PART THREE

KEY CAMPAIGNS

13. Where to with the Health Care Workers Campaign

WHERE TO WITH THE HEALTH – CARE WORKERS CAMPAIGN: A TAC Discussion Document

Over the last three months, thousands of health care professionals across the country have supported TAC's demand for an HIV/AIDS treatment and prevention plan. Almost all the major health unions and professional bodies in the country have assisted in this campaign. We cannot wait for government to ensure that people living with HIV/AIDS receive adequate treatment and support. Everyone has a duty to make our health services work for all the people.

The government has a policy to provide better, good quality and affordable health care for all people. TAC supports this policy. But, our health system is in a poor state and HIV/AIDS care and treatment is in a crisis. The reasons for the crisis include the inequalities of apartheid, insufficient human and financial resources, and inequity between private and public health. Everyone in our country has a duty to build a better health care service. Adequate HIV/AIDS treatment and the use of anti-retroviral therapy require an improved and affordable health care service for all. The Constitutional Court MTCT judgment demands the fullest co-operation between government and all sectors of society to meet the challenge of HIV/AIDS.

> "The magnitude of the HIV/AIDS challenge facing the country calls for a concerted, co-ordinated and co-operative national effort in which government in each of its three spheres and the panoply of resources and skills of civil society are marshalled, inspired and led. This can be achieved only if there is proper communication, especially by government. We consider it important that all sectors of the community, in particular civil society, should co-operate in the steps taken to achieve this goal." (*TAC and others v Minister of Health and Others* 05 July 2002)

As a contribution towards meeting the HIV/AIDS challenge, TAC believes that we must mobilize communities, patients and health care workers to realize government's vision of better health care for all. It will also mean understanding and remedying shortcomings in current policy and practice. The Health Care Workers Campaign is one of the most important TAC interventions to improve the public (and private) health care services in South Africa.

Activists will need sustained determination, patience and knowledge of the health care system for this campaign.

WHO LEADS THE CAMPAIGN AND WHOM DOES IT TARGET?

HIV treatment delivery, improved conditions for all health workers, community participation and better health services for all must be the measurable outcomes of the TAC Support Health Care Workers Campaign. This campaign must be lead by TAC nationally, provincially and locally. HCWs who are TAC members must drive this campaign. We have significant support among doctors, nurses, pharmacists, counselors and other workers in the public and private sector. In 2002, TAC Western Cape organised a meeting that attracted more than 60 nurses from the public sector. TAC Gauteng organised a conference of over 100 nurses in early 2002. At TAC marches during the MTCT Court case, TAC Gauteng organised significant numbers of nurses who participated in demonstrations. The support of the KZN TAC by health care workers at Marianhill, Stanger and elsewhere can be built on by this campaign. In Eastern Cape, Limpopo and Mpumalanga TAC has support among different layers of health care workers. The public support of SAMA and the active participation of the HIV Clinicians Society in our work is a valuable asset.

However, we must unite all health workers. Professional, academic, race, gender, income, status and class divisions between nurses and doctors and private and public sector professional and union organisations in this sector means that the TAC message must be clear. In every community, TAC must create committees or networks of workers in the health care services to promote the campaign and who can lead the training of health workers. These committees or networks can include nurses, counselors, social workers, cleaners, doc-

tors, administrators and anyone who works in the health care services irrespective of union or political affiliation. If these workers will join the TAC branch, it will be better than to create a separate committee.

TAC must lead the campaign in every community. The campaign must be built on good scientific knowledge, equal access to good quality health services for all people and improved conditions for all health professionals.

WHAT IS OUR MESSAGE AND JOB?

TAC organises from the perspective of people living with HIV/AIDS and the poor quality health services delivered to our communities. Every province where TAC organises must have a workshop that explains the divisions between the public health sector (80% of people) and the private health sector (20% of people). We believe that the public health service is over-burdened, under-financed and under-resourced. Segments of the private health sector are over-resourced, under-utilised and over-priced. For example, in the year 2000, the private sector spent R38.8 billion for 7 million people. The government spent R27.7 billion for 38 million people. These resources must be combined, prices reduced and conditions improved for all. Public and private sector workers must be supported in training, care and conditions of service to deliver quality health care for all including people living with HIV/AIDS. Conditions for smaller community-based general practitioners and their workers must also be improved. Excessive hospitalization costs, over-charging in the private laboratory sector and excessive pricing by pharmaceutical companies all place private healthcare outside of the reach of employed people. This can be changed.

Community participation in local health facilities at township and district level to set targets for budgets, to promote health-seeking behaviour, ensure training of health workers, delivering treatment literacy and HIV prevention will be a critical part of the TAC campaign.

The first task over the next few months will be to ensure that every provincial conference and the national conference examines and discusses the transformation of the health care sector to provide ARV treatment.

INTEGRATING CAMPAIGNS

The health care workers campaign must be driven at four levels: (1) Local clinic and community; (2) district management, resource mobilization, and co-ordination; (3) provincial and (4) national level.

LOCAL CLINIC AND COMMUNITY

Health care delivery takes place in local health facilities (clinics, day hospitals, mobile clinics, MOUs and so on). This is where most patience, urgency and knowledge are required. Local health facilities are one of the most important centers of mobilization for local TAC branches and support groups. As one comrade pointed out, clinics have mainly sick people and over-burdened health workers and the best way to help them is to mobilize the whole community to support better health care services.

