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TAC Electronic Newsletter

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Defend Media Freedom!

Use Health Laws to Prosecute the Real Criminals!

The Treatment Action Campaign (TAC) is extremely concerned by reports that Sunday Times editor Mondli Makhanya and journalist Jocelyn Maker have been threatened with arrest and prosecution under section 17 of the National Health Act. This smacks of intimidation of the Sunday Times, including other media who are being ?taught a lesson?, and of political reprisal for publicly revealing facts about our Minister of Health.

A record of theft by high officials, or alcoholism and misbehavior within a health facility, should not be considered private matters and journalists have a duty to reveal the things our politicians try to hide from us.

Let us be clear. TAC supports the right to privacy and confidentiality of medical records. Recently, for example, we hailed the decision of the Constitutional Court in its finding against Patricia De Lille and Charlene Smith regarding their publication of the HIV statuses of three poor black women who had been part of clinical trial. But the principle that privacy can be limited in the public interest is also accepted by TAC and has always been accepted by our Court, including in the Smith/De Lille case. Private and irrelevant medical facts about unemployed black women (or any other ordinary health user) are different from private and relevant facts about our Minister of Health, whose private character and fitness for office will affect the lives of nearly 40 million people who depend on the public health services she is responsible for, and the rationality of her decisions.

It is sad and ironic that the National Health Act (NHA) is being misused for this purpose. The NHA also says that all health users have the rights to dignity, autonomy, full information about health services, and to have complaints investigated. The Minister is responsible for ensuring that these rights are protected. And yet everyday we hear of violations occurring at hospitals and clinics across our country, due mainly to bad management, insufficient resources and inadequate planning. Unfortunately, these violations by the Minister are not subject to criminal sanctions. Instead, those who expose them or complain, such as Dr Ntshona of Frere Hospital, are victimized. Journalists, such as Phylicia

Oppelt of the Daily Dispatch are ridiculed, by no less a person that the President. Essop Pahad is allowed to issue threats to stop using tax-payers money to advertise in the Sunday Times because one of his cronies has been exposed.

This is a worrying trend indeed. Cronyism is bad for governance and democracy.

TAC says that the Constitution, not political friendships, must guide public action.

It is also unacceptable that, if reports are accurate, a whole squad of police, including a senior police officer, have been deployed to this ?investigation?. This is despite the fact that charlatans such as Matthias Rath (and many other tricksters who exploit illness and HIV) violate the Medicines Act daily in continuing to sell unregistered medicines and by making false claims for their own profit. None of these people have been arrested. Some are friends of the President and Minister. In fact their unlawful activities appear to be protected by the Health Minister and her department.

We appeal to President Mbeki to stop this. Whilst he may claim that he is not directly responsible for the police investigation, he must have sanctioned it, knowing the outcry it would produce in South Africa and internationally. We warn that it is a slippery slope from arresting an editor to the murder of pioneering journalists such as Carlos Cardoso ? killed for exposing the corruption that took hold in post liberation Mozambique.

TAC and many other civil society organisations are dependent on freedom of expression to conduct our work. The free media has been essential for our successful campaigns for mother-to-child transmission prevention and the implementation of highly active antiretroviral treatment in the public health system. More importantly, democracy and good governance depend on a free press.

We condemn the repression of the Sunday Times.

We say to President Mbeki: We Support Freedom of Expression! Don't Suppress the Media! Don't allow the misuse of state power! Hands off the Sunday Times!

[END OF FREEDOM OF EXPRESSION STATEMENT]

Doctor claims unfair discrimination dismissal by Mpumalanga Provincial Dept of Health, linked to providing AIDS treatment

Statement by the AIDS Law Project, 15 October 2007

JOHANNESBURG - Dr Malcolm Naude is going to trial in the Labour Court in Braamfontein next Tuesday 16th October 2007 over his alleged unfairly discriminatory dismissal by the Department of Health in Mpumalanga in 2001.

He believes his dismissal from his post as a medical officer at Nelspruit?s Rob Ferreira hospital was because he was unfairly discriminated against for acting in accordance with his conscience and medical best practice in treating rape survivors.

In early 2000 the Nelspruit hospital staff (including doctors and nurses), the South African police services and the Greater Nelspruit Rape Intervention Project (GRIP) became jointly involved in running a rape crisis centre.

Part of the service provided by GRIP included funding doctor?s prescriptions for anti-retrovirals to rape victims, as part of a package of treatment.

At the time, the policy of the Mpumalanga Department of Health was opposed to the prescribing of anti-retrovirals. In fact the Mpumalanga Department of Health had issued an instruction that hospital doctors were not permitted to prescribe anti-retroviral drugs.

Dr Naude and other doctors at the hospital took the view that this was an unwarranted interference in the exercise of

their professional judgment and discretion in making clinical and ethical decisions in the care and treatment of patients. They continued to prescribe anti-retrovirals where this was required.

In February 2001, the Mpumalanga Department of Health formally requested GRIP to vacate the care-rooms where it offered services at the hospital and then started legal proceedings against GRIP to prevent the organization from operating in the hospital premises.

Dr Naude made a sworn statement in support of GRIP?s case opposing the eviction, which the Mpumalanga Department of Health and the court received on about 9 June 2001.

After Dr Naude?s opposition to the ?eviction? of GRIP from the hospital, and his support for GRIP?s work became known to the Mpumalanga Department of Health, Dr Naude alleges they terminated his services.

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[END OF AIDS LAW PROJECT PRESS STATEMENT]

- Manto Tshabalala-Msimang
- Violence Against Women

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