code on Gender and HIV/AIDS**. 50 000 copies of the draft code, entitled "*Urgent Measures needed to Promote the Equality of Women and the Reduction of Women's Risk of HIV infection*"¹, was published in English and Portuguese and distributed throughout the SADC region.

During 2004, the ALP also began researching the issue of **workplace treatment programmes** and fringe benefit tax. This is the area where the paralegal service receives many requests for information. The project also engaged the services of two research assistants for a research project on **HIV and disability grants**.



The ALP has received a number of queries relating to **funerals and storage of bodies** as well as complaints concerning funeral homes that remove bodies from private homes and hospitals and then charge families exorbitant amounts before releasing the body for burial. The ALP discovered

a great deal of ignorance concerning various by-laws that regulate funerals, storage of bodies and payment for funerals. In response the ALP undertook a review of existing laws, began to develop a simple and accessible pamphlet explaining the rights of families and hosted a workshop entitled "*Helping people in a time of illness & death: legal issues.*" The workshop was aimed at home-based care, hospice and advice office workers. Topics covered included: *Wills, succession and administration of estates and HIV and insurance.*



Project Management and Administration

In November 2004 the ALP's contract with the European Union, who have been our major donor since 2000, ended. As a result the ALP's management spent a considerable amount of energy raising funds to sustain the future work of the project. The ALP is grateful to the Royal Netherlands Embassy who have become the project's primary donor. The contract with the Royal Netherlands Embassy started in October 2004 for a period of three years. The ALP also secured funds from:

- the Atlantic Philanthropies for 2005-2006.
- the Government of the Kingdom of Belgium (July 2005-June 2007).
- the John M. Lloyd Foundation contributed US \$ 20 000 towards the ALP's litigation fund.
- A 4th contract with the Ford Foundation for a 30-month period.

Due to the increasing demands on the project's existing staff, the Law and Treatment Access Unit of the ALP employed two additional staff. One staff member has also been located in Cape Town in order to facilitate closer work with and advocacy at the National Assembly.

In August the ALP conducted its yearly internal review with each unit assessing its progress over the past year and presenting its plans for the next year. This was a particularly challenging meeting given that the previous year was spent on restructuring the project and refocusing the work to take on more public impact litigation cases.

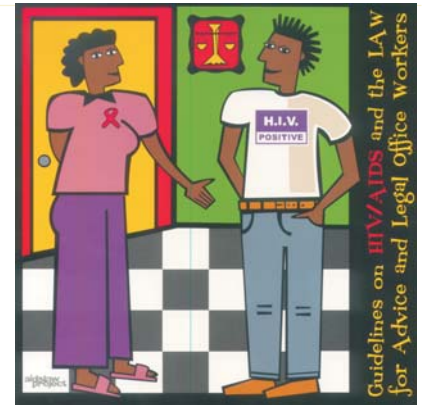
Following this meeting the management team decided to commission an external evaluation of the project. This was necessary both to take stock of the ALP's activities and impact and because the last evaluation was conducted in 1997 at a time when both the context and the structure of the ALP were very different. It was decided that this would take place in early 2005.



We believe that the ALP continues to hold itself to a high standard of professionalism, accountability and transparency – the same standards that we demand of government and the health profession as a whole in South Africa. Staff continue to write detailed monthly reports; unit

heads are responsible for compiling quarterly reports for our donors; and there is close scrutiny of finances.

The project is concerned about the emotional trauma experienced by staff who have to encounter the traumas caused by HIV in our population, including the death of clients and colleagues. To assist staff through this the project has contracted a psychologist to conduct debriefing with staff and where necessary staff are encouraged to engage in long term therapy.



Appendix A: Presentations and papers at workshops, seminars and conferences

Ayanda Bekwa

12 June. Civil Society Monitoring Forum planning meeting, Cape Town. “Civil Society Monitoring in Brazil and Kenya”.

28 September. Maximum Development Institute, KwaThema, Johannesburg. “HIV and the Law & Access to ARVs”.

1 October. TAC, Bronkhorstspuit. “Monitoring implementation of the ARV Programme”.

Jonathan Berger

10 February. TAC/ALP seminar on health sector transformation, University of the Witwatersrand, Johannesburg. “Understanding Health Sector Transformation within South Africa’s Constitutional Framework”.

4 March. NEDLAC, Johannesburg. “US/SACU Free Trade Agreement: What are the implications for access to essential medicines?”

5 March. HIV/AIDS and the Law course, University of the Witwatersrand, Johannesburg. “HIV/AIDS and the law: a decade of public impact lawyering”.

26 March. Department of Health and the Pricing Committee, Pretoria. Presented joint ALP/TAC submission on the draft medicine pricing regulations.

30 April. HIV/AIDS and the Law course, University of the Witwatersrand, Johannesburg. “Access to Treatment for HIV/AIDS – Part One: access to health care services”.

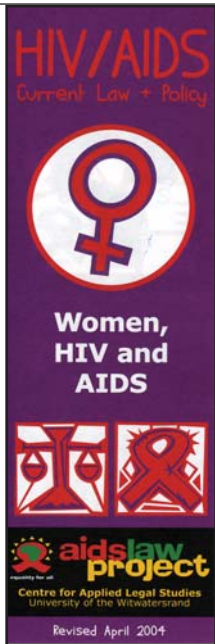
4 May. Lesotho Law Office, University of the Witwatersrand, Johannesburg. “Mainstreaming HIV/AIDS into Lesotho law: access to treatment for HIV/AIDS”.

7 May. HIV/AIDS and the Law course, University of the Witwatersrand, Johannesburg. “Access to Treatment for HIV/AIDS – Part Two: access to essential medicines”.

11 May. AIDS Consortium workshop, Johannesburg. Facilitated commission on the impact of the ARV treatment plan on the public health system.

27 May. SA National Anti-Discrimination Forum, Johannesburg. Participated in panel discussion on HIV/AIDS and human rights.