The key constituencies of the Support Health Care Workers campaign are:

- Everyone in the local community who wants better health care;
- The people who use health services regularly such as people with HIV/AIDS, asthma, diabetes, heart conditions, arthritis, children and women of reproductive age;
- Health care workers themselves will be the most important constituency because without them there is no health service.

WHAT CAN WE DO AT LOCAL COMMUNITY LEVEL?

The TAC branch in one of the poorest communities on the Cape Flats, Delfdt has ensured that their clinic receives fluconazole, acyclovir and now they have free CD4 counts. They and many other TAC branches in the Northern Province, Mpumalanga and Eastern Cape have been working to improve health care.
From all their work, we have learnt that local TAC branches can improve health care in our communities if we do the following work:

- Conduct door-to-door visits in communities to ask people what needs improvement in the local health

services. Ask how they interact with health workers and how they can support the system. Write down people's answers and discuss what could be done to make things better in the branch meetings and support groups. Leave your name and TAC branch meeting times. Always recruit members and volunteers.

- Conduct the clinic surveys to see the problems from the clinic staff and management perspective. Discuss the results of the survey and what could be done to improve the service.
- Visit all the local religious leaders, inform them of the problems and say that the branch wants to help both the community and the health services. Ask the religious leaders to sign a thank you letter to health workers and ask what the community can do to help. Ask a respected and supportive religious leader to deliver the letter and call a joint meeting at a convenient time in a church or clinic.
- After consultation with the clinic, visit the local high schools and ask for a team of people to help clean the clinic, do shopping for all clinic staff from the cleaners to the facility manager.
- Arrange a meeting to discuss medicine shortages, patient fears of ill-treatment, staff shortages and other problems. Positively suggest how to help improve the situation. If there is a hospital or clinic board, join and make them work hard.
- Arrange a meeting with the district health care managers or acting managers or any person in charge.
- Arrange a meeting with all TAC branches and support groups beforehand to understand what happens in every health facility (mobile clinics, day hospitals, regional hospitals, special clinics) where we have branches.
- Take one or two small issues that can make a visible difference to the health facility and the community. For instance, organise TAC and community volunteers to help clinic staff get home or to their transport safely. Arrange to help unaccompanied pensioners, very sick or disabled people access their medicines delivered by TAC volunteers so that they don't have to wait. Make sure that any person who comes to a clinic with HIV/AIDS or TB can talk to a TAC volunteer or ask for help to walk home. Collect books or magazines for people to read while waiting. Get two or three radios that can be used by patients lying in the wards. Learn how the hospital is administered - where do you go to register, where do you go with a referral letter, how do you keep your folders and then help administrators. Make sure every public place (churches, mosques, sports clubs, schools, bars, shebeens and so on) have condoms and know how to get reliable local information on HIV/AIDS, TB, STIs, pregnancy, malaria and children's health. At branch level you can come up with a million ideas how to make life easier for people who use local health facilities, the workers and management. Always do a few things well and then take on more once they work. Rather than try to do every good idea immediately, fail and then become demoralized - do things step by step.
- Send as many reports on successes and difficulties to district, provincial and national offices. Insist on a discussion with the executive and staff at every level for difficult problems such as refusal by clinics to co-operate.
- Ensure that the national office, your provincial office and the AIDS Law Project help you find out what laws, policies and regulations govern your local health facilities.

DISTRICT HEALTH MANAGEMENT AND SUPPORT

Health care management takes place at district level. Local government and health delivery is based on the districts that include different wards, communities and they must share health resources and management. Every province has a district, or, sub-district council in the metro councils responsible for health care delivery. The public health sector is based on a primary health care model that unifies the management of services at district level.

Where possible, TAC local branches in a health or local government district must work together. TAC district forums that meet once a month, or when necessary, can share resources and work better. For instance, poorer local health facilities or weaker TAC branches can make use of better resourced communities, clinics and TAC branches. District must co-ordinate and support the work of local TAC branches in their health facilities. Most importantly, TAC branches must work to ensure that poor communities in urban and rural areas receive a fair share of the health budget. TAC district forums must support district health management teams.

What district forums could do?

- Learn how the health system in your district works. What is the budget? Who are the managers? Are there doctors, nurses, pharmacists in the district? Are there good TB and HIV programmes? How is the district health budget decided? Who on the local council deals with health? How does the district get resources from the province?
- Organise a TAC District Materials depot. This must include all the posters, Equal Treatment, videos, pamphlets, fact sheets. Advertise the availability of the materials in supermarkets, churches, taxi ranks, stations and when you do local door-to-door work - give people the phone number of the comrade who is in charge of materials and treatment literacy. When someone calls always arrange through the local branch for delivery unless the person requires confidentiality.
- Organise internal TAC treatment literacy programmes at district level. It will be more cost-effective.
- Organise joint public events (treatment literacy, clean-ups, door-to-door work) between stronger and weaker TAC branches and health facilities.
- Learn about local successes and problems and discuss them at district level in TAC and then arrange meetings with the district health managers. If this fails organise meetings with the provincial authorities as a last resort.
- Approach private providers (pharmacies, doctors, nurses, radiographers, laboratories) to donate services and resources to the public sector or to do them at the lowest possible price. This might involve some good political pressure.
- Organise quarterly thank you parties for all health care workers particularly those working on HIV/AIDS and TB.
- Make contact with every health care shop-steward in district and regional hospitals. Meet all the professional bodies.
- Make sure that the TAC provincial office gets a good report on the successes and weaknesses of your whole district.
- Ensure that the TAC provincial offices assist your district lobbying of the provincial health department. Provincial health lobbying must always be done with the knowledge, consultation, leadership and support of the TAC provincial office.

