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# AIDS Activism and Globalisation from Below: Occupying New Spaces of Citizenship in Post-apartheid South Africa

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## 1 Introduction

Former President Nelson Mandela, Bono, Peter Gabriel and other superstars stood together on the stage at Greenpoint Stadium in Cape Town in front of billions of television viewers around the world, watching the “46664” music extravaganza in support of the fight against AIDS in Africa. AIDS is clearly a global pandemic and responses to it have inevitably been on a global scale. At the same time, the disease has highly localised aspects to it. AIDS activists have had to address both the global dimensions and the local specificities of this epidemic.

This article focuses on new conceptions and arenas of civic action promoted by a Cape Town-based AIDS activist group, the Treatment Action Campaign (TAC), and the new forms of citizenship that emerge from their engagement with AIDS treatment policy. TAC is an example of a “new” social movement that has constructed its own arenas of action and spaces of participation in response to state-driven AIDS policies. Unlike the formal, hierarchical structure and conventional class politics and Marxism of the “old” political and labour movements, TAC, like other new social movements, draws on grassroots, bottom-up, network based modes of organisation that operate simultaneously in local, national and global spaces (Touraine 1981; Melucci 1989). While it is problematic to assert a strict divide between “old” and “new” social movements, organisations such as TAC have introduced tactical and organisational innovations that take advantage of the increased global reach and instantaneity of the media, the Internet, email

and other circuits of telecommunications (Cohen and Rai 2000; Wasserman 2003). While TAC speaks to audiences well beyond the border of the nation-state, its main objective has been to lobby and pressurise the South African government to provide AIDS treatment.

TAC has been forced to address a wide range of issues at global, national and local levels: it has tackled the global pharmaceutical industry in the media, the courts and the streets; it has fought discrimination against HIV-positive people in schools, hospitals and at the workplace; it has challenged AIDS dissident science in South Africa and abroad; and taken the government to court for refusing to provide prevention of mother-to-child-transmission treatment (PMTCT) programmes in public health facilities. In addition to these high profile activities, TAC has also launched AIDS literacy campaigns in black townships throughout South Africa challenging AIDS myths, silence, denial and misinformation (see Robins, forthcoming). This article shows how these diverse TAC activities and interventions have contributed towards creating new political spaces for engagement at local, national and global levels. TAC relies both on transnational advocacy networks *and* grassroots mobilisation in ways that are similar to modes of activism that are increasingly described as ‘globalisation from below’ or ‘grassroots globalisation’ (Appadurai, 2002a). TAC also provides examples of organisational practices that cut across institutional and non-institutional spaces, and that are capable of generating multiple relations to the state. In doing

so, it has provided its members with opportunities to engage simultaneously in a variety of participatory spaces that allow for the articulation of new forms of *citizenship from below*.

## **2 The Treatment Action Campaign (TAC): contesting public spaces**

TAC was established on 10 December 1998, International Human Rights Day, when a group of about 15 people protested on the steps of St Georges Cathedral in Cape Town, to demand medical treatment for people living with the virus that causes AIDS. By the end of the day the protestors had collected over 1,000 signatures calling on the government to develop a treatment plan for all people living with HIV. At that stage, it was generally assumed that anti-AIDS drugs were beyond the reach of all developing countries, condemning 90 per cent of the world's HIV-positive population to a painful and inevitable death. By 2001, an estimated 19 million people had died of AIDS and more than 36 million were infected with HIV.<sup>1</sup> Ninety per cent of those with HIV and AIDS live in the Third World, of which 70 per cent, an estimated 27 million people, are African. It is estimated that more than 1.5 million South Africans will have died of AIDS-related causes between 2000 and 2005. Over 130,000 children will have contracted HIV from their parents each year, and by 2010, two million South African children will become orphans because their parents would have died of AIDS-related illnesses.<sup>2</sup> The 2002 UNAIDS report revealed overall HIV/AIDS rates in South Africa at 20.1 per cent; that 64.3 per cent of South African men treated for sexually transmitted diseases tested HIV-positive; the predicted number of deaths among 15–34-year-old South Africans was 17 times higher than it would have been without the disease; and one South African in nine, i.e. five million people, were already infected or ill with HIV/AIDS. Some 24.8 per cent of pregnant women tested HIV-positive at government facilities in 2001 (*Cape Times*, 3 July 2002). This devastating African AIDS scenario continues to haunt health professionals, AIDS activists, government officials and millions of South African citizens.