23 June. University of Minnesota students, University of the Witwatersrand, Johannesburg. Presentation on right of access to health care in South Africa.



29 June. International Centre for Trade and Sustainable Development (ICTSD)/UNCTAD regional dialogue, Cape Town. “Advancing Public Health by Other Means: Using Competition Policy to Mitigate the Impact of Patent Protection”.

13 July. Bridging session panel, XV International AIDS Conference, Bangkok, Thailand. “Are IPRs a barrier to increased access to ARVs? What practical solutions exist to ensure that ARVs reach all who need them whilst ensuring that more investment into medicines and vaccines urgently happens?”

14 July. UNAIDS/IAVI/Canadian HIV/AIDS Legal Network/ALP/Global Campaign for Microbicides, XV International AIDS

Conference, Bangkok, Thailand. Participated in press conference on joint treatment, microbicides and vaccine advocacy.

26 July. AIDS Consortium, Johannesburg. Report back from Bangkok AIDS conference.

29 July. Soul City, Johannesburg. Briefing on recent amendments to the Medicines and Related Substances Act.

13 August. TAC Gauteng Provincial Executive Committee (PEC), Johannesburg. Update on “Annexure A” access to information case.

14 August. TAC Gauteng PEC, Johannesburg. Briefing on proposed amendments to the TAC constitution.

21 September. TAC Limpopo leadership school, Polokwane. Update on “Annexure A” access to information case and briefing on proposed amendments to the TAC constitution.

28 September. Catholic Relief Services, Johannesburg. “Advocating for the rights to life, dignity and equality – ARV treatment in SA”.

28 September. Naledi conference: Improving the impact of poverty eradication programmes in South Africa, Johannesburg. “Making medicines cheaper”.

7 October. TAC KwaZulu-Natal, Durban. Update on “Annexure A” access to information case.

14 October. ICTSD: third Bellagio dialogue on development and intellectual property, Bellagio, Italy. “Advancing public health by other means: using competition policy to increase access to essential medicines”.

16 November. ARASA training-of-trainers workshop, Johannesburg. “Making medicines cheaper”.

17 November. ZAHA/PATAM (Zimbabwe) strategic planning workshop, Harare. “The role of advocacy in scaling up access to treatment”.

Liesl Gertholtz

15 January. Harriet Shezi Support Group, Chris Hani Baragwanath Hospital, Soweto. “Legal Issues Concerning Children and HIV”.

23 January. Foundation for Human Rights Conference on Public Interest Litigation, Durban. “Legal Issues around Consent to Medical Treatment for Children without Parents”.

25 February. Children’s Institute seminar on Public Interest Litigation for Children’s Rights, Cape Town, “HIV testing and consent to HIV treatment”.

1 March. Wits Paediatric HIV Working Group, Chris Hani Baragwanath Hospital, Soweto. “Emerging Legal Issues on HIV testing and treatment for children”.

8 March. Development Bank of South Africa, Johannesburg,. “Women’s Vulnerability to HIV”.

12 March. LLB class, University of the Witwatersrand, Johannesburg. “Legal Issues on Children and HIV”.

28 April. CHOMP, Johannesburg. “Children and consent to testing and treatment”.

23 August. School of Public Health, University of the Witwatersrand, Johannesburg. “Children, Women, Health and the Law”.

Chloe Hardy

5 February. Bread for the World, training workshop for NGO community, Johannesburg. “HIV and the law in the workplace”.

18–20 February. Mpumalanga Department of Social Development, training workshop for Department staff, Nelspruit. “Understanding HIV and discrimination”, “HIV and social security”, and “HIV and the law in the workplace”.

- 12 March. Training for HIV counsellors, Helen Joseph Hospital, Johannesburg. "HIV and the law".
- 25 March. Helen Joseph Hospital HIV clinic support group, Johannesburg, "The right to social security".
- 26 March. Lecture for Wits University LLB HIV and the law course, Johannesburg. "HIV and employment".
- 19 April. Life Line training workshop for HIV counsellors, Johannesburg. "HIV in the workplace".
- 21 April. Life Line training workshop for HIV counsellors, Johannesburg. "HIV in the workplace".
- 23 April. Life Line training workshop for HIV counsellors, Johannesburg. "HIV in the workplace".
- 28 April. Life Line training workshop for HIV counsellors, Johannesburg. "HIV in the workplace".
- 5-7 May. Lesotho state law advisors training workshop, Johannesburg. "HIV and labour law" and "HIV and insurance".
- 12 May. BMW South Africa training for supervisors, Pretoria. "HIV in the workplace".
- 25 May. Johannesburg Child Welfare, Johannesburg. "HIV and the law regarding children".
- 26 May. Community AIDS Response training for home-based caregivers and counsellors, Johannesburg. "HIV and the law".
- 28 May. Johannesburg Hospital rehabilitation team, Johannesburg. "HIV, confidentiality and the right to health care".
- 28 May. Helen Joseph Hospital, training for HIV counsellors, Johannesburg. "HIV and the law".
- 8 June. Barloworld training for peer educators, Benoni. "HIV and the law in the workplace".
- 22 June. Barloworld training for peer educators, Benoni. "HIV and the law in the workplace".
- 28 June. Youth Power national conference, Sebokeng. "HIV and human rights".
- 29 June. Presentation to HR department, Eskom, Johannesburg. "Legal aspects of VCT in the workplace".
- 1 July. Youth Power national conference, Sebokeng. "HIV and social security".
- 2 July. Helen Joseph Hospital training for HIV counsellors, Johannesburg. "HIV and the law".
- 20 July. Barloworld training for peer educators, Benoni. "HIV and the law in the workplace".
- 23 July. Helen Joseph Hospital training for HIV counsellors, Johannesburg. "HIV and the law".
- 13 August. Helen Joseph Hospital training for HIV counsellors, Johannesburg. "HIV and the law".
- 9 September. Barloworld training for peer educators, Benoni. "HIV and the law in the workplace".
- 10 September. Helen Joseph Hospital training for HIV counsellors, Johannesburg. "HIV and the law".
- 30 September. Total Control of the Epidemic workshop for community educators, Soweto. "HIV and the law".
- 1 October. Red Cross South Africa training for home-based caregivers, Germiston. "HIV and the law".
- 8 October. Helen Joseph Hospital training for HIV counsellors, Johannesburg. "HIV and the law".
- 29 October. Helen Joseph Hospital training for HIV counsellors, Johannesburg. "HIV and the law".
- 2 November. SABC workshop for staff, Johannesburg. "HIV in the workplace" and "HIV and insurance".
- 4 November. Lecture to Bioethics Masters students, Wits Medical School, Johannesburg. "HIV and insurance".
- 12 November. Helen Joseph Hospital training for HIV counsellors, Johannesburg. "HIV and the law".
- 9 December. Total Control of the Epidemic, workshop for counsellors and home-based caregivers, Soweto. "HIV and the law".