PROVINCIAL HEALTH DEPARTMENTS CONTROL BUDGETS AND SERVICES

Provincial health departments and the Health MEC have enormous power. They decide on the programmes for the province, they have policy powers jointly with the national Minister and Health Department. They decide how to spend health budgets. TAC provincial, branch and national leaders must begin to focus on Health MECs in the province.

WHAT CAN WE DO?

- TAC provincial co-ordinators together with the national office must take responsibility for the health care campaign.
- TAC PEC's in consultation with the national office must identify key provincial resources that can assist the co-ordinator, districts and branches to improve our knowledge. The people in the national office that can help with this task include: national treatment literacy co-ordinator, national manager, the women's health co-ordinator, the national organizer or the executive secretary.
- TAC provincial office must develop working relationships with all provincial unions and professionals bodies in the health sector. Again, this should form part of a national strategy.
- A provincial advisory committee of nurses, doctors and other health workers is very important. It can be four or five people who advise the PEC.
- We must all learn how the provincial health system works. And, we must spread this knowledge into communities, unions, faith-based organisations, every TAC branch and in every health facility.
- We must find out the names of every provincial legislature member on the health, social devopment and finance committees of the provincial parliaments. We must visit them at home to learn the difficulties, to assist them and where necessary, to challenge them.
- TAC branches must attend all hearings of the Portfolio Committees on Health at provincial level.
- TAC provincial offices must organise regular meetings with the provincial health, social development and finance departments. We must report the strengths and weaknesses of districts and try to find solu tions to these problems

The main aim of the provincial health campaign must be to ensure that every TAC branch understands how their health system works and that they can access better health care for people living with HIV/AIDS and all people in our country.

NATIONAL HEALTH MOBILISATION

The Health Minister and national Health Department have a legal duty to develop policy that ensure that every person in South Africa has access to health care. Together with provincial ministers and departments they make policy, decide on priority programmes, request budgets and allocate money to provinces. They also set uniform standards of employment, develop the essential drug list, organise work in the Southern African Development Community (SADC) and internationally.

TAC NEC and national office must engage the Ministry, the Parliamentary Portfolio Committee on Health in the national Parliament and the national Department of Health. Over the last five years, the national office has effectively engaged these bodies but there is much that can be improved. The national office must also liaise with unions, professional associations, international agencies, statutory bodies such as the Medicines Control Council (MCC), the Medical Research Council (MRC), the Health Professions Council of South Africa (HPCSA), the Commision on Gender Equality (CGE) and the South African Human Rights Commission (SAHRC).

TASKS AT NATIONAL LEVEL

- Co-ordinate and provide support to national and provincial campaigns.
- Set up a national advisory committee on health care. This committee should not have more than seven people.
- Identify resources: human, organisational, financial and knowledge resources that can be used at every level of the campaign.
- Work with the Treatment Access Unit at the ALP on legal literacy issues such as access to information, administrative justice,
- Ensure that every health organisation in the country receives regular updates on TAC work including treatment literacy and clinic campaigns.
- Communicate with all parts of the organisation to share experiences in this campaign.

WE NEED SLOGANS

We need a catchy slogan to summarise TAC's campaign - "Support Our Health Care Workers - Working Together for HIV Treatment and Better Health Care For All". That is too long but it captures the ideas and aims of the HCW Campaign. Every TAC branch or activist must submit ideas for slogans to the TAC national conference 1-3 August 2003.

THINKING ABOUT ISSUES AND ALSO RESEARCH

The NEC has also discussed some really important ideas that we must work on. We need some good documents, ideas and suggestions on the following issues:

1.Health worker training. Training clusters of HCWs (nurses, counselors, doctors, cleaners, pharmacists, administrators etc.) on HIV/AIDS treatment and a number of other public health priorities such as TB, maternal health, STIs, vaccinations. Can we work together to identify a plan to train and retrain all districts over two years? One of the first advocacy tasks needs to be compulsory Continued Professional Development (CPD) for Nurses including compulsory training on HIV/AIDS and making HIV/AIDS treatment a compulsory CPD point for doctors. This is not only a mandate from the Treatment Congress but nurses such as Sue Roberts have asked us for years to assist with this.

2.Management support: what support can communities give to health facilities to ensure that districts and local facilities are managed in the interest of the community, workers and public health? Examples - work together on budget priorities, lobby for additional resources (human, financial and material).

3.Conditions of service research: We must do this but also cover - qualitative issues: job satisfaction;

what incentives are needed; comparison of wages between public private and UK sectors. Here we must work carefully with union and professional bodies.

4.Patient Support and Patient Rights: We need to continue strengthening support groups, ensuring that they receive treatment literacy materials and workshops. We must also ensure that support groups learn about their rights as patients (e.g. confidentiality, right to get treated). If patient rights are being abused at a health facility, we must know how to redress the situation. TAC needs to ensure that a team of lawyers and paralegals is available to ensure that patient right abuses or failures by government to provide essential resources to clinics are rectified.

5.Care-giver Support and HCW Rights: Care-givers and health care workers are confronted with an unmanageable amount of death and suffering. Many work long hours for low pay. They often feel inadequate or demotivated because they do not have the skills or resources to improve the lives of their patients. We must work with unions to ensure that job freezes are ended, that health-care workers are properly trained and receive adequate remuneration and that they also have access to decent health-care. Many health-care workers are HIV-positive and without medical aid or sufficient medical aid. It is stressful for them to be reminded of their own mortality by having to watch people dying of AIDS.