Soon after its establishment in 1998, TAC, together with the South African government, became embroiled in a lengthy legal battle with international pharmaceutical companies over AIDS drug patents and the importation of generics to treat millions of HIV-positive poor people in

developing countries. As a result of highly successful global and national media campaigns, TAC managed to convince international public opinion and the Pharmaceutical Manufacturers Association (PMA), that their cause was undeniably right and just. In the face of massive public pressure, PMA withdrew their case, having calculated the damage from the adverse publicity they were receiving as a result of TAC's stinging accusation that corporate greed was responsible for millions of deaths in Africa. Although the global dimensions of the PMA court case cannot be overestimated, most of TAC's struggles focused on South African issues. These included attempts to hold the Minister of Health accountable and to protect the independence of institutions such as the Medical Research Council (MRC) and the Medicines Control Council (MCC), the body responsible for the registration of drugs.

A second issue that preoccupied TAC and health professionals was the 'AIDS dissident debate', sparked by President Thabo Mbeki's controversial views on AIDS science. South African and international AIDS dissidents were invited by President Mbeki to join mainstream AIDS scientists on the President's AIDS Advisory Panel, provoking considerable opposition from AIDS activists, the health sector, the media and political opposition parties. It also became quite clear by the end of the 1990s that President Mbeki's Health Minister was initially unwilling to accept the findings of the reports and scientific studies that demonstrated the impact and incidence of HIV/AIDS on the South African population, or that it made both economic and medical sense to provide Nevirapine to HIV-positive mothers as part of a national mother-to-child-transmission (MTCT) prevention programme.<sup>3</sup> Economists also produced findings that demonstrated that a national AIDS treatment programme would be more cost-effective than simply treating opportunistic infections and thereby increasing an already seriously over-strained public health system.

Drawing on such studies, TAC became highly visible in its challenge to the government's perceived opposition to AIDS treatment. Along with the media, health professionals and civil society organisations, TAC activists highlighted what was widely perceived to be direct government interference and manipulation of AIDS research findings and the workings of regulatory bodies such as the MCC. By drawing attention to these threats to attempts to democratise medical science in South Africa, TAC was also simultaneously creating the

## IDS Bulletin 35.2 New Democratic Spaces?

political and discursive space for the emergence of new claims and expressions of health citizenship.

TAC's role in expanding legal spaces for effective citizenship became clear in December 2001, when its legal representatives argued in the High Court of South Africa that the State had a positive obligation, in terms of section 27(2) of the Constitution, to promote access to health care, and that this constitutionally bound obligation could be extended to AIDS drug treatment.<sup>4</sup> While the thrust of TAC's argument before the High Court focused on socio-economic rights, and specifically citizens' rights to health care, TAC lawyers raised broader issues relating to questions of scientific authority and expertise. The court was obliged to address the ongoing contestation over the scientific "truth" on AIDS that raged between TAC, the trade unions, and health professionals on the one side, and government and the ANC on the other.

But, apart from constantly responding to government statements, TAC also had to convince ordinary South Africans that HIV caused AIDS, and that prevention and treatment are 'two sides of the same coin'. This was in sharp contrast to the government's approach which, until the 2003 cabinet decision to launch a national antiretroviral (ARV) treatment programme, focused primarily on prevention. In addition to these AIDS interventions within the public domain, TAC and its supporters in the health sector and medical research institutes also devoted an enormous amount of time and energy into disseminating reports, scientific studies, website documents and media briefs that refuted repeated government claims that antiretroviral treatment was dangerously toxic, ineffective, too costly, and could not be implemented due to infrastructure and logistical problems, including lack of management structures, trained staff and so on.

### 3 From the courts to the streets: activism in intersecting spaces

TAC's interventions into public and legal spaces initiated a growth in TAC's grassroots support base as well as the organisation's development into a multi-class and multi-racial social movement in the making. In addition to opening up new legal spaces, widely publicised acts of "civil disobedience" also played a central role in providing TAC with visibility and new forms of organisation within the post-apartheid public sphere. The Christopher Moraka Defiance Campaign was perhaps a defining moment

in TAC's history. It began in July 2000, after HIV-positive TAC volunteer Christopher Moraka died, suffering from severe thrush. TAC's spokespersons claimed that the drug fluconazole could have eased his pain and prolonged his life, but the drug was not available on the public health system because it was too expensive. In October 2000, in response to Moraka's death, TAC's Zackie Achmat visited Thailand, where he bought 5,000 capsules of a generic fluconazole, with the trade name Biozele, for R1.78 each. When TAC announced Achmat's mission in a press conference on the 18 October the international public outcry against Pfizer intensified, as it became clear how much medicine prices were inflated compared with generics. In the face of international moral pressure, the international pharmaceutical giant Pfizer backed off from its initial intention to take legal action against TAC for violating its patent rights. Such action was deemed to be "bad for business". Although police investigated laying criminal charges against Achmat for smuggling medicines into South Africa, nothing came of this, and the MCC approved permission to prescribe the drugs to patients. By 2003 TAC's campaigns had succeeded in "persuading" the global pharmaceutical giants to drastically cut their prices.