Fatima Hassan

- 17 January. LGBT South-South Dialogue, India. "The politics of exclusion - Civil society initiatives in the struggle against HIV/AIDS".
- 19 January. Action Aid Africa, India. "An overview of the right to access treatment in Africa".
- 19 January. One World One Fight / Lawyers Collective, India. "Access to treatment – the SA scenario".
- 20 January. ESCR Network, India. "Social movements and legal strategies – integration in ESCR struggles".
- 15 February. Nyanga District TAC Workshop, Cape Town. "Site accreditation from the legal perspective".
- 29 February. TAC branch, University of Cape Town. "HIV testing, disclosure and confidentiality".
- 26 March. National Department of Health and the Medicines Pricing Committee, Johannesburg. "ALP/TAC submission on the draft medicine pricing regulations" with Jonathan Berger.
- 31 March. TAC Provincial Training of Trainers workshop, Westlake College Cape Town. "The status and progress of the ARV Operational Plan and Roll Out".
- 1 April. TAC Treatment Literacy Training Workshop, Cape Town. "The Operational Plan, interim procurement and other legal aspects including monitoring".
- 6 April. AIDC Youth Camp, Bloubergstrand Cape Town. "Current issues in HIV/AIDS and the law".
- 23 April. Positive Muslims Network, Observatory Cape Town. "The struggle for HIV/AIDS rights and protections – using the law".
- 30 April. IIR Industrial Relations Update Conference, Sandton Johannesburg. "Key HR strategies for managing HIV/AIDS in the workplace".
- 14 May. TAC National Executive Committee, Cape Town. "ARV rollout report, where are we?".
- 30 May. IIR Conference on Managing HIV/AIDS in the workplace, Sandton Johannesburg. "HR strategies for managing HIV/AIDS in the workplace".
- 2 June. Ad hoc civil society grouping on the Operational Plan, Cape Town. "The role and functions of civil society monitoring".
- 2 June. African Economic Forum (AEF), Maputo Mozambique. "Access treatment in SA".
- 18-23 June. Amnesty International Campaign Co-ordinators Annual Meeting, Prague. "Campaigning for socio-economic rights in South Africa- case study of the TAC and the fight for access to treatment".
- 29 June. Wits Workplace Research Symposium, Centre for Health Policy and AIDS Law Project, Johannesburg. "Issues for AIDS organisations in respect of global reporting indicators".
- 3 July. People's Health Summit, East London. "Findings of TAC/ALP First ARV Monitoring Report".
- 6 July. SAJHR conference "Twenty years of human rights scholarship: ten years of democracy" hosted by CALS and the WITS Law School, Johannesburg. "The practice of health rights- cases that campaigned for access to medicines: Pointless – no. Necessary – yes".
- 28 July. TAC Provincial Executive Committee, Eastern Cape. "Monitoring tolls for the rollout".
- 30 July. TAC Provincial Executive Committee, Gugulethu Western Cape. "Legal action against the Minister of Health".
- 26 August. Human Rights Commission and NADEL, Cape Town. "Accessing treatment in the context of human rights".
- 27 August. AIDS Training and Information Centre (ATICC), Cape Town. "HIV/AIDS and legal issues regarding disclosure, the workplace and health care workers".
- 7 September. Inaugural meeting of the Joint Civil Society Monitoring Forum (JCSMF), Limpopo. "Status of the national ARV roll out as at end August 2004".
- 10 September. Foundation for Human Rights (FHR), Cape Town. "Human rights and access to treatment – HIV/AIDS in South Africa: Key issues".
- 21 September. University of Cape Town School of Public Health, Cape Town. "Health and human rights – case studies".
- 15 October. Treatment Action Campaign National Executive Committee, Cape Town. "Assessment of the ARV roll out and the Annexure A Case".

22 October. Treatment Action Campaign, Atlantis Branch Western Cape. "HIV/AIDS and the Law".

19 November. Second Joint Civil Society Monitoring Forum Meeting, Bloemfontein. "ARV provincial and national estimates – status of roll out".

26 November. High level civil society meeting – hosted by the Treatment Action Campaign, Cape Town. "Overview and assessment of the ARV programme".

Mark Heywood

14 January. New York University Exchange Students, Wits Theatre, Johannesburg. "Work of the TAC".

15 January. TAC Gauteng Provincial Executive Committee, Johannesburg. "Challenges for 2004".

16 January. AIDS Consortium, Johannesburg. "Where are we in fighting the AIDS epidemic".

20 January. Norwegian Parliamentary Standing Committee on Health and Social Affairs, Johannesburg. "HIV/AIDS in South Africa: challenges from the perspective of the ALP/TAC".

27 January. TAC National Executive Committee, Johannesburg. "Summing up and the way forward".

29 January. UNAIDS Global Reference Group on HIV/AIDS and Human Rights, Geneva, Switzerland. "HIV/AIDS and human rights".