6.Political economy of health: There are many injustices in South Africa's health care system. The division between private and public health-care is arguably the most important. We must develop knowledge of the inequities in South Africa's health-care systems. We must also learn about other better health-care systems so that we can advocate for improvements to our system.

14. Dying For Treatment
TAC Briefing Document on the Civil Disobedience Campaign

March 2003

This Briefing document is intended to help TAC activists and supporters to understand the background to TAC's decision to embark on a civil disobedience campaign in March 2003. Hundreds of pages could be written about TAC's efforts to persuade government to work with civil society on an HIV/AIDS treatment programme - but this is just a summary. In addition, although there is a great deal of independent research and information that could be cited to support TAC's demands, in this document we refer only to government's own research and policy statements to show how, in reality, the reluctance to commit to a treatment plan, including antiretroviral (ARV) medicines, contradicts its own findings, policies and constitutional duties.

1. What are TAC's two main demands?

A.That government make an irreversible and unequivocal commitment to a public sector ARV programme.

B.That government return to the negotiations at Nedlac and make a commitment to signing a Framework Agreement with business, labour and community on a National HIV/AIDS Prevention and Treatment Plan.

2. What is the background to TAC's Civil Disobedience campaign?

A. Why we are calling for a National Treatment Plan?

The HIV/AIDS epidemic is a crisis that threatens South Africa's reconstruction and development. Up to five million people are infected with HIV and AIDS is now killing approximately 600 people every day.

In late 2002 an investigation by Statistics SA, titled Causes of Death in SA, 1997-2001 found that:

> *"throughout the study period, the emergence of HIV, TB and influenza and pneumonia as the main causes of death is observed. … female South Africans in the age category 15-39 died primarily as a result of HIV infections. The data show a unique racial topology of mortality in the registered deaths."*

Dealing effectively with a crisis of this scale requires a recognition that HIV/AIDS is an emergency as Cosatu, the religious sector, business and the international community has demanded. It requires mobilization of all of society and a plan to save lives.

South Africa has a five-year HIV/AIDS and STDs Strategic plan, which was adopted in 2000. TAC is not calling for this plan to be scrapped, or replaced. We are calling for a National Treatment and Prevention Plan to strengthen the Strategic plan, which says very little about treatment generally and nothing about anti-retroviral treatment. We are calling for firm targets and timeframes and for all sectors of society to take responsibility for meeting those targets.

This is why TAC and COSATU supported by more than 500 organisations including FEDUSA and NACTU decided to take our call for a National Treatment Plan to Nedlac. Nedlac is a statutory body that has a responsibility to create a forum for negotiation and agreement between labour,

business, community and government on issues to do with labour, the economy and development. Among its functions are:

- *"seek to reach consensus and conclude agreements on matters pertaining to social and economic policy."* and,
- *"to encourage and promote formulation of co-ordinated policy on social and economic matters."*

HIV/AIDS is an epidemic, disproportionately affecting the labour market and the poor. It clearly has a major impact on social policy.

Between October and November 2002 a senior HIV/AIDS task team at Nedlac jointly developed and negotiated a 'Framework Agreement for a National HIV/AIDS Prevention and Treatment Plan.' In this document there are major areas of agreement.

Originally the aim was to sign the agreement by December 1st 2002, World AIDS day. However, government and business requested additional time. Business has now completed its consultation and supported the document. To date, however, government has not returned to Nedlac. Instead it has used the media to try to discredit and misrepresent the process.

TAC does not agree that it is forcing the government to make 'policy choices' at Nedlac. We do believe that the government has a Constitutional duty to act and take effective measures against this epidemic. This is because it must "respect, protect, promote and fulfill" all people's rights to equality, dignity, and life. This can be done by improving access to health services in general, and HIV/AIDS treatment in particular.

B.Why is TAC demanding an ARV programme?

TAC has been accused of being only interested in anti-retrovirals. This is not true. The Nedlac Framework Agreement, for example, deals with many interventions that must be improved. But for those people with HIV who are dying ARVs are an absolute and urgent necessity.

In considering TAC's demand for an ARV programme the following points need to be borne in mind:

- Anti-retroviral drugs, including generics are registered by the Medicines Control Council. This means, like all other medicines, they have been approved for use in SA and are considered safe and effective.
- In 2002 the World Health Organisation (WHO) strongly recommended the scaling up of ARV programmes in poor countries, so that people with AIDS in Third World countries could have the same benefits from medicine as people in Europe and America. Many countries with less resources that SA have heeded this call, including Botswana and Namibia.
- In South Africa several conferences organised by the Department of Health (DOH) have recommended that there should be ARV treatment. The National Health Summit, in November 2001, called for pilot projects on ARVs. The draft report from the National Scientific Consultative Forum on HIV/AIDS in August 2002 stated:

  > *"As far as anti-retroviral therapy is concerned, there was complete consensus that anti-retroviral programmes are efficacious, and therefore carry the potential to keep many people with HIV alive for many more years than would be possible otherwise… unanimous on the need for the DOH to develop a more pro-active plan for the implementation of ARV programmes."*

- Most importantly the Cabinet Statement of April 17th 2002, recognised that anti-retrovirals work when used according to internationally accepted protocols.

