

EQUAL

treatment

Magazine of the Treatment Action Campaign

September 2010

A photograph of a woman with dark skin and short hair, wearing a red tank top, sitting at a market stall. She is resting her chin on her hand and looking towards the camera. In front of her is a large basket of bright orange oranges. To her left is a white mug with the word 'Nambawani' and a thumbs-up icon. The background shows a busy market setting with various items and a blue plastic chair.

Making human
rights a reality

How you can make a difference: Our guide to active citizenship
Inhumanity: How our health system fails foreign nationals
The shameful tide of homophobia in Africa

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Correction: In Equal Treatment 33 we reported that Andrew Warlick died on 11 April 2008. The correct date is 11 April 2010.

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A tide of homophobia is spreading through Africa. We chart this shameful trend and explore the inhuman practice of 'corrective' rape. Mara Kardas-Nelson chatted to the mother of murdered Banyana Banyana star Eudy Simelane and Lesley Odendal tells us about MSF's great work in ensuring access to treatment for foreign nationals.

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Changing a country might not be that easy, but making a difference in your own community really isn't that hard. Use our guide to activism to start organising in your community and be sure to check out our inspiring short pieces on ordinary people who are making a difference. Plus, take a look at how TAC has used the constitution to achieve change in South Africa.

Editorial



Photo by Alon Skuy

I am writing this editorial from Beijing, the capital of China. Beijing is one of the most ancient and historic cities in the world, and is now one of the most modern. It is in a country that has witnessed some of the worst atrocities against men and women in world history and which, for most of the nineteenth and twentieth centuries, was consumed by political conflicts between capitalism, feudalism and communism. Today, China's government says this is a communist country, after the revolution that took place there sixty-one years ago. But in reality it is the fastest-growing capitalist country in the world.

China's HIV/AIDS epidemic is not like ours. HIV infection is mainly confined to injection drug users, men who have sex with men, and sex workers. There are perhaps a million people infected with HIV, out of a population of around one and a half billion. But as in South Africa those who work hardest every day to fight HIV/AIDS are ordinary people in their communities, people with HIV and human rights activists. Like in South Africa there is great bravery and inventiveness being used to tackle HIV/AIDS.

But unlike in South Africa, activists do not work in a legal framework that respects, protects and promotes human rights. Here some activists are arrested and beaten when they petition government departments to call for compensation for people infected with HIV through unsafe blood supplies. Demonstrations are unthinkable. Using the law is nearly impossible, because many courts are corrupt and before they even hear a case, they have to decide whether it merits hearing. On top of that, the Communist Party, not the constitution, is the ultimate power. Websites that mention human rights are closed down by the police. Email accounts are hacked into. Recently, Wan Yanhai, the leader of one of China's best HIV/AIDS and human rights organisations went into exile after being intimidated by the police for months. His organisation, Aizhixing, is in danger of being closed.

Sounds like how we used to live under apartheid!

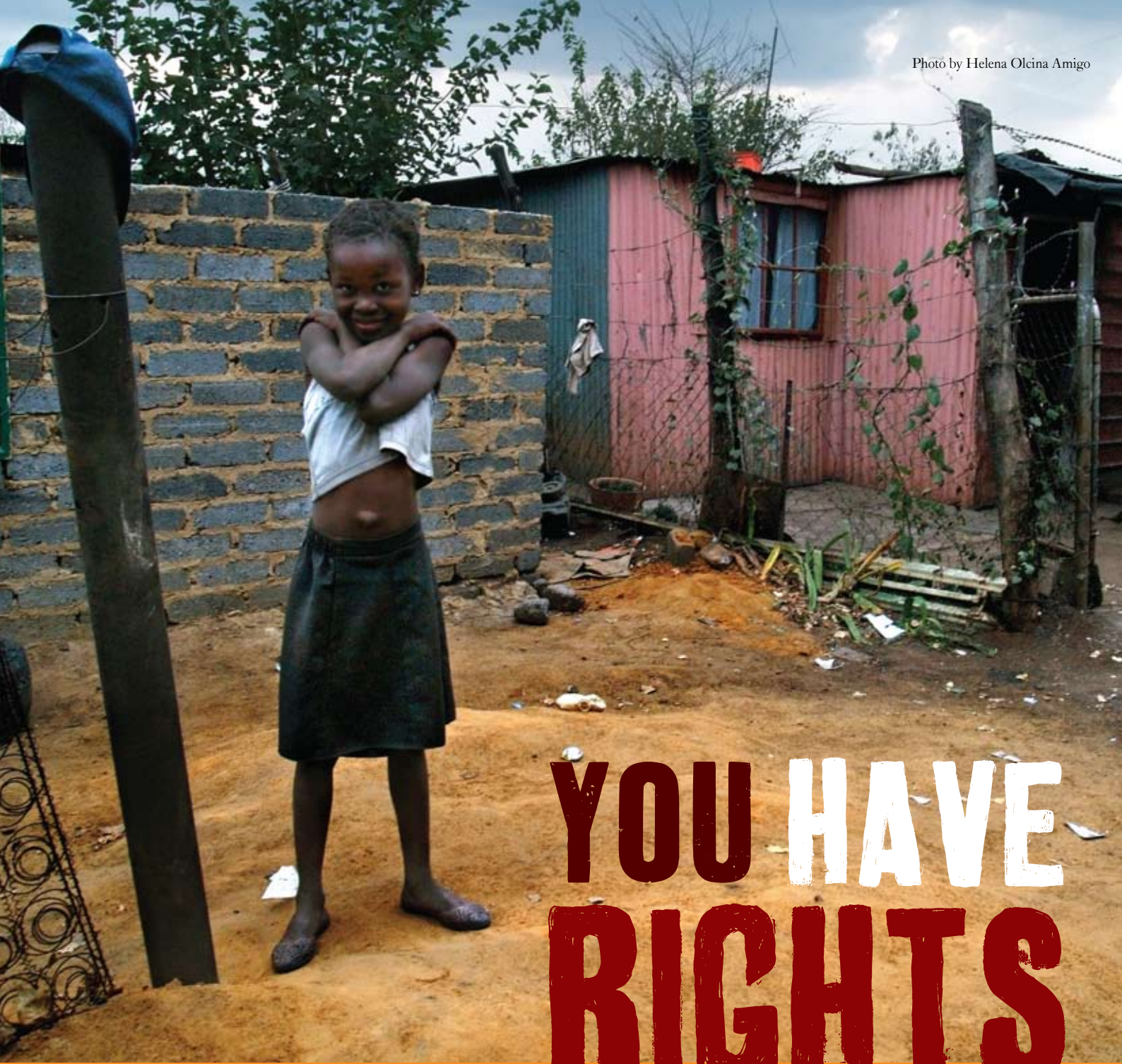
China reminds me of how important legally enforceable human rights are to our work as HIV/AIDS activists and why we should not take them for granted. Without human rights we are paralysed as citizens, unable to see, move or breathe, unable to act as responsible citizens.

Health care, and treatment for HIV/AIDS, is sometimes described as a socio-economic right. Other such rights are rights to housing, sufficient food and water, as well as social security. Through the Treatment Action Campaign's (TAC's) work for the right to health and ARV treatment we have saved over a million lives. Keeping people well has protected their dignity and prevented the breakup of families and friends.

But it took a fight and we could not have done this without the rights that are denied to our fellow humans in China – what we call civil and political rights. Read our constitution, and think about the meaning of rights to freedom of assembly, to privacy, freedom of association, freedom of expression. Next time you organise a demonstration, think that this is a human right that was fought for, one that we must understand and defend.

We are lucky that our government currently respects civil and political rights. But we should not be complacent about this. No government likes rights, because they require accountability and transparency, and if it can find a way to take them away, it will. TAC needs these rights because our job is only half done. Four million people still need treatment. We need equal and quality education, sufficient food and social security. We need to pressure government to also promote socio-economic rights and to remember in all its policies and programmes that the highest law in the land says that it is a duty – not a choice – to promote equality and social justice.

Mark Heywood, TAC Secretariat member



YOU HAVE RIGHTS

By Marcus Low

First they came...

THEY CAME FIRST for the Communists, and I didn't speak up because I wasn't a Communist.
THEN THEY CAME for the trade unionists, and I didn't speak up because I wasn't a trade unionist.
THEN THEY CAME for the Jews, and I didn't speak up because I wasn't a Jew.
THEN THEY CAME for me and by that time no one was left to speak up.

Pastor Martin Niemöller (Germany), regarding the lack of outrage by every day Germans during the Nazi atrocities

Throughout history many people have been cruel to those who are different to them or who do not conform to their values. This cruelty has taken the form of racism, sexism, homophobia, xenophobia (see right for definitions), and many other forms of discrimination including discrimination based on HIV status. We have seen centuries of the oppression of women, we have seen colonisation, we have seen the holocaust, and we have seen apartheid. And still many cruelties continue.

Some human beings have, however, learnt that hatred and violence only bring about more hatred and violence. Some parts of society at least, have learnt that it is in everyone's best interests if we accept those who are different to us and allow them to live their lives in their own way. That is what makes South Africa's constitution so valuable. It guarantees everyone equal rights, irrespective of race, gender, sexual orientation, religion or other grounds.