5 February. Youth Power Executive workshop, Johannesburg. "The political and social challenges facing young people".

12 February. Principal Chiefs and Senators of Lesotho, Maseru, Lesotho. "HIV/AIDS and human rights".

17 February. Nelson Mandela Foundation, Johannesburg. Keynote speaker at launch of Lucky Mazibuko Scholarship.

24 February. AIDS Consortium General Meeting, Johannesburg. "Activists' guide to the National Treatment Plan".

25 February. TAC City Hall meeting, Johannesburg. "Activists' guide to the National Treatment Plan".

27 February. University of the Witwatersrand LLB students, Johannesburg. "History of law, politics and activism in the AIDS epidemic".

11 March. Delegation from SIDA and Swedish Embassy, Johannesburg. "Overview of civil society response to HIV/AIDS in South Africa".

16 March. TAC KwaZulu-Natal public meeting, Durban. "Overview of National Treatment Plan".

18 March. ACCESS, Johannesburg. "TAC's media strategy".

19 March. WISER, University of the Witwatersrand, Johannesburg. Lecture to students.

25 March. International AIDS Foundation Forum Workshop, Mbabane, Swaziland. "AIDS and legal issues in the workplace".

1 April. Harriet Shezi Paediatric Clinic, Soweto. Short speech to mark the start of ARV roll-out in Gauteng.

16 April. ALP Seminar at Bowman Gilfillan law firm, Johannesburg. "The legal framework around HIV in South Africa".

18 April. TAC Treatment Practitioners Workshop, Johannesburg. "The history and politics of AIDS in South Africa".

29 April. North-West Provincial Health Department, Rustenburg Provincial Hospital, North-West Province. "Advocacy".

3 May. Mining Industry conference, Johannesburg. "Legal issues in the Mining Industry".

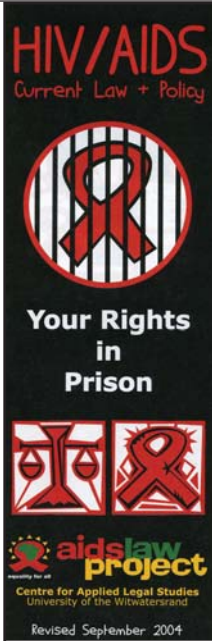
3 May. AIDS and the Law Training Course, Lesotho Law and Constitutional Affairs Department, Johannesburg. "Civil society responses to HIV/AIDS and the role of law".

5 May. South African National AIDS Council (SANAC), Pretoria. "Legal issues around HIV testing in the military".

8 May. Psychologists Society of South Africa, Johannesburg. "Legal and ethical issues around HIV, particularly informed consent and confidentiality".

10 May. Plenary session of HSRC/SAHARA conference, Cape Town. "HIV/AIDS legislation in six Southern African countries".





- 10 May. International HIV/AIDS Alliance, Cape Town. “Legal and ethical issues around scaling up ARVs in resource-constrained settings”.
- 17 May. University of the Witwatersrand School of Public Health HIV/AIDS Forum, Johannesburg. “Issues around accreditation of sites for ARV treatment”.
- 25 May. President and Board of Trustees of the Ford Foundation, New York, USA. “HIV/AIDS stigma and discrimination: why Ford should fund human rights work on HIV”.
- 28 May. Alliance 2015/Concern Conference of ‘Voices from the South’, Dublin, Ireland. “The work of the Treatment Action Campaign”.
- 31 May. European Foundation Centre Annual Conference, Athens, Greece. “Funding AIDS”.
- 10 June. Conference for Health Workers, Johannesburg. “Building bridges between government and civil society”.
- 29 June. Wits Symposium on HIV/AIDS and the Workplace, Johannesburg. Keynote speaker.
- 30 June. BMW Senior Managers, Midrand. “Legal issues on HIV/AIDS and the workplace”.
- 30 June. Youth Power Conference, Sebokeng. Guest speaker: “The challenges facing young people”.
- 1 July. Danish Ambassador and other foreign embassy staff, Pretoria. “Response to HIV and implementation of treatment plan”.
- 2 July. Labour Law Conference, Johannesburg. “Legal issues around HIV/AIDS in the workplace”.
- 7 July. SAJHR Conference, Johannesburg. Discussant on HIV Testing.
- 15 July. Danish trade unionists, Johannesburg. “The work of the Treatment Action Campaign”.
- 30 July. Lesotho Justice Sector Conference, Maseru, Lesotho. “Mainstreaming AIDS within the legal sector”.
- 11 August. HEARD/MTT Winter School ‘Mitigating HIV/AIDS on education’ for education departments from 18 African countries, Durban. “Legal issues in education”.
- 19 August. Executive Committee of South African Democratic Nurses Union (SADTU), Bloemfontein. “New campaigns for a better health service”.
- 20 August. Tripartite Committee on HIV/AIDS in the Mining industry, Johannesburg. “Legal issues”.
- 1 September. Guest speaker at the opening of the RAU Art Gallery exhibition “Breaking the Silence”.
- 22 September. De Beers Managers, Midrand. “Legal issues around the mining industry”.
- 6 October. HEARD Africa Workshop, Durban. “HIV/AIDS and Governance”.
- 7 October. Gauteng AIDS Summit, Johannesburg. Panel discussion.
- 8 October. PATAM Treatment Literacy workshop, Bronkhorstspuit. “HIV/AIDS and Human Rights” and “Patent law, TRIPS, etc”.
- 22 October. University of KwaZulu-Natal School of Development 10 Years of Democracy Conference, Durban. “HIV/AIDS - the Achilles Heel?”
- 25 October. CEO of Atlantic Philanthropies, Johannesburg. “The challenges of health transformation in South Africa”.
- 29 October. University of the Witwatersrand Psychology Colloquium, Johannesburg. “HIV/AIDS and behaviour”.
- 1 November. AIDS Museum Conference, Johannesburg. “Memory and Forgetting in the SA AIDS Epidemic”.
- 6 November. Gauteng Midwives Association, Johannesburg. “TAC’s campaigns”.
- 13 November. Gauteng People’s Health Summit, Johannesburg.
- 15 November. “Human Rights and Legal Issues”, UNAIDS/WHO Consultation on HIV Testing and Counselling, Johannesburg.
- 16 November. ARASA Regional Training, Pretoria. “Policy, Law and Human Rights”.
- 28 November. Guest Speaker at Sedibeng Municipality World AIDS day event.
- 8 December. People’s Budget workshop, “Considerations of health for the people’s budget”, Johannesburg.