TAC believes that the delay by government in acting on its own policies and recommendations is leading to immense suffering and loss. It is also creating new inequalities in SA. MPs have access

to ARVs. People with medical aid have access to ARVs. Parastatals such as Transnet and Eskom provide employees with ARVs. The SANDF is designing an ARV programme. It is only the poor, those employed in the informal sector and small and medium sized enterprises, and the unemployed - *ie.* those who are totally dependent on the public health service - who, as a matter of policy are denied these medicines.

The government has said that we must wait until April or May, when the report of an investigation into the costs of an ARV programme is complete, before a decision is made. TAC disagrees with this. TAC says a policy decision and commitment must be made now.

3. The history of TAC's discussions with government, particularly the Deputy President;

The TAC has been accused of being anti-government. This is not true. The TAC supports this government, and its agenda to reconstruct and develop SA, to eradicate poverty and create equality. It is because we support this agenda that we demand an end to political denial about HIV. Our demonstrations, petitions, court cases etc are all an affirmation of the rights we won under our new Constitution.

TAC was founded in December 1998. From that moment on we have led the march for access to treatment, including ARVs, for people with AIDS. Our first march to Parliament to call for a National Treatment plan was in 2000. Since then Memos have been written and marches organized that have repeated the call for a National Treatment Plan. The last was our march on Feb 14th 2003 of 20,000 people.

But in addition to demonstrating we have made many other efforts to assist government to overcome the barriers to treatment. These have included:

- Our intervention in the PMA case, which led to the pharmaceutical companies withdrawing;
- Our campaign against Pfizer which led to the multi-million Rand Diflucan donation to the SA government;
- The research we have commissioned into the costs and impacts of treatment;
- Our complaint to the Competition Commission regarding excessive pricing by pharmaceuticals companies;
- The community based 'treatment literacy' programmes we run to improve knowledge of HIV.

This contribution was recognised by the Deputy President, Jacob Zuma, when TAC met with him in October 2002. The Deputy President agreed the Nedlac process was important, but said that the government may need until February 2003 to sign any agreement. "However, both parties recognized the need for urgency based on the impact of the disease and the suffering and death in communities."

The Nedlac negotiations went extremely well and consensus was reached within the HIV/AIDS task team on most areas of the Framework Agreement, including the principles and challenges of ARV access. Unfortunately though the Nedlac process has now been de-railed by political opposition. From the optimism of the negotiations we now feel that we are back in a dark and difficult situation - once gain charcterised by political denial about HIV. President Mbeki's refusal to recognize gravity of the HIV epidemic in his State of the Nation address seems to be proof of this.

4. Why did TAC and COSATU organize the 'Stand up for Our Lives' march at the opening of Parliament on February 14th?

The agreement with Deputy President Jacob Zuma did not include a promise by TAC to cease social mobilization for its demands, although TAC did decide not to proceed with its threatened civil disobedience campaign. It was in this spirit that the TAC NEC decided to organise a "Stand Up for Our Lives" march on the opening day of Parliament 2003.

The purpose of this march was to link the year's most important political event with one of the country's most important social challenges, HIV/AIDS, and to demonstrate to our MPs the strength of feelings that exist behind calls for treatment and a treatment plan.

The march turned out to be the largest march in the history of the AIDS epidemic, not only in South Africa but in any developing country. It involved people of all races and classes as well as all faiths; it was led by people living with HIV and AIDS; it included 650 delegates who traveled on a train from Johannesburg. The demonstration was disciplined and peaceful and, as we said repeatedly, it was not an anti-government demonstration but a demonstration to show government what could be mobilized with TAC support to prevent and treat HIV.

A memorandum was handed over to government representatives from the Presidency, Deputy Presidency, Health Portfolio Committee and Finance Committee. The memorandum was respectful and requested a response by the end of February to its demands. Those who received the memorandum publicly stated that it would be given serious consideration. But, to date, there has not been any response from the government.

5. What is meant by civil disobedience?

For the most part, the TAC is committed to lawful protest. Our short history bears testimony to this.

We wish to state clearly: the TAC civil disobedience campaign is not promoting ungovernability. It is not promoting gratuitous law breaking. It is not calling for the overthrow of the government!

The aim of the campaign is to demonstrate anger and compel our political leaders to deal with our demands. For millions of people AIDS is a personal and community crisis. It must be felt by our politicians as a political crisis. If there is time to negotiate on behalf of Burundi and the Congo (which we support) - there must be time to resolve policy questions on AIDS.

This year our Minister of Health has had time to go to Iraq, Switzerland and the United States. She has not had time to take a decision on ARV treatment. This is immoral.

As will be seen, this campaign will follow in the traditions established by the ANC and United Democratic Front in their protests against unjust laws. However, our protest is against political negligence and unjust policies which willfully withhold life-saving medicine and other resources from people in desperate need.

AIDS in South Africa has created a social crisis that is being felt in millions of households. This crisis has to be addressed visibly, urgently and at the highest possible levels of political leadership. This is not happening at the moment. The TAC's actions are intended to draw renewed attention to this crisis.

In conclusion, we state plainly that government can avert this campaign by responding to our cries. Partnership is our strongest desire. We end with a repetition of TAC's two reasonable demands:

1. That government make an irreversible and unequivocal commitment to a public sector ARV programme.
2. That government returns to the negotiations at Nedlac and make a commitment to signing a Framework Agreement with business, labour and community on a National HIV/AIDS Prevention and Treatment Plan.

We ask you to support this campaign. Stand up for Our Lives!

15. Questions and Answers on TAC Civil Disobedience Campaign

Why has TAC started a civil disobedience campaign?