It became clear that local, national and global sites were important spaces for public engagement in the struggle for AIDS treatment in South Africa. As a result of sustained public pressure in local sites in South Africa and abroad, Pfizer made its anti-AIDS drugs available free of charge to state clinics in March 2001. The Christopher Moraka Defiance Campaign culminated in the international Pharmaceutical Manufacturers Association (PMA) deciding to withdraw its legal challenge to the implementation of the 1997 Medicines and Related Substances Act, legislation that allowed the South African government to reduce the prices of essential medicines. Following targeted protests in the USA during 1999, AIDS activists in the USA also managed to "persuade" their government to withdraw its opposition to the Medicines Act. This David and Goliath narrative of TAC's successful challenge to the global pharmaceutical giants captured the imagination of the international community and catapulted TAC into the global arena. Preparation for the court case had also consolidated TAC's ties with international organisations such as Oxfam, *Medicins Sans*

*Frontieres* (MSF – Doctors Without Borders), the European Coalition of Positive People, Health Gap and Ralph Nader's Consumer Technology Project in the USA. However, forays into the global arena of transnational activism have largely been confined to networking and mobilising international support for court cases, as well as the application of moral and political pressure on the state and pharmaceutical companies over access to anti-retroviral therapy (ART).

Despite all this international media attention, acclaim and recognition, TAC activists stressed that grassroots mobilisation was the key to TAC's success. This locally based work involved AIDS awareness and prevention programmes and treatment literacy campaigns in schools, factories, community centres, churches, *shebeens* (drinking places), and through door-to-door visits in the black African townships of major urban centres such as Cape Town, Johannesburg and Durban. It became clear quite early on that by far the majority of TAC volunteers were working class township youth and unemployed black African women, many of whom were HIV-positive mothers desperate to access life-saving drugs for themselves and their children, often in contexts where they experience hostility and rejection from their communities, friends and families. As a TAC organiser noted, it was these unemployed women who had the most time on their hands and were therefore available for recruitment into TAC's campaigns. Perhaps the most important reason for the successes of TAC's grassroots mobilisation has been its capacity to provide these poor and unemployed HIV-positive mothers with a lifeline.

Through the mobilisation of working class township youth and the unemployed, the trade unions, black and white middle-class business professionals, health professionals, scientists, the media, and ordinary South African citizens, TAC was able to create multiple spaces for the articulation of a new democratic discourse of *health citizenship*. These interventions contributed towards new political subjectivities and notions of bodily autonomy that challenged traditional patriarchal ideas and practices that conspired to make it difficult for African women to access HIV-testing facilities and prevention of mother-to-child-transmission (PMTCT) programmes (see Robins, forthcoming). These strategies also involved challenging the conspiracies of silence and AIDS denial that created

obstacles for access to HIV interventions. The space of clinic, especially MSF and TAC ARV treatment programmes in Khayelitsha, Cape Town, became a key site for these locally situated interventions in HIV/AIDS discourse.

TAC campaigns also clashed with what was widely perceived to be state attempts to centralise control over scientific institutions such as the MRC and MCC. Geoff Budlender, TAC's lawyer, noted that during the course of TAC's mobilisation around the court cases against the PMA and government, the boundaries between the court-room and "the streets" became very porous indeed. Constitutional Court judges could not but be influenced by public opinion in support of TAC as well as the daily press articles and positive television coverage of TAC demonstrations, press conferences and acts of civil disobedience. TAC was able to achieve extraordinary media visibility and shape public opinion through highly creative networking and media imaging; they were able to produce passion and political content to the cold letter of the Constitution through extremely effective civic action that transcended race, class, educational and occupational divides.

The grassroots public visibility of TAC, along with South African and international moral pressure exerted through the media, influenced the High Court and Constitutional Court decisions in TAC's favour. Marches, demonstrations, press conferences, petitions, defiance campaigns and the like shaped courtroom outcomes in profound ways. These developments draw attention to the permeable boundary, and interconnections between the courts, the streets, and local and global public spheres.