8 December. UNISON/ACTSA regional trade unionists conference, “The importance of politics in responding to HIV”, Johannesburg.

Manana Madiba

20 January. Harriet Shezi Children’s Clinic, Chris Hani Baragwanath Hospital, Soweto. “Social Assistance”.

9 February. NICDAM (Secondary Caregivers), Tembisa. “Social Assistance”.

18 February. Dept of Social Development, Nelspruit. “Right to Healthcare”.

19 February. Dept of Social Development, Nelspruit. “Women’s Rights”.

25 February. NICDAM (Primary Caregivers), Tembisa. “Social Assistance”.

12 March. ACFS, Daveyton. “Social Assistance and School Fees”.

29 March. KPEA, Kagiso. “Social Assistance”.

10 May. SAHARA Conference, Cape Town. “HIV Testing within a Human Rights framework”.

1 June. Mapetla Hospice, Soweto. “Social Assistance and School Fees”.

7 June. Mofolo Hospice, Soweto. “Social Assistance and School Fees”.

9 June. Mofolo Hospice, Soweto. “Social Assistance and School Fees”.

28 June. Youth Power, Sebokeng. “Healthcare Rights”.

Anneke Meerkotter

18 March. Volunteer Service Organisation (VSO), Johannesburg. “Workplace policies on HIV”.

17 April. Treatment Action Campaign, Treatment Literacy Practitioners Training, Braamfontein. “Government structures, legal processes and key health legislation”.

23 April. South African Grantmakers’ Association, Braamfontein. “Developing an HIV workplace policy”.

7 May. Lesotho Law Reform Office training, Braamfontein. “HIV and Criminal Law Reform”.

10 May. SAHARA Conference poster presentation, Cape Town. “Confidentiality, does anyone take it seriously?” (with Mandla Mgogoshe).

31 May. Treatment Action Campaign, Treatment Literacy Practitioners Training, Bronkhorstspuit. “Politics of HIV”.

29 June. HIV/AIDS & the Workplace Symposium, Braamfontein. “HIV/AIDS and the Private Security Industry”.

30 June. Youth Power, Sebokeng. “HIV in the workplace”.

7 July. South African Journal of Human Rights Conference, Braamfontein. “Sex workers and health rights”.

14 July. Treatment Action Campaign, AIDS Law Project & Médecins Sans Frontières meeting, International AIDS Conference, Bangkok. “State duties in terms of the Constitutional Court case on mother-to-child transmission of HIV”.

30 July. South African Young Sex Offenders Programme training for probation officers, Cape Town. “HIV/AIDS and repeat young sex offenders”.

12 August. Portfolio Committee of Social Development public hearings on the Children’s Bill, Cape Town. “Submission on the Children’s Bill”.

17 September. Foundation for Human Rights workshop, Pretoria. “The HIV/AIDS epidemic and its challenges for a rights-based approach by the human rights sector”.

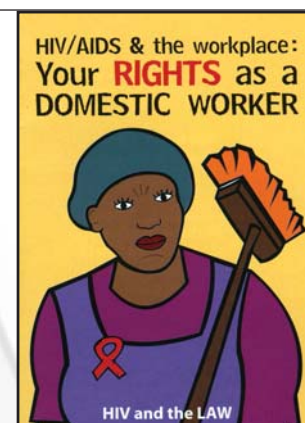
28 September. Centre for the Study of Violence and Reconciliation workshop, Braamfontein. “Legal considerations: HIV/AIDS and violence against women”.

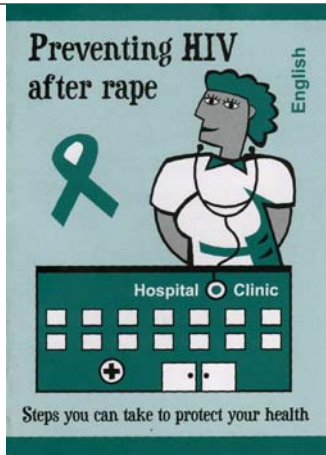
19 November. AIDS Law Project workshop on helping people in a time of illness and death, Johannesburg. “HIV and insurance”.

19 November. AIDS Law Project workshop on helping people in a time of illness and death, Johannesburg. “Caring for caregivers”.

1 December. Road Accident Fund World AIDS Day staff programme, Pretoria. “Workplace Rights”.

8 December. Regional trade union conference on HIV in the workplace, Randburg. “Securing workers’ rights”.





Mandla Mgoshe

20 January. Harriet Shezi Children's Clinic, Chris Hani/Baragwanath Hospital, Soweto. "School fees".

9 February. NICDAM, Tembisa. "Rights of children living with HIV" and "School fees".

20 February. Mpumalanga Department of Social Services, Nelspruit. "Rights of children living

with HIV".

25 February. NICDAM, Tembisa. "Rights of children living with HIV" and "School fees".

10 March. Department of Social Services Region 3, Pinetown North, KwaZulu-Natal. "Domestic workers, AIDS Law and Policy".

12 March. ACFS, Daveyton. "Rights of children living with HIV".

29 March. KPEA, Kagiso. "Rights of children living with HIV".

30 April. Department of Social Services Region 3, Pinetown North, KwaZulu-Natal. "HIV in the workplace".

27 May. Mapetla Hospice. "Social assistance and school fees".

2 June. Mapetla Hospice. "Social assistance and school fees".

8, 10, 11 June. Mofolo Hospice. "Social assistance and school fees".