It is only by recognising equal rights that we can secure a peaceful and just future. We must fight all rights violations just as we fought against apartheid. We must keep fighting for the rights of all people: straight or gay, atheistic or religious, male or female, child or adult, healthy or sick, disabled or able-bodied, foreign national or South African citizen.

Before we are anything else, we are all human beings. By denying the humanity of another, we deny our own humanity. Upholding human dignity lies at the heart of our constitution's guarantee of human rights and forms the basis of freeing the potential of every human being.

What is a human right?

Human rights are those basic and fundamental rights to which every person is entitled, simply by being a human being. They mean that everyone has the right to a decent life and to basic human dignity – this includes rights to education, health, shelter and food. No-one may be discriminated against based on their race, gender, health, sexual orientation, religious or political affiliation.

Sexism:

Discrimination against members of the opposite sex.

Racism:

Discrimination based on the belief that some races are inherently superior to others.

Homophobia:

Discrimination against, dislike, or fear of homosexual people.

Xenophobia:

Fear and hatred of foreign nationals or anyone who is perceived to be different.

Everyone has human rights

The European Convention on Human Rights identifies the following basic human rights:

- The right to life; prohibition of torture, inhuman or degrading treatment or punishment; prohibition of slavery; abolition of the death penalty.
- The right to liberty and security, to a fair trial and to no punishment without law.
- The right to respect for private and family life; the right to marry; the protection of property; the right to education.
- Freedom of thought and religion; freedom of expression; freedom of assembly; right to free elections.
- The prohibition on discrimination in how these human rights are applied.

The law and recognition of human rights

Even though the two are linked, human rights are often not reflected in a country's laws. The rights of a country's citizens as defined by its legal system can be more restrictive. Human rights are taken to be more universal and independent of whether they are part of any legal system. Even when countries have

“Democracy is based on the majority principle. This is especially true in a country such as ours where the vast majority have been systematically denied their rights. At the same time, democracy also requires that the rights of political and other minorities be safeguarded.”

– Nelson Mandela

good constitutions and make international commitments to uphold human rights, these rights are not always reflected in the country's laws. This is why we must campaign to get more human rights integrated into our legal systems across the southern African region.

Today, the law in South Africa upholds many more human rights than it did under apartheid. Under apartheid, the state passed laws allowing it to discriminate against certain groups of people – primarily on the basis of race, but also other grounds (such as sex, gender and sexual orientation). Through these laws apartheid and its legal system violated the human rights of many people. The anti-apartheid struggle was about many things, but in essence it was about human rights for all in South Africa.

Four ways in which apartheid violated human rights

- Apartheid violated the right to political participation by only allowing white people to vote.
- The pass laws violated people's right to freedom of movement.
- The whole apartheid system violated people's right not to be discriminated against based on race
- 'Bantu education' violated people's right to equal education.



Photo by Henk Kruger/Cape Times

Human rights in Africa

Like the struggle against apartheid, liberation struggles in the rest of Africa were also about human rights – most often the right to political participation for all citizens. However, the fact that colonialism is a thing of the past does not mean that the struggle for human rights is now over. In fact, many human rights violations are still being perpetrated by African governments and a lot of hard work remains if we are to ensure human rights for all.

By not spending enough on health care, many African countries neglect their citizens' right to health. Similarly, rights to education, security and shelter are also often violated. In many countries local constitutions do not expressly recognise these rights.

“Our single most important challenge is therefore to help establish a social order in which the freedom of the individual will truly mean the freedom of the individual. We must construct that people-centred society of freedom in such a manner that it guarantees the political liberties and the human rights of all our citizens.”

– Nelson Mandela



Photo by Helena Olcina Amigo



“An individual has not started living until he can rise above the narrow confines of his individualistic concerns to the broader concerns of all humanity.”

– Martin Luther King

Numerous countries in Africa still have laws discriminating against and violating the rights of lesbian and gay people. In Malawi, for example, even though the constitution recognises the right to equality, statutory law criminalises consensual sex between men. In almost all cases, these anti-gay laws were inherited from colonial days. Similarly, important security laws in Zimbabwe were also introduced during colonial times.

Many of these countries also do not have free and fair elections, do not allow freedom of the press, and do not allow political protest. Such governments make it difficult for civil society organisations similar to the Treatment Action Campaign (TAC) to function in those countries. Civil society organisations have a very important role to play in ensuring human rights for all and keeping governments accountable.

It is important to remember that getting the law expressly to recognise human rights is not the end of the struggle. Even if certain human rights violations are illegal, it does not mean that they do not happen. Many people in South Africa still violate the human rights of others on a regular basis, even though it is against the law. We must fight for the laws we have to be enforced and we must promote a culture of human rights in our communities by speaking out about abuses. We must fight for access to justice – access to legal services so that we can claim and enforce our rights, and not just wait on the state to deliver.



ACTIVE citizen

Patrick Godana: One Man Can Campaign Manager, Sonke Gender Justice Network

“I’m the One Man Can Campaign Manager for Cape Town. I am an ordinary person from New Brighton, who became involved in political activities. In 1985 I was arrested, and imprisoned for five years. As young South Africans at that time we were determined to see ‘freedom in our lifetime’.

I studied theology. People think theology is only about the Bible, but it is also about social justice. One of my teachers was a feminist theologian, who enabled me to reflect on my own socialisation growing up in a society that teaches violence.

I come from a poor family. Although I respect my father, apartheid made him doubt his manhood, and he was harsh to us all. I never saw my father kiss my mother, but I saw him beat her up.

Now I’m a father I spend time with my children – not just giving them money, but engaging with them. Men need to participate in fatherhood, and in issues of sexual health. Above all, we must love our children, girlfriends and partners.

The struggle is not over while women remain oppressed. I see the work that I’m doing as the second phase.

My heroes are Govan A. Mbeki and Martin Luther King, Jr. Mbeki inspires me. He believed that ordinary people, men and women on the ground, should drive the struggle. King preached that even if people hate us, we should still love them.”

Photo by Mara Kardas-Nelson



Photo by Damien Schumann

HOMOPHOBIA IN AFRICA



By Chivimbiso Gava and Marcus Low

What is homophobia?

Homophobia is the discrimination against, fear or hatred of homosexual people. It is similar to racism in that it discriminates against a group of people based on a single uncontrollable characteristic. As with racism, social expressions of homophobia are cruel and amount to human rights violations.

Whereas all forms of homophobia are a source of concern, it is particularly worrying when the state, judicial system, or police force acts in a way that is homophobic. The state is supposed to protect the rights of homosexual people, not violate them. Whereas the rights of homosexual people are well protected in South African law, the same cannot be said for many other African countries.

Malawi

Tiwonge Chimbalanga and Steven Monjeza were the first gay couple to marry in Malawi. Two days after their union on 28 December 2009 the couple were arrested. They faced charges of gross indecency and “unnatural practices between males”. On 18 May 2010 the men were sentenced to 14 years’ hard labour under a law originally introduced by the British during colonial rule.

Their arrest and sentence was met with outcry from activists around the world. The Treatment Action Campaign (TAC) and other civil society organisations picketed in Cape Town and Johannesburg and released statements calling for the sentence to be overturned.

Malawi’s President, Bingu wa Mutharika, finally pardoned Chimbalanga and Monjeza after

consultations with UN secretary-general Ban Ki-Moon. The two were released from prison on 29 May 2010. Legislation that allows the state to violate the human rights of its citizens due to their sexual orientation remains in place.

Uganda

In October 2009 draft legislation was presented in the Ugandan parliament that would prohibit sexual relations between people of the same sex. The anti-homosexuality bill proposed the death penalty for “serial offenders, HIV-positive offenders, or those engaging in homosexual activity with a minor or disabled person”.

Following widespread international condemnation, including a TAC media statement, the draft legislation has been put on hold.

All over Africa

Recently we have also heard reports of anti-gay violence in Kenya and Uganda, the arrest and harassment of Zimbabwean lesbian and gay activists, and the jailing of HIV activists in Senegal following charges of ‘homosexual acts’. New homophobic laws are being passed in Burundi, and proposed in Nigeria.

6 MYTHS ABOUT homosexuality

By Mara Kardas-Nelson

Myth 1: Homosexuality is a choice, and a gay person can be made 'straight'

Fact: People who identify as homosexual or have homosexual feelings do not choose to feel this way. Being attracted to a person of the opposite sex happens without volition. It has nothing to do with a person's background, country, childhood, or other environmental influence. Because being homosexual is not a choice, no one can be made 'straight'. Tactics to make someone 'feel' heterosexual, such as verbal or physical abuse, are both ineffective, as the person will continue to experience homosexual feelings, and wrong, as they degrade the person's human rights.