The HIV/AIDS epidemic is a crisis that threatens South Africa's reconstruction and development. Up to five million people are infected with HIV. AIDS is now killing over 600 people every day. For four years, TAC has campaigned for government to develop a treatment and prevention plan for HIV/AIDS and to implement antiretroviral therapy programmes. Government has not done this and there is no indication that the Department of Health intends to do this. Our activities have always been peaceful and restrained. We have made numerous efforts to work and negotiate with government. We therefore feel there is no reasonable alternative but to increase the pressure on government through a civil disobedience campaign.

What are TAC's demands?

Government must make an irreversible and unequivocal commitment to a public sector antiretroviral programme. It must also commit to signing a framework treatment and prevention plan agreement negotiated at a forum called NEDLAC.

What sort of civil disobedience activities will take place?

All civil disobedience activities will be peaceful and dignified. No physical violence will be committed and no property will be damaged. TAC volunteers will commit actions which are likely to result in their arrest.

What is the NEDLAC agreement on an HIV/AIDS treatment and prevention plan?

NEDLAC is a statutory body where agreements about how to deal with development and labour issues are negotiated. It has four sectors: government, labour, community and business. During the last few months of 2002, high-level negotiators from each of these sectors reached a draft framework agreement on an HIV/AIDS treatment and prevention plan. Agreement was reached on 28 November. The government and business negotiators then said they would refer the agreement back to their principals for signing. After some minor changes to the agreement, business has committed to signing it. However, since 28 November, government has stopped conducting proper negotiations and it has also tried to undermine NEDLAC through misrepresentations it has put forward in the media. Some of these misrepresentations are described here.

The Minister of Health refers to the NEDLAC agreement as a "TAC Discussion Document". Why is this a misrepresentation?

Senior government negotiators participated fully in the NEDLAC negotiations until the draft agreement was reached on 28 November. This is what the Deputy-President Jacob Zuma wrote to the Treatment Action Campaign on 14 November 2003: "Government is also participating actively in the NEDLAC special committee drafting a framework agreement for treatment and prevention, which again indicates our unwavering commitment to unity in action and partnerships against HIV/AIDS." Neither TAC nor Cosatu "peddled lies" or "willfully misrepresented" the nature of the agreement.

Government also made a written submission which is included in the agreement. All sides made contributions as well as compromises in the formulation of the latest text. It is not a TAC discussion document; it is an agreement reached through detailed negotiations.

The Minister of Health says nothing on antiretroviral treatment has been agreed upon in the

NEDLAC agreement. Why is this a misrepresentation?

Nearly all the text on antiretroviral therapy has been agreed. Throughout the whole agreement of 15 pages, there are a few paragraphs that are still under negotiation. TAC has made it clear that government only needs to sign the part of the text that it has agreed to. If it wants to negotiate other aspects of the agreement which its negotiators agreed to, then it can continue using the NEDLAC process to do this.

The Minister of Health says government has an HIV/AIDS plan. Why is TAC saying this is not enough?

South Africa has a five-year HIV/AIDS strategic plan, which was adopted in 2000. TAC is not calling for this plan to be scrapped. We are calling for a treatment and prevention plan to strengthen the strategic plan, which says very little about treatment generally and nothing about antiretroviral treatment. The NEDLAC plan gives firm targets and timeframes for all sectors of society to take responsibility for meeting those targets.

The Minister of Health and her supporters are saying that nutrition is the critical issue. This has often been articulated through the slogan “Basic Needs First”. Why is TAC saying this is wrong?

Good nutrition is essential for good health in everyone, especially for people with HIV/AIDS. However, the minister is trying to create the impression that we must choose between nutrition or treatment. This is false logic, because both are needed. Without antiretroviral treatment, over 250,000 South Africans will die of HIV/AIDS this year. For someone who has AIDS, treatment is a basic need.

Some say that TAC is obsessed with antiretrovirals and ignores other aspects of the HIV/AIDS epidemic. What is TAC’s response?

Our record demonstrates that this is false. We have campaigned extensively for treatments for opportunistic infections and for social grants. Our numerous treatment literacy workshops address issues such as prevention and nutrition. It is actually people who deny the link between HIV and AIDS, as well as the Minister of Health who are obsessively and irrationally opposed to antiretroviral treatment. This has resulted in this issue being controversial and receiving so much attention in the media.

Some have accused TAC of being anti-government. Is this true?

The TAC supports the efforts of government to reconstruct and develop SA, to eradicate poverty and create equality. It is because we support this agenda that we demand an end to political denial about HIV. Our demonstrations, petitions, court cases etc are all an affirmation of the rights we won under our new Constitution. We supported the Government’s court case against the pharmaceutical industry in 2001 and we have run a campaign which has resulted in a donation of an essential medicine called fluconazole to the public health sector.

Is TAC saying that Government has done nothing about HIV/AIDS?

Government has made some important achievements that we acknowledge and support. For example, the state is currently implementing mother-to-child transmission prevention and post-exposure prophylaxis for rape survivors. The Minister of Finance has put aside money for HIV/AIDS for the next three years, some of which could be used to start antiretroviral treatment programmes.

Who in Government is responsible for the failure of Government to make treatment more accessible?

During the civil disobedience campaign, the TAC will present a large body of evidence that shows that the Minister of Health has known about the extent of the HIV epidemic and that she has had the resources to alleviate the epidemic yet she has negligently and willfully failed to act to improve the situation. The TAC will also present evidence that the Minister of Trade and Industry has had the resources

to take action to reduce the prices of HIV/AIDS medicines but has negligently and willfully failed to do this. The TAC holds these two cabinet ministers responsible for Government's failure to implement an HIV/AIDS treatment and prevention plan.