28 June. Youth Power, Sebokeng. "HIV testing".

Marlise Richter

18 March. CALS Seminar, Wits University, Johannesburg. "Gooi daai dolosse, Mnr. Toordokter. I need a sick note". A discussion of traditional healers, the Traditional Health Practitioners Bill and Human Rights in South Africa.

20 February. LLB course, Wits University, Johannesburg. "HIV/AIDS and Human Rights".

21 March. YFM, Johannesburg. "Human Rights and HIV/AIDS".

6 May. Lesotho Workshop on HIV mainstreaming, Wits University, Johannesburg. "Gender & HIV".

23 April. LLB course, Wits University, Johannesburg. "Gender, customary law & HIV".

10 May. SAHARA/HSRC conference, Cape Town. "Traditional Healing, HIV/AIDS & Human Rights".

10 May. SAHARA/HSRC conference, Cape Town. "Roll-out of PEP after 18 months".

13 May. Radio Sonder Grense HSRC Children's survey findings.

9 June. Knowledge Up-grade Systems, Johannesburg. "Traditional Healers".

10 June. International Institute on Gender & HIV, Johannesburg. "Proposed SADC Code on Gender and HIV".

29 June. Youth Power, Johannesburg. "Gender & HIV/AIDS".

13 July. UNIFEM forum Engendering Response to HIV/AIDS: Learning from the field, Bangkok. "Proposed SADC Code on Gender & HIV".

14 July. International AIDS conference Leadership Forum, Bangkok. "Gender and Access to Information".

17 August. Margaret Sanger, Johannesburg. "HIV/AIDS: Rights, Laws & Policies".

8 September. Bioethics MA, Wits University, Johannesburg. "Traditional Healers in South Africa".

9 September. Law & Society workshop, Wits University, Johannesburg. "Traditional Healers in South Africa".

13 September. ARASA Advisory Board meeting, Johannesburg. "History and the Way Forward for the Proposed SADC Code on Gender & HIV".

21 September. Knowledge Upgrade Systems, Johannesburg. "Traditional Healers in South Africa".

25 October. POWA, Johannesburg. "History of PEP advocacy".

11 November. St Anthony's Catholic Church, Johannesburg. "Gender based violence".

15 October. ARASA training-of-trainers, Johannesburg. "Gender and HIV".

15 October. ARASA training-of-trainers, Johannesburg. “Advocacy skills”.

19 October. ALP Funeral workshop, Johannesburg. “Social Assistance”.

6 December. Right to Care/RHRU, Johannesburg. “HIV and the Law”.

Yusuf Saloojee

19 April. Centre for Applied Legal Studies, University of the Witwatersrand, Johannesburg. “HIV/AIDS in prisons”.

7 May. Lesotho Delegation, Johannesburg. “HIV/AIDS in prisons”.

21 June. AIDS Law Project Legal meeting, Johannesburg. “Compensation to mine workers”.

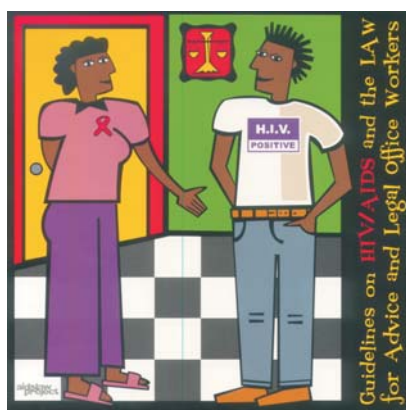
30 June. Youth Power conference, Johannesburg. “Insurance and HIV/AIDS”.

9 July. Canadian AIDS Legal Network Putting Third First Satellite conference, Bangkok. “HIV/AIDS in South African prisons”.

19 November. AIDS Law Project funeral workshop, Johannesburg. “Wills, succession and administration of estates”.

1 December. Garden City Clinic, Johannesburg. “HIV/AIDS and health workers”.





Appendix B: Publications by staff members

Jonathan Berger

Academic

“Negotiating the new medicines regulatory framework: some basic facts and observations”, *Southern African Journal of HIV Medicine*, May.

“Advancing Public Health by Other Means: Using Competition Policy to Mitigate the Impact of Patent Protection”, UNCTAD-ICTSD Capacity Building Project on IPRs (www.IPRsonline.org), June .

“Advancing public health by other means: using competition policy to increase access to essential medicines”, UNCTAD-ICTSD Capacity Building Project on IPRs (www.IPRsonline.org), October.

“Patent and public health: principle, politics and paradox”, AHRB Research Centre for Studies in Intellectual Property and Technology Law, University of Edinburgh (www.law.ed.ac.uk/ahrb), October (forthcoming in 2005 in Proceedings of the British Academy) (with Justice Edwin Cameron).

“Resexualising the epidemic: desire, risk and HIV prevention”, *Development Update (Vol. 5 No. 3): From disaster to development? HIV and AIDS in Southern Africa*.

Other publications

26 January. *ThisDay* newspaper. “Revamp the Patent System” (with Nathan Geffen).

23 February. *ThisDay* newspaper. “Quick fix is neither”: opinion piece on the National Health Bill’s certificate of need (with Fatima Hassan in *Health Matters* column).

24 March. *ThisDay* newspaper. “A case of excessive restraint” – comment on the draft pricing regulations (with Fatima Hassan in *Health Matters* column).

20 April. *ThisDay* newspaper. “Malady of medicine”: dispensing doctors debacle (with Fatima Hassan in *Health Matters* column).

25 May. *ThisDay* newspaper. “The wrong move on HIV” – proposed criminalisation of exposure to HIV infection (with Fatima Hassan in *Health Matters* column).