Myth 2: Homosexuality is 'un-African'

Fact: Homosexuality has been practiced throughout history and in all parts of the world. It is just as African as it is European, American, Latin, or Asian. We know that homosexuality was practiced in Africa long before western influence arrived. Among the Azande people of what is now the Democratic Republic of the Congo, kings, princes and soldiers took young male lovers. Some tribes in Burkina Faso and South Africa considered lesbians to be astrologers and traditional healers. In Lesotho, some women had long-term, sexual relationships with one another. Native art of the San people, who lived across southern Africa, depicts male-male anal sex.

Myth 3: Homosexuality was introduced by Western colonialists

Fact: While homosexuality has long been practiced in Africa, widespread homophobia was often introduced or at least encouraged by colonial administrations. In pre-colonial Angola, for example, many homosexual men were free to make their own sexual choices. After Portuguese colonisation, however, homosexuality became criminalised.

While there is a common belief that European and North American gay rights organisations push homosexual rights within Africa, homophobia is also advocated by western fundamentalist organisations that oppose gay rights. While African LGBT (lesbian, gay, bisexual, and transgender) organisations do sometimes work with those outside the continent, dollar for dollar the same amount of money is spent on supporting homophobic campaigns and laws as on promoting gay rights.

Myth 4: More white men than black men are homosexual

Fact: Studies have shown that homosexuality is a normal, natural occurrence among people all over the world, from every race, religion, tribe, and culture. While some cultures and places may be more accepting of homosexuality, resulting in more openly gay members of society, this does not mean that certain cultures have more gay people than others.

Myth 5: Homosexuality is a disease

Fact: While homosexuality used to be thought of as a psychological disorder, this classification came from a homophobic point of view. Most researchers now believe that we all fit somewhere on the heterosexual-homosexual spectrum. This means that throughout our lives, we will find ourselves attracted to people of the same and the opposite sex. Homosexuality is a completely normal, healthy way of feeling and acting.

Myth 6: Homosexuality leads to moral decay in society

Fact: This widespread myth makes no sense. The fact that some people are homosexual does not harm society in any way. On the contrary, discriminating against homosexual people is cruel and violates their human rights. It is homophobia that is immoral and harmful to society.



SOWETO

**HOMOPHOBIA &
XENOPHOBIA**

Phumela Masuka (right) and her partner at home in Soweto. Photo by Jodi Bieber.



Phumela Masuka (33)

I was raped in 1995 in Soweto.

A woman befriended me at soccer training and invited us for drinks. Two men arrived who knew her, and we decided to go to a pub. We stayed there for a while. I wanted to go home as I had school the next day. They kept stalling.

We got into this guy's car thinking we were going home. When we reached my area I said, "Short left." He accelerated, passing the street. I asked again to get out. He did not stop and then I knew I was in danger.

I didn't expect this as the woman was our friend and she knew these guys and knew that we were lesbians. We stopped at the woman's house. We wanted to rush out of the car. The driver grabbed the woman (my friend) in the passenger seat. Those of us in the back all jumped out. My friend tried to jump but he held onto her and was driving at the same time. I tried to chase the car to save my friend. We did not know where the second guy and my friend had gone who had been in the back of the car with us. Out of the blue I was grabbed from behind and dragged into some house. The other guy who had disappeared arrived with someone else I had not seen before. He said, "I am not interested in fucking you. I just want to teach you a lesson that you are still a woman."

I blamed myself for the rape. I did not tell anyone, not my family or the friends with me that night. Why did I befriend this woman? Why did I go out with her that night? I blamed and actually hated the space where I played soccer. If I had not been at that space I would never have met that woman. I would not have gone out for drinks. I would not have been raped.

The most positive thing is now I am able to talk about it. And I love football – my passion for football just grows.

What is 'corrective' rape?

'Corrective' rape refers to forced sexual intercourse carried out by a man or group of men against a woman or group of women who identify or are assumed to identify as lesbians. Some men wrongly believe that raping a lesbian will 'cure' her of her homosexuality and make her heterosexual. These men are not only acting cruelly and inhumanly, they are simply wrong.

How often does it happen?

Exact numbers for the frequency of 'corrective' rapes are scarce. According to the charity ActionAid, a survey of survivors of homophobic assaults in the Western Cape found that "66% of women did not report their attack because they would not be taken seriously. Of these, 25% said they feared exposing their sexual orientation to the police and 22% said they were afraid of being abused".

Does 'corrective' rape 'work'?

In addition to being cruel and illegal, 'corrective' rape cannot possibly 'work'. Homosexuality is not a choice. Women who are interested in homosexual sex will continue to feel attracted to women regardless of violent acts against them.

The notion that corrective rape is effective is a myth perpetuated by weak men wanting power over women who do not fit their idea of what a woman should be. Lesbians do these men no harm. Such men are therefore only acting out of insecurity and cruelty.

Why is it wrong?

Men who carry out 'corrective' rape are infringing upon another person's human rights, namely their rights to sexual autonomy and to bodily safety. Like all other forms of rape, 'corrective' rape is cruel and inhuman.

ACTIVE citizens



Photo by Chosen FEW

Forum for the Empowerment of Women (FEW): The Chosen FEW football team is made up of young lesbian soccer players who will participate in the Gay Games soccer championship in Germany this year.

Joint interview with Dikeledi Sibanda, Project Organiser/Manager and Coach of Chosen FEW, and Thindi Malaza, Programmes Coordinator, Forum for the Empowerment of Women (FEW).

“The Chosen FEW football team has been together since 2004. It started after young lesbian soccer players from townships were expelled from women’s soccer teams due to their sexual orientation.

The team provides a safe space where lesbians can be themselves, play the sport that they love and advocate for lesbian rights.

The group consists of 20 young black lesbians from townships around Johannesburg. They are all activists who work for the rights of women.

Chosen FEW helps other young women struggling with issues of sexuality. Some haven’t come out in their communities; we help them develop confidence and awareness of their rights.

The team does advocacy work, and participates in cases concerning women’s issues. We are part of a campaign called One in Nine. We picket outside courts; some of us become court monitors and watch the progress of the cases. At the upcoming Gay Games VIII in Germany the team looks forward to creating networks and to speaking about issues that they face in South Africa.

In South Africa being gay is not illegal – that’s one of the beautiful things about our country. But it’s still mainly on paper. In the townships there is a lot of prejudice; people think that we want to be men, that this is not right because God created man and woman. So even if we have rights on paper, in reality things are not like that at all.”



ACTIVE citizen

Remembering Eudy

Banyana Banyana player Eudy Simelane (31) was murdered in April 2008 whilst walking near her childhood home in KwaThema, Johannesburg. One of her murderers was sentenced to 32 years in prison, another to life in prison, whilst the other two accused were acquitted because of lack of evidence. Mara Kardas-Nelson spoke to Mally Simelane – Eudy’s mother.

Photo by John Turnbull

“Eudy was a nice girl, I miss her a lot. Every weekend I used to eat out, because she would always do something nice for her parents.

And of course she liked her soccer so much. I thought about her a lot during the World Cup, because she was supposed to go and judge for the World Cup. She liked soccer from when she was four years old until the day she was taken away from me.

I feel she was murdered because of jealousy. Eudy finished school, played soccer and travelled overseas. When they killed her she had a job and she wanted to be a lawyer.

I accepted Eudy from a young age to be a lesbian; we never had any hassles or [held] anything against her [for this].

I’m trying to help other [lesbian] girls, because their parents don’t understand and like them. I’m trying to help these girls understand that they are good people too and that we love them regardless. I am encouraging other parents to love their children.

In previous years there were no killings, it was very quiet. It started with xenophobia and then people started to think that they could also kill lesbians and gays.

We all need to accept these children, and then we can live well together. The government needs to accept us, and these children, because they haven’t done anything wrong. They should be loved like anybody else, and parents should love their children.”



RIGHTS for foreign nationals

By Lesley Odendal, Médecins Sans Frontières (MSF)

Foreign nationals living in South Africa are just as human and have exactly the same human rights as South African citizens. Yet, they are often treated cruelly and without humanity. MSF is helping many of these vulnerable people to obtain health care in difficult circumstances.

In September 2007, the Department of Health (DOH) released a directive reaffirming that refugees and asylum-seekers with or without an entry permit have the right to health services. The directive stated that they should be treated for free at any primary health care facility and exempted from hospital admission fees

if they lack financial resources. They are also entitled to use any antiretroviral therapy (ART) service point, and treatment should be free.

Although this is official policy, the reality is that on the ground some health care workers' xenophobic (anti-foreigner) attitudes mean that these policies are not uniformly applied. Zimbabweans attending MSF clinics in both Musina and Johannesburg have described significant barriers to accessing public health services. Those attempting to use the health system are often either harassed or prevented from obtaining the services they need, particularly in hospitals. Many patients say they are made to feel unwelcome in public health facilities because they don't speak the local language.

In the last three years there have been many examples of this. As one of our patients in Johannesburg said, "Once they know you are foreign, the treatment is different. But if you are accompanied by the MSF social assistant, then the treatment is okay because they know she is there to assist and she always speaks on your behalf, so you get treatment."

Zimbabwean citizens complete questionnaires in Musina, on the South African border, in order to qualify for refugee status. Photo by Henk Kruger/Cape Times.