16. A Review of TAC's Civil Disobedience Campaign

INTERNAL TAC NEC DISCUSSION DOCUMENT - 15 May 2003

Note: This is not a TAC position paper. It is a document prepared to assist the NEC to assess the campaign.

Introduction

Nearly three hundred thousand South Africans will die of HIV/AIDS this year. During April, TAC lost at least 7 activists, including two prominent TAC leaders, Edward Mabunda and Charlene Wilson. Yet government has made no progress with-implementing treatment, despite the Cabinet Statements of April 17 th 2002. Furthermore, the progress that government has made (e.g. MTCT, PEP) has come about due to enormous activist pressure, not political will. This is the great tragedy of South Africa's first democratic government and the background behind the decision to start the civil disobedience campaign. We are all aware that TAC has discussed, cajoled, negotiated, debated, picketed, marched, researched, mobilised and litigated to get government to change its attitude towards the epidemic. We turned to civil disobedience in order to increase the pressure on government.

At best civil disobedience will result in the implementation of a treatment and prevention plan including antiretroviral therapy, but at worst it consciences of our politicians and public health civil servants. One journalist asked why TAC does not simply use the courts to change government policy? There are a number of answers to this. (1) We will also use the courts if government policy does not change. (2) But the courts move too slowly to save the hundreds of thousands who will die during the legal process. (3) There is no guarantee we will win in court. (4) Our leaders deserve to feel caused. Furthermore, the concessions we get from civil disobedience will as should we win.

After meeting Deputy President Zuma on April 25 th the NEC resolved to **suspend** civil disobedience pending the outcome of the SA National AIDS Council meeting on 17th May. Many activists questioned this decision by the NEC. However, the suspension is a demonstration that TAC's concern is the health of people, not undermining government. If government deceives us yet again, the public outrage will be even greater than before and TAC will be in a position to return to civil disobedience by mid-June with increased vigour.

This discussion document examines TAC's civil disobedience campaign and looks at the challenges facing us in the near-future.

Events:

The CDz campaign started on **20 March**. In Durban, Cape Town and Sharpeville approximately 600 TAC activists marched into police stations and handed over dockets of arrest for the Ministers of Health and Trade and Industry. In Sharpeville, police opened a docket of culpable homicide against the ministers. In Cape Town, the police also opened a case and over 100 TAC members were symbolically arrested, charged and released. In Durban, our members were assaulted by the police and complaint has been laid with the Independent Complaints Directorate. What made the news that day, was that TAC had charged two Ministers with culpable homicide; a few days later the 'Wanted' posters began to attract media attention.

On 25 March, about 300 activists in Cape Town participated in disrupting the Minister of Health's speech at the Public Health 2003 conference. The argument between Zackie and the Minister was played on radio stations. A charge was laid against TAC for organising this event.

On **27 March**, Durban activists returned to CR Swart police station to protest againstpolice brutality and to demand that they be allowed to lay charges against the ministers.TAC activists purposefully walked straight into the police picket line. Eventually we dispersed when the police committed to investigating the charges of police brutality.

On **1 April** in Johannesburg and Cape Town, TAC activists walked into the offices of the Human Rights Commission and the Commission on Gender Equality. In both cities the Human Rights Commission accepted our memorandum. They promised to get back to us. Their response on 16 April was disappointing and inadequate. However, a few days later the HRC released its 4 th Annual Economic and Social Rights Report (2000-2002). This report criticised government for failing to deliver on treatment and for failing to comply with the Constitutional Court order. It specifically stated that:

"A National Action Plan for universal access to anti-retroviral drugs should be government's top priority and it is highly rec-

ommended that the national budget reflect this."

The CGE on the other hand were uncooperative and confirmed our impressions that they are ineffective. The head of the CGE locked herself in her office in Johannesburg. However, in the ensuing weeks, the CGE sent a letter a letter to NEDLAC. A subsequent meeting took place with the body on **16 April** where they made some concessions and commitments were made for TAC to work more closely with this body in future. However, we remain sceptical of this body's effectiveness.

Most of the first round of civil disobedience events were conducted with a fair amount of secrecy. Members and journalists were only given approximate starting time of events and the targets were not announced in advance. The one exception to this was the disruption of the Minister of Health's speech. We changed tactics for the second round of civil disobedience and made public statements of our exact intentions in advance.

TAC's second round of civil disobedience took place on **24 April**. Before this TAC also organised a day of placard demonstrations to mark the anniversary of the April 17 th Cabinet statement. This contributed to a major media focus on the first anniversary of the Cabinet statement. April 24 th coincided with an international day of action that we organised. Activists around the world demonstrated outside South African embassies and wrote letters to the Deputy-President. In SAdemonstrations without permission were held in Durban, East London and Nelspruit. The major civil disobedience events for this day took place in Pretoria and Cape Town. In Pretoria, police met TAC activists at the doors of the Department of Health following our public announcement that we would sit-in. A stand-off ensued. At one stage it looked as if the police were going to use water cannon to clear the demonstration. TAC members were then addressed by the deputy Director General of the Department of Health who indicated that the costing study completed by the health and finance committees would be complete by the end of April.