August/September. *HIV Treatment Bulletin*, published online by HIV i-Base (www.i-base.org.uk) “MTCT programmes in South Africa: nevirapine and the Minister” – report on Bangkok Conference debacle on PMTCT and nevirapine.

September. *European Regulatory Affairs (ERA) News*, published online by PJB Publications (www.pjbpubs.com/era_news/index.htm). “Patent protection and public access: getting the balance right” – report on Bangkok Conference panel on patents and access to medicines.

Memoranda

February. NEDLAC. Joint ALP/TAC memorandum on the United States/Southern African Customs Union Free Trade Agreement Negotiations.

February. Legal Resources Centre, Grahamstown. Advisory opinion regarding the failure of a rural Eastern Cape health district to provide the requisite health services for the diagnosis of opportunistic infections (OIs) and sexually transmitted infections (STIs) in people living with HIV/AIDS.

February. Parliamentary Standing Committee, Canada. Joint ALP/TAC submission on Bill C-9, dealing with the production and export of generic medicines to countries with limited or no domestic manufacturing capacity.

March: Department of Health/Pricing Committee. Joint ALP/TAC submission on the draft medicine pricing regulations.

May. Report on the ALP/TAC seminar on health sector transformation.

June. Affidavit setting out avenues for accessing ARV treatment in SA to be used in support of US immigration application.

June. Q&A on the medicine pricing/dispensing regulations (with Nathan Geffen).

September. Revised memorandum for DTI on proposed amendments to the Patents Act and the Competition Act.

October. Jackson & Canter Solicitors, Liverpool, UK. Updated report on access to treatment for HIV/AIDS in South Africa for asylum seeker in UK.

October. Wilson Houlder Solicitors, London (UK). Affidavit on access to treatment for HIV/AIDS in South Africa for asylum seeker in UK.

October. Terrence Higgins Trust. Affidavit on access to treatment for HIV/AIDS in South Africa for asylum seeker in UK.

November. International Dispensary Association. Legal opinion on patent barriers to warehousing imported antiretrovirals in South Africa.

December. Terrence Higgins Trust. Affidavit on access to treatment for HIV/AIDS in South Africa for asylum seeker in UK.

Liesl Gerntholtz

Academic

Canadian HIV/AIDS Policy and Law Newsletter. "An overview of legal developments in HIV Law in South Africa in 2003". Co-authored with Marlise Richter.

South African HIV Clinicians Journal. "An overview of legal developments in 2003".

South African Medical Journal. "Access of abandoned children and orphans with HIV/AIDS to antiretroviral therapy – a legal impasse". Co-authored with Marlise Richter.

"Ringling up the Changes" (edited by Colleen Lowe Morna). Case Study on HIV, gender and politics.

Fatima Hassan

February. *ThisDay* Newspaper. "Quick fix is neither": opinion piece on the National Health Bill's certificate of need.

March. *ThisDay* Newspaper. "A case of excessive restraint – comment on the draft pricing regulations".

April. *ThisDay* Newspaper. "Malady of medicine" on dispensing/prescribing regulations.

May. *ThisDay* Newspaper. "Criminalisation the wrong move" (Sexual Offences Bill).

July. *Mail and Guardian* Newspaper. "The slow pace of the ARV roll out"

July. LGBT South - South Dialogue 2004 WSF. Publication for African Social Forum "The Politics of Exclusion".

August. "Alternatives" - AIDC Special edition on 'Democracy for Women now'. "The Feminisation of the AIDS epidemic" August 2004 Vol 2 NO 10.

November. AIDC Quarterly Newsletter. "AIDS - the last ten years"

December. *AIDS Legal Quarterly*. "Access to treatment – what are government's constitutional obligations flowing from the ARV programme including patient confidentiality".

December. AIDS Law Project - Health and Law Manual. Draft of chapter on "Overview of the health care system in SA".

Memoranda

February. "Memorandum on procurement options available to the state for the procurement of ARV medicines in terms of the Operational Plan" submitted to TAC, ANC, SANAC and National Department of Health.

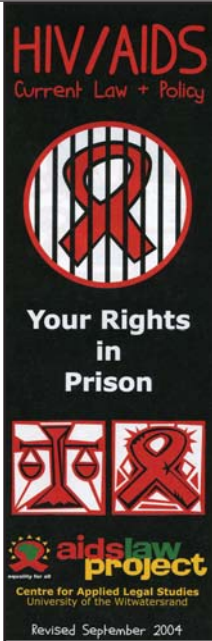
June. "ALP ARV Monitoring Report". For the South African National AIDS Council (SANAC).

June. "Memorandum on developing a system to monitor the Operational Plan". Presented to civil society meeting of: MSF, TAC, UCT, HST, CHP, IDASA, ODAC, PSAM.

July. "Joint TAC/ALP ARV First updated Monitoring Report on the ARV roll out".

July. "Joint ALP/TAC Submission on the draft regulations to the Medical Schemes Act 131 of 1998 – Prescribed Minimum Benefits". Submitted to the National Department of Health and the Council for Medical Schemes.

August. "Memorandum on Fringe Benefit Taxes and Workplace Treatment Programmes". Presented to COSATU,



NEDLAC and the Chairperson of the Parliamentary Portfolio Finance Committee.

Mark Heywood

Academic

“HIV/AIDS and Human Rights: New Directions in the context of 3 x 5”, Issue paper for UNAIDS Global Reference Group on HIV/AIDS and Human Rights, Feb 2004.

“Evaluating the AIDS paradox”, Canadian HIV/AIDS Legal Network, *HIV/AIDS Policy and Law Review*, Volume No, 2004.

Editor: Interfund, *Development Update*, 5:3, From Disaster to Development? HIV and AIDS in Southern Africa.

Editor’s preface, *Development Update*, 5:3.

“The price of denial”, *Development Update*, 5:3.

“The Achilles Heel – the impact of HIV/AIDS on democracy in South Africa”, *HIV/AIDS in South Africa*, eds Q Karim and S Karim, Cambridge University Press (to be published in 2005).