Foreign nationals seek refuge in Johannesburg's Central Methodist Church. Photo by Austin Andrews, courtesy MSF.



Another 28-year-old patient who wishes to remain anonymous told us this horrific account of being refused health care: “In September of 2009, I went to a public clinic because of an incomplete miscarriage, but the nurse told me they only do abortions for South African people. After they asked for R400, which I didn't have, I went to a N'anga (traditional healer) who helped me with the abortion. In November I went to the same clinic because I had severe abdominal pain. They asked me again for my passport and R140. I walked out and bought antibiotics and painkillers.”

One MSF nurse in Musina, Limpopo Province, had to deal with a case that illustrates only too well the xenophobic views of some health care workers. “One woman was very ill. She had malaria and was HIV-positive. She was in bad condition, her temperature was very high. And we referred her to hospital, but then she came back the following day. We saw that she still wasn't well, so we wanted to return her to the hospital, but she said she did not want to go there. We asked her why and she said the nurses told her, ‘You are dirty, you are smelly. You go back to Zimbabwe with your dirtiness.’”

Survival migrants who flee their home countries because of economic hardship and political violence face incredibly difficult living conditions in South Africa. They lack access to proper health care, shelter and safety, while also facing violence, police harassment and

xenophobic attacks. Formal legal status to remain in the country is often difficult to obtain, if not impossible. Gangs prey on them when they cross the border. Many of these migrants, as well as vulnerable South Africans, face further threats living in appalling conditions, particularly in derelict buildings in Johannesburg where they try to find shelter.

MSF has been running two projects in South Africa since 2007 to respond to the health needs of survival migrants and refugees. The MSF clinics in Musina near the border with Zimbabwe and in Johannesburg provide primary health care, mental health support and referrals to hospitals and specialised facilities. This service includes referrals for chronic conditions such as HIV/AIDS and tuberculosis. In Musina, staff also take mobile clinics to nearby farms where many of these vulnerable migrants work.

Since the MSF clinic opened in Johannesburg in early 2008, the number of consultations has risen steadily, reaching an average of 2,300 per month in 2009 and 2010. Initially the MSF clinic was used mainly by residents of the church next door. Today, more than 70 per cent of patients come from the city's derelict buildings. This shows that many people remain in need of health care despite primary health care access being guaranteed by national directives.

Key rights of foreign nationals in South Africa:

- The Refugee Act of 1998 sets out the regulation of asylum-seekers and refugees for any foreign nationals fleeing threats resulting from general instability in their countries. According to this Act, a refugee or asylum-seeker is entitled to formal written recognition of their status, full legal protection and employment.
- In April 2009 the Department of Home Affairs (DHA), under pressure from NGOs and human rights groups, announced a special dispensation permit under the Immigration Act for Zimbabweans without legal documents, and a moratorium on deportations. However, arrests and deportations continue. Rollout of the special dispensation is slow, and confusion remains high.
- In May 2009 the DHA announced a new 90-day 'visa-free' entry permit, but this only applies to Zimbabweans with travel documents. However, to obtain a passport in Zimbabwe costs more than US\$150, which is unaffordable for most Zimbabweans.
- Refugees and asylum-seekers with or without an entry permit have the right to use health services. They should be treated for free at any primary health care facility and exempted from hospital admission fees if they are unable to pay.

People in this situation are also entitled to use any antiretroviral therapy (ART) service point, and treatment should be free.



Photo by Helena Olcina Amigo



ACTIVE citizen

Mwelwa Phiri: ARV pharmacist at Kitwe Central Hospital, Zambia, who started a support group for teenagers with HIV.

“I am from Zambia and I work at Kitwe Central Hospital in the ARV pharmacy.

Outside of my job I work with HIV-positive teens. Many that I see at the hospital have trouble accepting their HIV status and they feel alone, so I started a support group. We have five group members, who have been meeting to share their experiences for about six months.

I also have family members who are infected with HIV. A cousin of mine was on ARVs. That’s where I got the idea for the support group, because I thought that she could benefit from something like that.

Government needs to play a much bigger role in strengthening the health system. Right now, it’s not a priority. We need more focus on human resources and on training health workers.

It is important for the community to be involved, because that is where we all come from. Everyone’s affected or infected. Stigma remains a big problem. We can change this by getting involved and educating people.

My mother is my hero. She’s on ARVs and has been through a lot, inspiring me with her bravery. My cousin who passed away a few months ago was also one of my personal heroes.”

Photo by Brian Nyoni

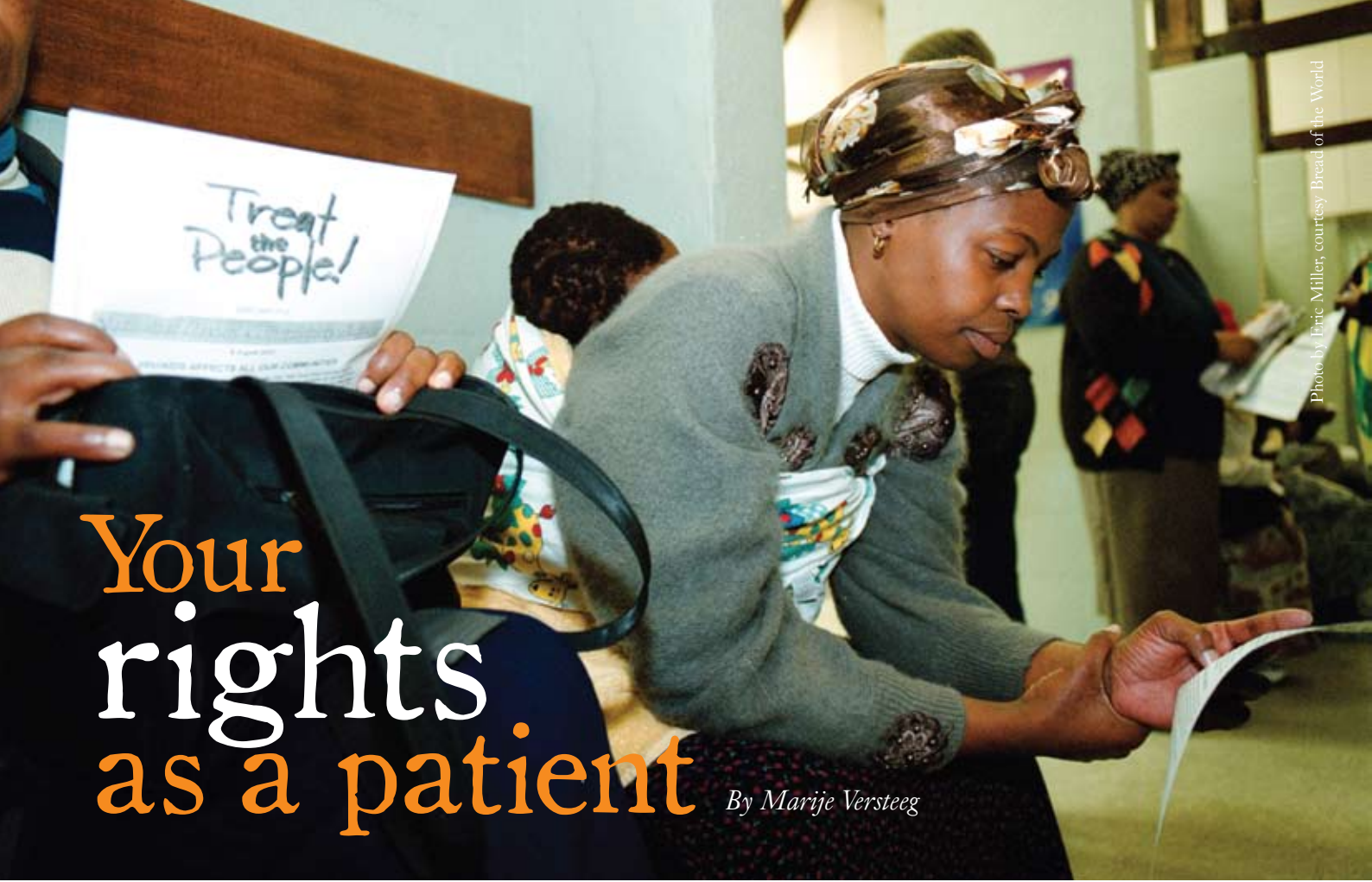


Photo by Eric Miller, courtesy Bread of the World

Your rights as a patient

By Marije Versteeg

A study conducted in Limpopo Province in 2001 found that 68% of the 6381 people interviewed did not know how to lay a complaint against the health system. Knowing your health rights is critical to ensuring you receive the best possible health care. Equally important is to know how to hold the health system answerable when your rights have been breached.

confidentiality and privacy, a second opinion and the right to refuse treatment. You also have the right to full information about your condition, treatment options and the costs involved. Importantly, the Patient Rights Charter says that everyone has the right to a positive attitude from health care workers that shows courtesy, human dignity, patience, understanding and tolerance.

The Charter with all its 12 different rights should be displayed in your health facility, as well as the procedures to follow in laying a formal complaint. The complaints procedures should be given to you when you ask for them. Patients who are illiterate or have disabilities should be helped to lay complaints. If you want your complaint to be investigated it is important that you follow these guidelines.