Following these announcements and the acceptance of our memorandum, we dispersed. In Cape Town, nearly 20 activists managed to sit-in at the DTI offices and another few hundred demonstrated downstairs when they were blocked from entering the building. We demanded to speak to the Minister, the Deputy-Minister or the Director-General. The DTI failed to co-oper they laid a charge. Eventually 18 activists were arrested, spent 3 hours in jail and appeared before the magistrate's court the next morning. The case has been postponed to 26 May.

What has Civil Disobedience Achieved?

TAC's civil disobedience campaign started in difficult circumstances. It began on the same day as the US-led war on Iraq, which occupied most media coverage. Media depiction of civil disobedience and the ability to achieve public sympathy for action is one of the ingredients for success of this type of campaign. Although the campaign did get more media than we expected, it was less effective than it would have been in different circumstances.

Nonetheless both rounds of civil disobedience received extensive media coverage, both locally and internationally. TAC's campaign was known, debated and talked about. In addition a significant number of op-ed articles by TAC members were published in major newspapers.

Ultimately, we can only call the civil disobedience campaign a success if it resulted in our demands being met. Government would have to implement a treatment and prevention plan that includes antiretroviral therapy. This has not yet been achieved. However, the civil disobedience campaign did generate a huge amount of activity by TAC over a short period of time, and it is clear that government came under renewed and politically uncomfortable pressure because of the campaign.

Within a day of the start of the campaign, full-page advertisements appeared in all national newspapers claiming: "There is a Plan". These advertisements had to deal with the issue of ARV treatment, albeit making no commitments.

One of government's defences was to draw attention to the costing committee report. The effect of this was to raise expectations about the report, ultimately making it more difficult for cabinet to ignore its recommendations.

In addition there was an almost daily contest between TAC and ANC spokespersons in the media, with the ANC Youth League, Cameron Dugmore coming out with indefensible attacks on TAC. Added to this was the politically embarrassing attack on Mark Heywood by the Minister of Health.

Another important achievement of civil disobedience has been that activists have had an opportunity to non-violently express the accumulated anger of many years of struggle.

The meeting with the Deputy-President must be seen in this context. Despite charges of culpable homicide being laid; despite pictures of Zackie confronting the Minister of Health; despite harsh accusations and unlawful protests government wanted relief from the campaign.

Given the fact that the HIV/AIDS 'policy' is constructed and defended by the office of the President it would be naive to believe that government would capitulate completely to the civil disobedience demands without attempting to save face.

TAC is not against government saving face - we are for treatment. This means that there may be times where a tactical retreat is necessary to see if it opens the space for government to make the necessary adjustments to policy. This was the thinking behind the NEC decision to suspend.

It is however reasonable to ask if we received enough in return for the suspension. It is too early to say.

What were the weaknesses / failings of the Campaign?

There were weaknesses associated with the campaign that we have to recognise and correct in future. Some were:

1. That there was too much secrecy around the early stages of the campaign, something that left even TAC activists feeling left out and uncertain;

2. The civil society consultation prior to the campaign was insufficient and incomplete. Many of TAC's supporters were bystanders, and were uncertain about how to defend the campaign. In particular, we should have engaged further with those, particularly COSATU, who were confused about or opposed the notion of civil disobedience.

3. TAC did not encourage our allies to actively engage in civil disobedience. Nevertheless, SAMA (two thirds of doctors belong to SAMA) and the Archbishop of Cape Town both supported it. The South African Nursing Council (SANC) used the campaign as reason to 'withdraw' from TAC. But SANC was never a part of TAC and are as ineffectual as the SA Health Professions Council. More concerning was COSATU's ambivalence over civil disobedience and the way sections of the media used this to try to create confusion. COSATU made it clear that it does not favour civil disobedience because civil disobedience implies we do not recognise the legitimacy of a democratically elected government. This was a misunderstanding that we must still clarify. Civil disobedience is used in the United States, Western Europe and especially India - all democratic countries. Those who engage in it have no desire to overthrow the government, merely to change unjust government policies. Non-violent civil disobedience is an entirely appropriate means of protest in a democratic country where all other attempts to change an unjust policy have failed. We must try to convince COSATU of this. Also, if it is necessary to resume civil disobedience, we must encourage COSATU and other key allies to actively participate in our demonstrations.

4. The suspension of the campaign was handled badly. The TAC delegation that met the Deputy President were justified in requesting time to consult the NEC, but they should also have requested that a draft joint statement be prepared prior to the announcement. Further, in addition to the NEC decision, there should have been a discussion with more branch and district leaders. There was legitimate anger about the suspension, and this was not just based on distrust of government. People who had put themselves forward to be arrested had a right to be involved more deeply in a decision to suspend the campaign.

Where to From Here?

Over the next few weeks, we must:

- Prepare well for the SANAC meeting to ensure that SANAC recommends a treatment and prevention plan;
- Discuss the civil disobedience campaign in all TAC branches and at provincial aggregate meetings;
- Ensure that if we do resume civil disobedience we do so in much greater numbers. Most of our civil disobedience actions have been comprised of 200 to 500 activists. We need to have actions that mobilise over 1000 people, not necessarily for arrest, if the campaign is restarted. We need to mobilise like we did for 14 February.
- Ensure our court papers are prepared, so that if necessary we can begin litigation against government, similar to the mother-to-child transmission prevention case.

We are hopeful that it will not be necessary to resume civil disobedience and that we can move TAC into a new phase where our emphasis is on ensuring that delivery of services takes place. To do this, we will have to strengthen our branches. However, we must prepare as though civil disobedience will have to resume.