Introduction, *Introducing Health in South Africa, A Guide to Health Rights, Law and Policy* (to be published in 2005).

Chapter 9, *Health Research, A Guide to Health Rights, Law and Policy* (to be published in 2005)

Constitutionalism and the Politics of the Treatment Action Campaign, *Critical Dialogue*, Vol 2 No 1 (to be published in 2005).

Shaping, Making and Breaking the Law in the Campaign for a National Treatment Plan, chapter in *Democratizing Development: The Politics of Socio-economic Rights in South Africa*, (to be published in 2005).

Memoranda

“How the Treatment Plan was won”, paper written for University of Oslo seminar, 2004.

Memorandum on behalf of the Law and Human Rights Sector on structure and procedures of the South African National AIDS Council (SANAC).

Anneke Meerkotter

Academic

The impact of the HIV/AIDS epidemic on women’s citizenship in South Africa”. Chapter 7 pp 157-174 in Gouws A (ed). *(Un)thinking citizenship: Feminist debates in contemporary South Africa*. Ashgate Publishers, Great Britain. (To be published in January 2005.)

Memoranda

February. AIDS Law Project Submission to the Department of Health on the Proposed Regulations relating to Foodstuffs for Infants and Young Children (with Marlise Richter).

June. AIDS Law Project Submission to the Jali Commission on the Early Release of Prisoners with HIV/AIDS (with Liesl Gertholtz).

October. Legal Opinion to the Chief Inspectorate of Mines, Department of Minerals and Energy on Rustenburg Platinum Mines Ltd v Chief Inspector of Mines and Minister of Minerals and Energy.

November. Submission to the Department of Labour on the *Draft Human Resources Code of Good Practice* (with Marlise Richter).

Marlise Richter

Academic

“Developments in South African law”. *Canadian HIV/AIDS Legal Review*, Vol.9, No.1, April 2004 (co-authored with Liesl Gertholtz).

“Pepping up the public health care system for rape survivors: AIDS activism and Advocacy”. *Agenda* No.60, 2004.

“Access of Abandoned Children and Orphans with HIV/AIDS to Anti-retroviral Therapy: A legal impasse”. *South African Medical Journal*, Vol.94, No.11.

“Customary Law, Gender and HIV/AIDS”. *Gender Research Programme Bulletin*, Vol.1, 2004.

“Traditional Healers, HIV/AIDS and human rights”. *AIDS Analysis Africa* Vol.15(3) Oct – Nov 2004.

Memoranda

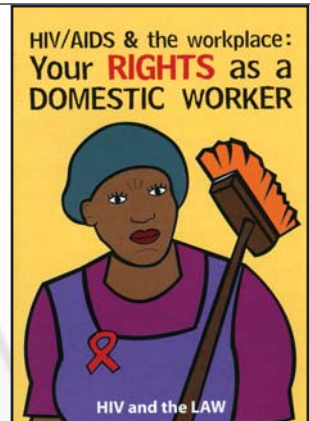
26 February. “Submission on the Proposed Regulations relating to the Foodstuffs for Infants and Young children”. Submission to the Department of Health, co-authored with Anneke Meerkotter.

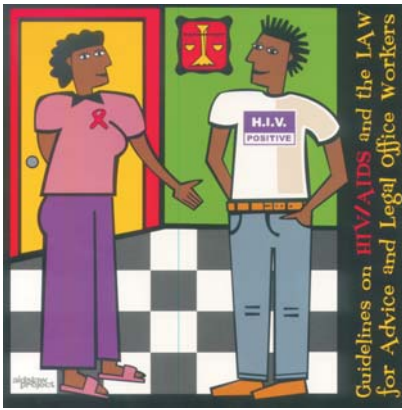
16 March. “HIV/AIDS in Prison: Treatment, Intervention and Reform”, co-authored with K C Goyer, Yusuf Saloojee and Chloe Hardy on behalf of the AIDS Law Project and the Treatment Action Campaign.

May. “Complex legal and ethical questions on HIV-testing and Confidentiality” Memorandum.

1 November. “Comments on the Draft Human Resources Code of Good Practice”. Submission to the Department of Labour, co-authored with Anneke Meerkotter.

July. “Traditional Healing South Africa”. TAC Health Summit Resource Pack.





Appendix C: Positions held by staff

Jonathan Berger

Member of the Gauteng Selection Committee, TAC Treatment Project.

Board member (until May) and chairperson (since May), Lesbian and Gay Equality Project.

Liesl Gernholtz

Member of the Board of Tshwaranang Legal Advocacy Centre.

Member of the Board of Let Us Grow.

Chloe Hardy

Chairperson of the Board of Directors, The AIDS Consortium.

Fatima Hassan

Ad hoc Consultant to Community Health Media Trust - Treatment Literacy series and Beat IT!

Mark Heywood

National Treasurer, Treatment Action Campaign.

Member, UNAIDS Global Reference Group on HIV/AIDS and Human Rights.

Member, Johannesburg AIDS Council.

Member, SA National AIDS Council (SANAC).

Steering Committee member, AIDS and Human Rights Alliance of Southern Africa (ARASA).

Board member, Amandla AIDS Advisory Fund.

Member, Wits HIV/AIDS Research Institute Steering Committee.

Marlise Richter

Advisory Board member: ARASA

Advisory Board member: "Inaugural International Institute on Gender and HIV/AIDS - Strengthening the Connection Between Practice, Policy and Research", South Africa, June 7-11.



AIDS Law Project (ALP)

PHYSICAL ADDRESS

Centre for Applied Legal Studies
University of the Witwatersrand
D J Du Plessis Building
West Campus
Braamfontein

POSTAL ADDRESS

Private Bag 3
Wits
2050
South Africa

Telephone: +27 11 717-8600

Fax: + 27 11 403-2341

Website: www.alp.org.za

E-mail: alpadm@law.wits.ac.za