Report the complaint in writing to the person in charge of the health facility.

The exact procedures and names of committees dealing with your complaints may differ from province to province and between

You have a right to lay a complaint

If we feel mistreated at a health facility, we all have a right to lay a complaint and to have it investigated. This health right and others, as well as our duties and obligations as patients, are provided by the **Constitution and National Health Act**, and are fleshed out in the **Patient Rights Charter**. Amongst other rights health users have the following:

Every health care user has the right to counselling without discrimination, coercion or violence on issues such as reproductive health, or HIV/AIDS. You have the right to treatment by a named health care worker,

The name and telephone number of the person in charge of the clinic or hospital should be clearly displayed at the facility.

health facilities. Generally, the first step would be to report the complaint in writing to the person in charge of the health facility (e.g. hospital manager, matron). You should ask for a written acknowledgement that your complaint has been received. In addition, you should be given a possible timeframe for your complaint to be resolved.

What else can you do?

If you are not satisfied with the way in which your complaint was dealt with locally, you can do any of the following:

- Write to your MEC of Health
- Call the Presidential Hotline: 17737
- If your complaint is about the behaviour of a health care worker, you may lodge a complaint against the relevant health professions council, such as the Health Professions Council for South Africa (for medical doctors) or South African Nursing Council.

However, before raising your complaint with any of the above, it is important to first give the local management a chance to deal with the matter and respond. The Presidential Hotline clearly states that it should be “used when all your attempts to get assistance from a government department, province, municipality or state agency have failed”. It is not advisable to use all avenues at the same time. For any general complaints, suggestions, or compliments, you can use the suggestion box at your health facility.

If you are still not getting adequate redress, or if your complaint is such that it requires possible legal action, there are several human rights organisations in the country that you can ask for help, such as your local or national Treatment Action Campaign (TAC) office, SECTION27 (Incorporating the Aids Law Project), Probono.Org, Legal Aid South Africa, Legal Resources Centre and Black Sash.

By raising your voice to demand quality, comprehensive health care you not only exercise your personal right, you also help

to strengthen the overall health care system. Whereas we all know that some health care workers do not appreciate complaints, others welcome the opportunity to correct any possible wrongs and recognise the value of your feedback.

Duties of health care users

The National Health Act also provides health users with duties. They include:

- Respect the rights of other patients and health staff
- Use the health system optimally without abuse
- Provide health staff with accurate information for diagnosis, treatment, counselling and rehabilitation
- Follow the prescribed treatment and rehabilitation procedures.

Rights of health care personnel

Health care personnel also have rights. One of their rights provided by the National Health Act is to refuse to treat a user who is physically or verbally abusive or who sexually harasses him or her.

Read more: National Health Act, Chapter 2: Rights and Duties of Users and Health Care Personnel, also Section 18: Laying of Complaints; Hassim A, Heywood M, Berger J “Health and Democracy: a guide to human rights, health law and policy in post-apartheid South Africa”, SiberInk (2007) - Chapters 8, 9 and 10 deal with the health care rights and duties of health care workers and users, including vulnerable groups.

Marije Versteeg is from the Rural Health Advocacy Project - A partnership between Wits Centre for Rural Health, SECTION27 [Incorporating the Aids Law Project] and the Rural Doctors Association of Southern Africa.



Photo by Eric Miller, courtesy Bread of the World

The following organisations can offer help, some of which also have local offices:

Black Sash: 072 66 33 739 (free helpline)

Legal Aid South Africa: 08610 LEGAL (53425)

Legal Resources Centre: 011 836 9831

Probono.Org: 011 339 6080

SECTION27 (Incorporating the Aids Law Project): 011 356 4100

Treatment Action Campaign: 021 422 1700

Health Professions Council for South Africa (HPCSA): 012 3389300/01. All complaints must be sent in writing, and details can be provided by the HPCSA or any of the above organisations.

South African Nursing Council (SANC): 012 420 1000



Standard methods of medical circumcision are safe and there is no reason to take a risk with the Tara KLamp or any other clamp.

DON'T GET CLAMPED

GET SAFE CIRCUMCISION

By Kiu Kim

Several studies have shown that the risk of heterosexual HIV-negative males contracting HIV is reduced by 50% to 60% when they are medically circumcised. As a result, the Treatment Action Campaign (TAC) has endorsed the World Health Organization recommendations on voluntary male medical circumcision (VMMC).

Three surgical approaches are recommended for adults and adolescents (the forceps-guided, dorsal slit and sleeve resection methods), as it has been long proven that these are safe. Even so, unsafe methods are sometimes used, which put patients at great risk.

The Tara KLamp

One example of an unsafe method of circumcision is the use of the Tara KLamp (TK), a device manufactured in Malaysia, which can cost up to R160. This plastic device is clamped onto the penis for seven to ten days until it is removed or falls off with the dead foreskin.

This unsafe device is now being used in parts of South Africa.

A study published in the South African Medical Journal, and carried out by the most reputable clinicians involved in circumcision in South Africa, submitted the TK to safety trials. The results

were alarming. 37% of the male adults who were circumcised using the TK had complications; the most frequent being swelling and bruising. Additionally, 21% had delayed wound healing and 31% suffered problems with penis appearance. Volunteers also reported significantly higher pain levels using the TK.

Of concern is the possibility that the delayed wound healing and increased adverse events caused by the TK could actually raise the risk of HIV transmission. The high number of adverse effects associated with the TK method forced the trial to be stopped prematurely.

Say no to the Tara KLamp

In light of the available evidence, it is clear that the TK is simply too risky for use on male adults and should not be used in the public health system. Promoting such use of the device is clearly unethical.

If you are an adult planning to undergo VMMC, make sure the procedure is done by certified medical staff, and that all equipment is properly sterilised. Furthermore, ask your doctor which method they will use and check that it is one of the following safe methods: The forceps-guided method, the dorsal slit, or the sleeve resection.

Children's rights are human rights

Human rights are inherent – in other words, people have rights simply because they are human beings. Although they are often treated as human 'becomings', children are rights holders too. Human rights were first written into international law and treaties in the first half of the last century. Debates about whether such rights extended to children were to some degree settled when the international community adopted the United Nations Convention on the Rights of the Child (UNCRC) in 1989. South Africa has agreed to be bound by the provisions of this international treaty.

Children need extra protection and guidance from the adults around them and from the government. That is why they have extra protection rights. Children's rights are meant to promote the interests of children in two ways:

Firstly, they protect children from harm. Secondly, they recognise that as children grow older their capacity to make certain decisions on their own increases. The fact that children have rights does not take away from the rights of others, for example parents. Children, like everyone else, have a responsibility to respect the rights of others.

What laws protect children's rights?

The Bill of Rights in our constitution contains rights guaranteed to everyone, including children. In addition to those general rights, Section 28 of the constitution, known as the 'children's clause', contains rights reserved for children only. Children's rights are also found in legislation, like the Children's Act, the Child Justice Act and the South African Schools Act.

Laws bring the Bill of Rights to life. They give meaning to children's rights and explain the responsibilities of all who implement those rights. So for example, a child's right to health care services is given practical meaning in the

Children's RIGHTS

By Prinslean Mahery and Lucy Jamieson

Photo by Alon Skuy



Children's Act where it sets out the age at which a child can obtain medical treatment or HIV testing services without parental assistance. In some cases these laws introduce new rights. The Children's Act, for example, states that every child has the right not to be subjected to social, cultural and religious practices that are harmful to their wellbeing, such as female genital mutilation.



Photo by Eric Miller, courtesy Bread of the World

Who is a child?

The children's clause indicates that a child is a person below the age of 18. The Children's Act has now lowered the age of majority (when a person legally becomes an adult) to 18 where it was previously 21. 18 generally marks the age at which a person is able to enter into legal agreements without parental involvement. However a child does not need to be 18 to make certain health care decisions on their own. For example, contraceptives can be obtained by children aged 12 or older.

What rights do children have?

The children's clause in the Bill of Rights contains a range of rights, including the rights to a name and a nationality from birth, to family care, parental care, or appropriate alternative care when removed from the family environment. Further rights include basic nutrition, basic health care services, social services and protection from maltreatment, neglect and abuse.

The best interests of the child take priority in all matters and decisions affecting children. Everyone, including children, also has rights to equality, human dignity, life and the socio-economic rights to food, water and social security.


The Children's Act supplements the rights described in the constitution. The Act also guarantees children's right to take part in matters affecting them depending on their age and stage of development. So for example, the Act requires those with parental responsibilities and rights to consider the wishes of the child when making major decisions that would affect the health of the child.

For children infected and affected by HIV the right to basic health care entitles them to HIV-related services that can be claimed by the child or by a parent on behalf of the child. The Children's Act makes these services accessible to children. It allows them to consent to an HIV test at age 12 or if they are younger and are found to be mature enough. Pre- and post-test counselling is required when a child is tested for HIV. As part of their right to privacy children are entitled to confidentiality about their health status and the health status of their family.

Who is responsible for giving effect to the rights of children?

