

# TAC Electronic Newsletter

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## **AIDS Law Project Statement: Victory in Westville Prison Case**

[The TAC has learnt that over 100 Westville prisoners require antiretroviral treatment now. Following last week's Durban High Court judgment, which granted the state leave to appeal, but also ordered government to comply in the interim with the Court's earlier judgment, we will be monitoring the Correctional Services and Health Departments to ensure compliance.

Here is the statement the AIDS Law Project released last week.]

25 July 2006

Today, the Judge Thumba Pillay ordered the government to comply with his earlier judgment regarding access to ARV treatment at Westville Correctional Centre (WCC).

On 22 June 2006, he had ruled that the government is required to remove any obstacles to accessing ARV treatment at WCC, to take positive steps to ensure that ALL prisoners who need ARVs are immediately assessed for treatment, and

to state exactly what steps they plan to take in an affidavit that should be filed with the Court. The applicants (13 prisoners and the Treatment Action Campaign) would then get a chance to comment on that report and the matter may be set down for hearing again if necessary.

But because the government applied for leave to appeal against that judgment, the execution of Judge Pillay's order was suspended until the final determination of the appeal.

On 20 July, the lawyers for the TAC and the prisoners argued that it would be outrageous to allow the order to remain suspended until the appeal is finalised. This could take a year or even more. In this time the health of the 13 prisoners (and others at WCC who are in a similar position) would decline even further, and some may die. There is no doubt that the urgency here is one of life and death.

Today, this was pointedly acknowledged by Judge Pillay. He said: "One cannot, on the one hand, hail the values of our Constitution which holds the right to life as sacrosanct and on the other, allow people to die in a situation when something can and should be done, certainly more diligently, to counter a pandemic which has been described as an 'incomprehensible calamity' and the 'most important challenge facing South Africa since the birth of our new democracy'."

The Judge also noted that on the government's own version nine prisoners per month have died since 2005 of AIDS-related illnesses. This figure in itself demonstrates the urgency of the matter. If the government were complying with their constitutional obligations, as they say they are, why would there be this alarming AIDS-related death rate?

As a result, the Judge ordered that the 22 June 2006 judgment be implemented forthwith, and that the government's report (on the steps that they are taking to ensure access to ARV treatment at WCC) must be filed with the Court by 14 August 2006.

He also granted the government leave to appeal to the full bench of the Natal Provincial Division. Despite the fact that his order will be executed in the interim, he recommended that an expedited date should be allowed for the appeal hearing.

[END OF WESTVILLE PRISON STATEMENT]

## **Stories from our communities**

### **Homophobia in our communities**

By Luckyboy Mkhondwane

Growing up gay in a township is a very scary experience. I know how it is like because through my childhood I had to live with the fear of being harassed and even being beaten up by those who never understood what and how I am.

We've heard of instances where lesbians have been raped by groups of men in an attempt to change them. Instead they have been infected with HIV. Such acts are totally unacceptable and inhumane.

All my life I have had to deal with being different from most of my peers. To add on that brutality has been the order of the day. I even stopped wearing my glasses in spite of having a problem with my sight because I was tired of making up stories on how I broke them to my parents when they actually got broken while I was running away from would be attackers.

As a grown up man in my early thirties, I thought that, with the protection from our country's Constitution, I could be free to be who and what I am. Well now I realize how wrong I was. The name calling has not stopped. I just ignore the

whistling and cursing because I feel even though it is not right, it does nothing to hurt me. And I am now comfortable with myself and know that no one would choose to go through the bullying I have experienced.

What really brought me back to the harsh realities of homophobia happened a while ago when harassment turned to violence. I was taking a walk with one of my closest friends who is also openly gay when we encountered a group of boys from a local high school. I did not hear what they said about us, but my friend related to me that one of them said "I hate these gays they are the cause of a shortage of men." I like talking about things so I decided to ask him what he meant by that and if we did something to bother him in anyway.

I don't know if what happened next is because both my friend and I are short and slight in build. My question was apparently an invitation to a string of insults from the boy. That did not go well with my friend who has a temper to uproot trees. When it comes to a push, he would rather let his fists do the talking. Out of the argument between him and this schoolboy a scuffle broke out. I had been pushed out of the way and before I could register what was going on the boy was on the ground with a split lip. A crowd had gathered around to watch the fight and it was not until the boy was on the ground that some of the people made an attempt to break them off. I suspect that if it was my friend on the ground no one would have done anything. As we left, the young man was still calling out names, insults and making threats, but we had to let it go.

Our communities still have a long way to go before we can eradicate discrimination of any form. So tell me if I had a choice, would I choose to live my life in anticipation and fear of being attacked for what I am?

[END OF HOMOPHOBIA STORY]

## **Shortage of staff at Mzinti Clinic**

By Nelsiwe Sithole

Mzinti clinic is situated at Mzinti location, Mpumalanga province. The clinic has five nurses, including one professional nurse, a clerk and two lay counselors. The nurses are friendly and willing to help. The clinic does voluntary counseling and testing (VCT), mother-to-child transmission prevention of HIV (MTCTP) and CD4 count testing. The majority of the patients in this clinic are diagnosed with Tuberculosis (TB).

The clinic has a shortage of staff. If a general worker is sick, the sister-in-charge is forced to do the cleaning before she can start with her work. Other nurses have to do the receptionist's job while also servicing the patients.

Sometimes the clinic becomes so overcrowded that they have to close before time and concentrate only to the patients who have managed to get inside. The sister-in-charge, Sr. Sikhonde, says that they need two staff nurses and one professional nurse to meet the demands of the community who are serviced by the clinic.

A doctor is only available on Wednesdays and he does not spend the whole day. He services three other clinics on the day. The clinic is also small and has a limited area that is not suitable for staff and patients.

[END OF MZINTI CLINIC STORY]

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