Children's rights are the responsibility of everyone. In the first instance, parents, guardians and caregivers (such as grannies and aunts) are responsible for ensuring that children can exercise their rights and that no one violates those rights. For example, parents must ensure that children attend school, exercising their right to education. On the other hand, if parents are unable to give effect to the rights of the child then the responsibility shifts to government.

The penalties for violating children's rights are mainly spelled out in specific laws. So for example, the Sexual Offences Act sets out clearly the penalties for sexual abuse or sexual exploitation of children. However, sometimes penalties are undesirable. For instance, if a child is being neglected because their only parent must work two jobs to support the family then instead of punishing that parent the Children's Act promotes early intervention services to preserve that family.



Each and every one of us has a duty to report abuse or neglect of a child.



Photos by Julien Harnéis



Photo by Julien Harneis

What should we campaign for?

There is still a lack of awareness, understanding and respect for children's rights. The first step is to educate children and adults about their rights and responsibilities, especially in the health sector.

Empowering children and their families takes more than just education. Almost two thirds of children in South Africa live below the poverty line, making them very vulnerable. Families need support services for health and social development to ensure that children reach their full potential and exercise their rights.

Grants support children's rights to social security. They have been shown to reduce the effects of poverty and to sustain families through periods of crisis. Government should therefore be commended for its move to extend the Child Support Grant to children up to the age of 18.

However, financial support for families affected by HIV remains under discussion. Many rely on the Disability Grant (DG) when a breadwinner is no longer able to work. Parliament recently rejected plans to introduce a definition of disability that would exclude chronic illnesses. As a result people with HIV can still claim the DG (or the CDG in the case of children). However, these grants are only available when the person is very ill, hence there has been a call for a Chronic Illness Grant. This would be available upon diagnosis. The grant would be beneficial to children with HIV-positive caregivers and also help HIV-positive children to stay healthy. They would have access to more nutritious food and their parents would have money to pay for transport to the clinic.



Thanduxolo Sisilana: Equal Education volunteer youth coordinator in Kraaifontein, Western Cape Province.

"I am from King William's town and now live in Cape Town. Since 2008 I have been a youth coordinator for Equal Education, a community group advocating for quality and equality in the South African education system.

I heard about Equal Education through a radio station. They were looking for volunteers to run youth activities. Since I have an interest in education I saw it as a way to get involved.

Our work with the Kraaifontein youth takes place every Tuesday. We give the kids food and activities like reading. They learn about current affairs and about how people fought for the rights that we have today.

Education teaches us values, and to know what we want. It's important for job skills. It teaches us how to communicate, to respect others, and to be independent.

Government needs to invest more in education; the education that we've had really doesn't really prepare us to take things on. Middle class kids get a better education. They have libraries, and if they need information they get it. The community must push government to make education a priority.

My hero is Steve Biko. He wasn't afraid to fight for what he believed in. He wanted to see change not only for himself but for every human being. My dream is to go to university and become somebody. If you have education you can stand up for other people and fight for them."

Photo by Helena Olcina Amigo

Women's rights

By Chivimbiso Gava

Sources: ActionAid <http://www.actionaid.org/index.aspx>; OneWorld UK <http://uk.oneworld.net/guides/gender/>; The Legal Resource Centre <http://www.lrc.org.za/>; United Nations Development Fund for Women http://www.unfem.org/gender_issues/human_rights/

Women have the right to be free from gender-based violence.

Violence against women has no barriers; it affects women of all classes, races and ages. Women have the right to safety and security, and a right to say no to sex - even to their spouse. Any form of forced sex is rape and is against the law.

Women have the right to challenge customary and religious law.

In some nations women are disadvantaged by customary or religious laws that limit or fail to recognise their rights. A woman has the right to choose when and who she marries and whether or not she gets married at all.

Women have the right to education.

According to the international agency ActionAid, “40 million girls go without primary education and almost two thirds of illiterate adults are women.” Women have traditionally been excluded from formal education, but all women and girls have the right to an education.

Women have the right to land and housing.

According to the United Nations Development Fund for Women (UNIFEM) “even in countries where women do more than 75% of the agricultural work, they are routinely denied the right to own the land they cultivate.” Women have a right to own land, giving them security and enabling them to provide for their families.

Women have a right to health.

Like everyone else, women have a right to health and a right to access health services. This right includes the right to reproductive health services and reliable evidence-based information on HIV.

Women have the right to equality in the workplace.

Traditionally it was believed that women belonged in the home – cleaning, cooking and looking after children. Today, even when not confined to the domestic environment, women are often employed in the informal sector or in the lower levels of formal employment. Women have the right to employment based on their abilities and not on their gender.



Nzali's Story

“I got married when I was 14 years old, [and] at the time I didn't know I had rights. I thought it was just something women go through. When I got married I was not entitled to know my husband's income. His mother took control of that. In the house I couldn't touch certain things because they belonged to my in-laws. When my husband lost his job I had to work and bring all my earnings to him. When I compared my marriage with those of other women I realised something was wrong. I was very unhappy and left my husband's home at the age of 22. At this time I already had three children. In Lusikisiki I got involved in the community and through TAC I [learned] about my rights as a woman.” – Nzali Ntwala, TAC Community Health Advocate

Who to call for help

LifeLine: 24-hour crisis intervention service – rape, trauma and AIDS counselling. 0861 322 322

People Opposed to Woman Abuse (Powa), Gauteng: Offers shelter and counselling services to women in abusive relationships, rape survivors, survivors of incest etc. 011 642 4345

SA Depression & Anxiety Group: Helpline staffed by trained counsellors. 011 783 1474 (8am - 7pm Monday to Saturday)

Marie Stopes Clinics: Has 30 day clinics and 10 micro clinics around the country offering family planning services, HIV testing and ante-natal services. Toll free: 0800 11 77 85 / National: 011 838 3271

Legal Resources Centre: Uses the law as an instrument of justice for the vulnerable and marginalised, including poor, homeless, and landless people and communities suffering discrimination by reason of race, class, gender, disability or by reason of social, economic, and historical circumstances 011 836 9831



Photo by Eric Miller, courtesy Bread for the World

How TAC has used the Constitution

By Nathan Geffen

The Constitution of the Republic of South Africa is the supreme law of South Africa. All other laws, as well as the government's actions and even private actions must not violate the constitution. It came into force in February 1997 following years of negotiation. The defeat of apartheid created the space for a constitution that promoted equality, recognised rights for all people and promoted actions against poverty.

Most importantly the constitution contains a Bill of Rights. This gives us the rights to life and dignity (not many constitutions have this). It also gives us freedom of expression and the right to protest. It makes everyone equal before the law. These are rights in most modern constitutions around the world. But the South African Bill of Rights goes further than most others: It gives the state the duty to take steps to continuously improve access to health care, education, water and food.

Many people criticise the constitution. Some say that it is just a document and that the Bill of Rights can only be enforced for wealthy people. Others

argue that the constitution protects the interests of those who have property and safeguards capitalism at the expense of the poor.

Both these arguments are wrong.

It is true that it is easier for well-off people to enforce their rights. But the Treatment Action Campaign (TAC) has shown how the constitution can be used to enforce the rights of poor people. However this only works if poor people organise and mobilise for their rights using the courts, demonstrations and institutions like Parliament (these activities are protected and made possible by the constitution). Here are a few examples from TAC's history:

- In **2002**, TAC used several rights in the Bill of Rights – including the right to make choices regarding reproduction – to take the government to court. We won and the court ordered the government to implement a countrywide prevention of mother-to-child HIV transmission programme.

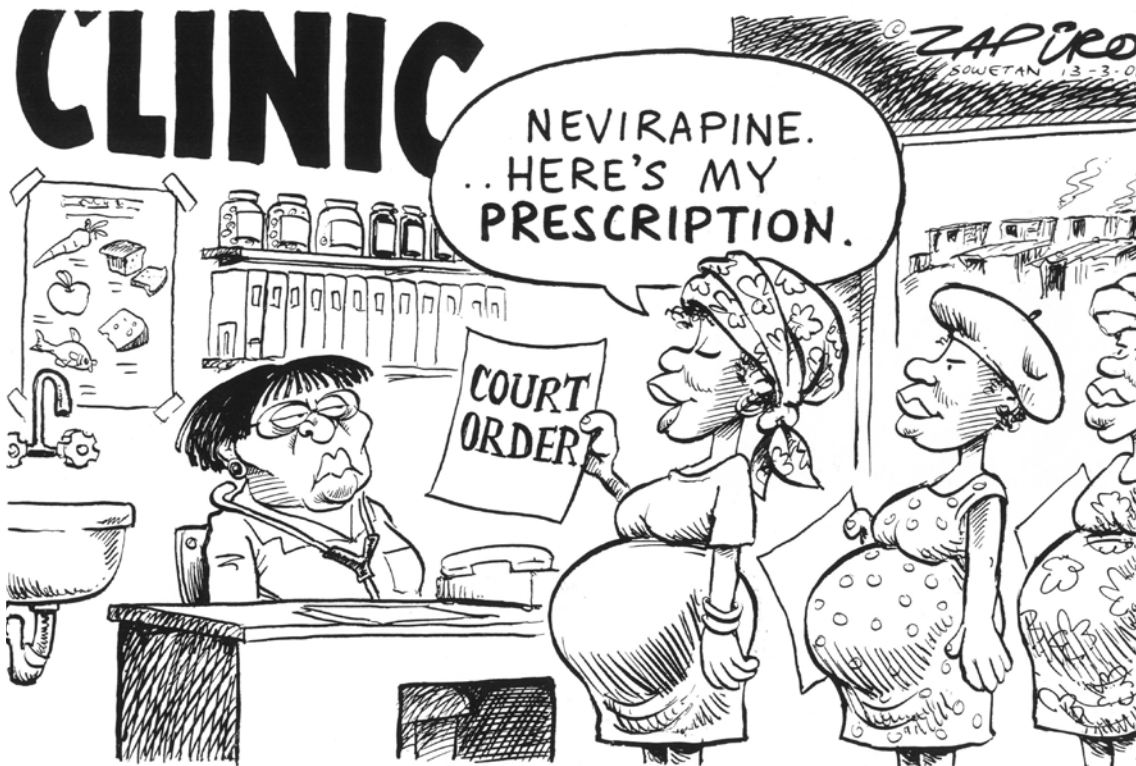
- In **2003**, TAC got a favourable finding against two pharmaceutical companies at the Competition Commission. We used many constitutional rights, including the right to have access to health care services, to convince the Competition Commission that these companies were violating the Competition Act by charging too much for the antiretrovirals AZT, lamivudine and nevirapine. In subsequent years we used this victory to force companies to lower the prices of drugs like amphotericin B and license generic companies to sell cheaper efavirenz products.
- In **2004**, just before the elections, the Department of Health delayed starting the antiretroviral treatment programme. TAC threatened to use the constitution to take the government to court. The Department of Health gave in to TAC's demands before we went to court and the antiretroviral rollout began.
- In **2006** TAC and the AIDS Law Project (now SECTION27) won a court case forcing the state to provide ARV treatment to inmates in need at

Westville Correctional Centre. Like everyone else, prisoners have constitutional rights to life, dignity and access to health care services. The constitution expressly recognises that they have a right to adequate medical treatment.

- In **2008** TAC won a court case against Matthias Rath and the Minister of Health. Rath, with the support of Health Minister Manto Tshabalala-Msimang, was testing vitamins on people with HIV without permission. We argued in court that this violated many constitutional rights including the right not to be subjected to medical or scientific experiments without informed consent.

TAC's example has inspired other organisations. For example, the Social Justice Coalition is using the Bill of Rights to fight for better toilets in parts of Khayelitsha. Equal Education is using the constitution to campaign for school libraries.

TAC has been supported in its legal work by SECTION27, the Legal Resources Centre and a number of lawyers sympathetic to the organisation.



BECOME AN



ACTIVE citizen

WE ALL HAVE A ROLE TO PLAY IN BUILDING THE HIV/AIDS RESPONSE IN SOUTH AFRICA. AS ACTIVE CITIZENS WE CAN PARTICIPATE IN STRENGTHENING OUR DEMOCRACY AS WELL AS OUR HEALTH AND HIV PROGRAMMES.

We must take responsibility for our own health and the health of our partners. Having fewer sexual partners and practising safe sex are important steps in combating the HIV epidemic in South Africa.

In addition, we can take part in supporting HIV programmes and ensuring that our rights are upheld. Below and on the following pages is an overview of measures that you can use to begin advocating for your own rights and particularly your right to health.



HEALTH IS YOUR CONSTITUTIONAL RIGHT

Under section 27 of the constitution, everyone in South Africa, regardless of their nationality, has the right to health care services, including reproductive care.

IF YOU ARE TREATED BADLY AND YOUR RIGHTS ARE VIOLATED THEN YOU CAN LAY A COMPLAINT

Under the National Health Act, any person may lay a complaint about the way in which he or she was treated at a health establishment and have the complaint investigated. The procedure for laying a complaint must be clearly displayed in all health facilities. If your complaint deals with a violation of your rights it can also be lodged with the South African Human Rights Commission. Complaints

against public sector health establishments can also be lodged with the Public Service Commission or the Public Protector. (For more on laying a complaint see page 14.)

REPORT STOCK-OUTS OF ESSENTIAL MEDICINES

If there is a stock-out in your hospital then you should report it to the clinical (ARV) manager, hospital CEO and/or the hospital board. If there is a stock-out of ARVs at your local clinic then you should report it to your district health manager and/or clinic coordinating committee.

If you receive no response or if there are stock-outs in more than one facility then you should report this to the Provincial Head of HIV/AIDS and STIs Unit Directorate and/or the MEC for Health in your province.

Sources: A Hassim et al. 'Health and Democracy: A guide to human rights, health law and policy in post-apartheid South Africa' (2007).

Photo by Alon Skuy



If you have already reported stock-outs or lodged complaints but nothing has been done then you may need to lobby the local, provincial or national government by organising a picket or a march.

HOW CAN I LOBBY FOR MY RIGHTS?

By lobbying government, communities or social groups attempt to influence policy and decision makers to bring about social change.



MARCHES AND PICKETS

Two methods that the Treatment Action Campaign (TAC) successfully uses to lobby government are marches and pickets. Both are forms of non-violent protest where social activists gather in a public place to draw attention to an issue.

How can I organise a picket or a march?

- 1 Identify and document the problem.
- 2 Develop partnerships with other community members and social groups to strengthen your campaign.
- 3 Educate others about the issue to mobilise them to join your campaign.
- 4 Inform the party that you are protesting against of your intentions in writing. Retain proof that you have informed them.
- 5 Police permission and a permit are required (S38 Gatherings Act).

- 6 Develop a memorandum, explaining the problem and your demands, to be handed over to a public official.



- 7 Inform the media of the details and background of your demonstration.
- 8 If you are bringing together a large group, consider the logistics that this will require. (See below.)

LOGISTICS FOR A LARGE MARCH OR PICKET

When organising a large march or picket you need to make provision for the following:

Venue; transport; loud speaker; toilets; medical kits; refreshments; materials (usually pamphlets); marshals to ensure that everyone stays within the designated area for the picket/march.



BUILDING A CAMPAIGN

Marches and pickets are just two of the many ways to campaign. Depending on the nature of your problem it may be more effective to use other means:

Using the media: It is important to cultivate good relationships with local newspapers, local radio stations and other media outlets. Writing press statements or inviting journalists to press conferences or other events can be a good way to get your campaign noticed and to put pressure on officials.

Letter-writing: Writing letters to politicians or government officials is often a very significant part of successful campaigning. All information must be accurate and well-researched. Be polite in your letter, but insist on your rights.

Building partnerships: An important part of any campaign is to build partnerships with other organisations. This will not only help you mobilise more people, it will also enable you to grow your organisational knowledge and your influence.

Education and consultation: It is always risky to campaign without enough education. Educating people about the issue at hand will often make them more dedicated campaigners. Using reliable information to educate people also empowers them to begin acting on their own. It is crucial that all educational materials are very well-researched. Education must also go hand-in-hand with consultation. If people feel that they have no say in a campaign, they will leave.

For more detailed information on developing a campaign download TAC's *Organising in our Lives* at <http://www.tac.org.za/community/node/2851>



Photo by Eric Miller, courtesy Bread for the World

AIDS COUNCILS

SANAC

What is the role of the South African National AIDS Council (SANAC)?

The South African National AIDS Council (SANAC) coordinates the development, implementation, monitoring and evaluation of the national HIV/AIDS policies and programmes.

Through its various structures, SANAC coordinates a national HIV/AIDS response across many sectors. SANAC brings together stakeholders including government representation at the ministerial level, the private sector and civil society organisations (like TAC). SANAC is chaired by Deputy President Kgalema Motlanthe.

SANAC is currently tasked with coordinating and monitoring the implementation of the HIV&AIDS

and STI Strategic Plan (2007-2011) (NSP). SANAC is doing a mid-term review of the NSP and is responsible for developing a national policy from 2012 onwards.

SANAC faces challenges in carrying out its mandate, including staffing shortages and a lack of resources. Also, SANAC's ambiguous legal status has been identified as a barrier to fulfilling its mandate effectively.

Following the mid-term review of the NSP, SANAC should take steps to remedy the challenges it faces so that it can be in a better position to carry out its mandate.

PACs

What is the role of Provincial AIDS Councils (PACs)?

In 2009 the Deputy President issued a directive for all provinces to revitalise their PACs.

The role of PACs is to coordinate a multi-sectoral HIV/AIDS response in each province. Each PAC must develop a provincial strategic plan that is in line with NSP goals and targets.

PACs must be established through the office of the provincial premier. The PAC must create an efficient administrative office to support the different sectors. If you do not have an effective PAC in your province then you can lobby your premier to address this.

DACs

What are the roles of District AIDS Councils (DACs), Local AIDS Councils (LACs) and ward action committees?

Primary health care services are delivered mainly at district level. District health care delivery must be strengthened to improve antenatal, TB and HIV/AIDS services. DACs and LACs should work closely to achieve this.

The DACs should coordinate HIV/AIDS programmes at district and municipal level. All of the DAC heads should also sit on the PAC. If you do not have a functioning DAC in your district then you must lobby the mayor to ensure that one is set up. DACs should also develop strategic plans for the district that are in line with NSP targets.

The mandate of the LACs is to take responsibility for coordinating, planning, implementing and monitoring HIV programmes led by the municipality. If a LAC does not exist in your area, then you should lobby your mayor.

At a community level you can also mobilise for the development of a ward action committee and a ward action plan by lobbying your ward councillor.

Local AIDS Councils and committees should be linked to local government's Integrated Development Plan (IDP) Steering Committee.

Guiding documents available for the development of DACs, LACs and ward committees include:

- 'Framework for an Integrated Local Government Response to HIV and AIDS' (Department of Provincial and Local Government (DPLG), 2007). Available at <http://www.info.gov.za/view/DownloadFileAction?id=107412>
- 'Handbook for facilitating development and governance responses to HIV and AIDS' (DPLG, INCA Capacity Building Fund, Medical Research Council, 2008). Available at http://www.thedplg.gov.za/index.php?option=com_docman&task=cat_view&gid=112

SANAC should develop written guidelines on the mandate and structure of DACs and LACs and thereby strengthen local advocacy efforts to develop these councils.



ACTIVE citizen

Busisiwe Beko: MDR-TB counsellor in Khayelitsha; HIV-positive, ex-drug-resistant TB patient, now counsellor to over 500 MDR-TB patients.

"I am a mother of two and began work as a drug counsellor for Médecins Sans Frontières (MSF, or Doctors Without Borders) in 2007.

While pregnant with my last-born in 2005 I started on ARVs. Then in 2006 my daughter and I were diagnosed with MDR-TB and began treatment. Luckily she is not HIV-positive. Since completing my MDR-TB treatment I have been fine.

In order to counsel someone, we follow a number of steps. When patients receive their test results I counsel them about treatment.

Almost 90% of patients in Khayelitsha are co-infected, and those who start ARVs immediately. I emphasise infection control, so patients won't spread the disease. I ask to see their families to counsel and educate them. Patients need a lot of support, because it's a two to three-year treatment programme. Counselling is ongoing.

When patients are admitted to hospital, I visit them. My patients are invited to attend a support group to hear from others who have experienced treatment.

On Thursdays from 9-10am I do a radio show on Radio Zibonele, explaining about drug-resistant TB. We're trying to reach people at grassroots level.

My hero is the doctor who started me on treatment. If she had not been there for me, believe me, I would be dead."

No treatment in a foreign country *By Thandi Maluka*

Ana Dzimba from Mozambique had been on ARVs for five months when her treatment was suddenly stopped. Her doctor said that she should travel to Mozambique for treatment as she had no South African ID.



Smangele Thwala from Mozambique started HIV treatment in February 2008. Her treatment was stopped in November 2009. Since she could not afford a journey to Mozambique, she had no option but to go without treatment. This situation continued for five months, during which time her condition deteriorated. Photos by Thandi Maluka.



A Dr Mkhulisi from Right to Care at Tonga Hospital allegedly cut patients off from treatment, saying that they needed to go to Mozambique for treatment. Most of these Mozambican nationals are unemployed and cannot afford transport to Mozambique.

TAC took the matter up with the Provincial AIDS Council, Right to Care, the Tonga Hospital management and in the media. Engagement with the doctor initially proved futile. He stated that TAC should address any concerns to the Department of Health. Right to Care management in Mpumalanga Province, stated that the doctor was violating human rights and had acted in violation of section 27 of the constitution. (See page 22 for more on the constitution.)

TAC understands that until then the doctor had received no written directive from the Department of Health stating that foreign nationals have a right to ARVs. This made it difficult for either Right to Care or the hospital management to take disciplinary action.

Following TAC's intervention both Smangele and Ana are now receiving treatment and are doing much better.

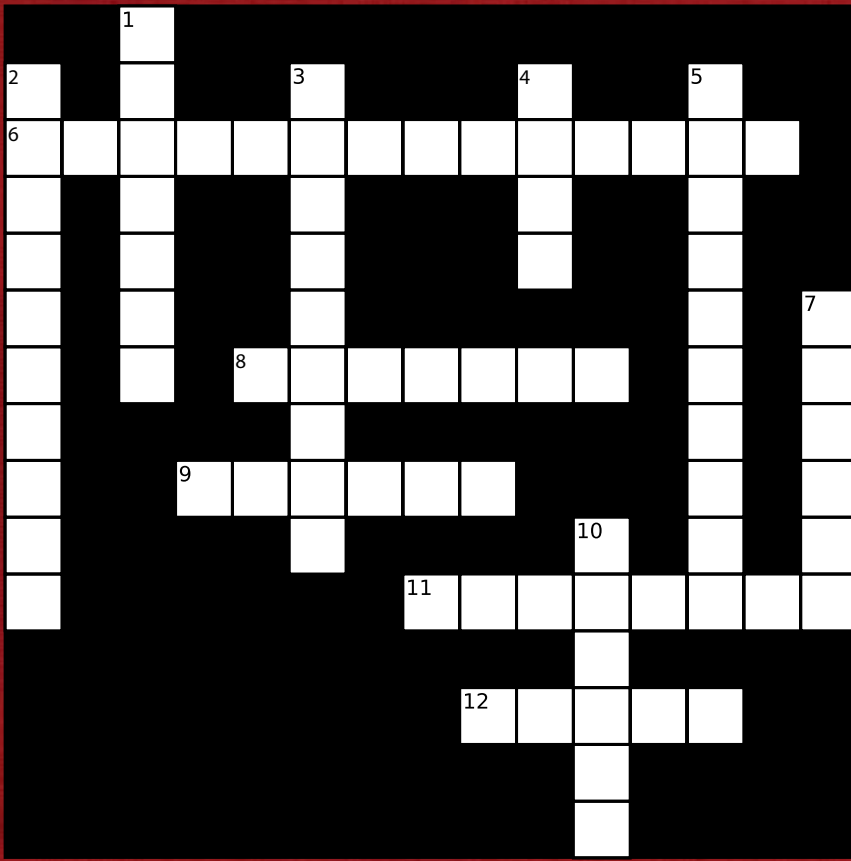
The Treatment Action Campaign (TAC) recently received allegations from the small village of Nkomazi in Mpumalanga Province that a doctor had stopped patients without South African identification documents (IDs) from accessing antiretroviral (ARV) treatment.

Nkomazi municipality is almost surrounded by its borders with Swaziland and Mozambique. The area has a rising inflow of foreign nationals.

Most of the patients mentioned in the reports had been initiated previously onto treatment.

After sustained pressure from TAC, a circular was distributed to all health facilities by the Head of the Department of Health for Mpumalanga, Dr J.J. Mahlangu. The circular directed that "All hospitals in Mpumalanga Province should implement the Comprehensive Care Management and Treatment of the HIV/AIDS programme to everyone who accesses it, irrespective of colour, creed and nationality."

TAC helped to establish a forum between the Tonga Hospital management and local stakeholders. The forum aims to develop a plan to rescue the hospital from financial distress, and to strengthen community representation on the board.



We will give a R200 Pick n Pay gift voucher for the first crossword drawn from a hat with all the correct answers. The answers can be found in this issue of *Equal Treatment*.

Last month's winner will be announced in a future issue.

Fax or post your completed crossword, with your name, address and contact number.
 Address: *Equal Treatment*, PO Box 2069, Cape Town 8001
 Fax: 021 422 1720

Crossword Puzzle

Across

- 6 A community group advocating for quality and equality in the South African education system.
- 8 Upholding human ___ lies at the heart of our constitution's guarantee of human rights.
- 9 Tiwonge Chimbalanga and Steven Monjeza were the first gay couple to marry in ___.
- 11 Banyana Banyana player Eudy ___ was murdered in April 2008 whilst walking near her childhood home in KwaThema.
- 12 In which country was this issue of *Equal Treatment's* editorial written?

Down

- 1 SANAC stands for the South African National AIDS ___.
- 2 Fear and hatred of foreign nationals or anyone who is perceived to be different.
- 3 In 2006 TAC and the AIDS Law Project won a court case forcing the state to provide ARV treatment to inmates in need at ___ Correctional Centre.
- 4 While standard medical male circumcision is safe, current evidence indicates that circumcision with the ___ KLamp is not safe.
- 5 Discrimination against, dislike, or fear of homosexual people.
- 7 Section 28 of the constitution is also known as the children's ___.
- 10 Discrimination against members of the opposite sex.

Equal Treatment's



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Health

it's your right!

Section 27 of the Constitution:

- (1) Everyone has the right to have access to –
 - (a) health care services, including reproductive health care;
 - (b) sufficient food and water; and
 - (c) social security, including, if they are unable to support themselves and their dependants, appropriate social assistance.
- (2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights.
- (3) No one may be refused emergency medical treatment.