#### **4 Multiple relations with the state**

TAC has been involved in creating new post-apartheid politics of *strategic engagement*, partnership and negotiation. TAC's political style can best be described as strategic engagement with "the state": at one point TAC sided with the government in litigation against "profiteering" international pharmaceutical companies, it then legally challenged government for dragging its feet on implementing PMTCT programmes, and more recently it has offered its full support to the government in terms of the implementation of PMTCT and ARV programmes. This pragmatism is similar in certain respects to the politics of patience, negotiation and consensus building that has become the trademark of the Indian and South

## IDS Bulletin 35.2 New Democratic Spaces?

African homeless peoples' federations (Robins 2003). Like the latter organisations, TAC focuses on the consolidation of its grassroots support base while simultaneously developing networks within international non-governmental organisations (NGOs) as well as with government officials at local, provincial and national levels. TAC has also engaged the state by pressing for inclusion in new deliberative institutions such as Nedlac, charged with statutory responsibility and situated at the nexus of state–civil society relations.<sup>5</sup>

However, despite conscious efforts to avoid being seen to be “anti-government”, TAC’s criticism of President Mbeki’s support for AIDS dissidents created dilemmas and difficulties in terms of TAC’s grassroots mobilisation programmes. By opposing the President’s views on AIDS, TAC activists were publicly accused by government officials of being ‘unpatriotic’, ‘anti-African’ and salespersons of the international pharmaceutical industry. This *locally situated* politics of race was addressed through a variety of strategies, including workshops, treatment literacy programmes and public meetings. Despite attempts by certain government officials to label TAC an anti-government NGO with anti-ANC and ‘unpatriotic’ agendas, TAC developed ways of combating what it perceived to be smear campaigns and attacks on its political credibility orchestrated by government spokespersons. It also managed the difficult feat of straddling the grey zones between cooperation and opposition to government policies. TAC’s legal and political strategies reveal a clear understanding of the politics of contingencies, rather than an inflexible politics of antagonistic binaries of “us” and “them”. By the close of 2003, TAC was offering to help government implement its national ARV treatment programme.

TAC’s understanding of the cultural politics of race is largely a result of the experiences of TAC leadership who cut their activist teeth during the 1980s. TAC’s grassroots mobilisation has been through songs at marches, demonstrations and funerals, and the regular press releases and conferences, website information dissemination, television documentaries, and national and international networking. This new politics is a sophisticated refashioning of 1980s anti-apartheid activism, and uses the courts, the media, local and transnational advocacy networks, along with grassroots mobilisation and skilful negotiations with the State. It bears more than a family resemblance

to the pragmatic political style of the labour movement and the anti-apartheid coalition, the United Democratic Front, during the heady 1980s. It also resembles the globally connected new social movements (NSMs) that have emerged in many parts of the world in recent years (Cohen and Rai 2000).

While TAC is prepared to engage in adversarial politics in relation to the state, for example civil disobedience campaigns, its leadership persistently emphasises that TAC is willing to work with the ANC government, for example on the implementation of the national PMTCT and ARV programmes. It is precisely this complex straddling of a contingent and fluid politics of opposition, cooption and collaboration, and simultaneous engagement in local, provincial, national and global arenas that have made TAC such an effective and innovative civil society organisation. TAC’s success can also be attributed to its ability and tendency to build alliances. This political style of coalition building has allowed TAC to recruit unemployed and working class black women and youth, middle class professionals, religious leaders and congregations, teachers, trade unionists and NGO and community-based organisation (CBO) activists. It has also managed to capitalise, both in South Africa and internationally, on what is widely perceived to be the moral truth of its demand that the pharmaceutical companies and the state make AIDS treatment accessible to HIV-positive South African citizens.

TAC is also engaging the state through its own involvement in state-run institutions. In its attempt to mobilise support it is increasingly struggling for the opening up and democratisation of state institutions such as schools and clinics. For instance, the MSF AIDS treatment unit in Khayelitsha is located within a large state clinic where it has had a significant impact in breaking through the socio-cultural barriers of AIDS myths, silence and stigma. In this sense it is engaged in an attempt to disseminate the politics of rights and health citizenship into the institutional fabric of society. The aim is to transform practices in these institutions and to bring these institutions closer to the people. TAC’s regional offices and local branches also work closely with CBOs in their area so that they are able to create links with state-run local clinics. The organisation is now training AIDS counsellors and is carrying out audits of clinics and hospitals which are running PMTCT and ARV programmes. TAC’s

local branches do a lot of door-to-door mobilisation. In August 2002, TAC launched a campaign to have the local clinic in Nyanga, one of the more impoverished sections of Cape Town's townships, opened for five, instead of two days a week. TAC activists recognise that these local, institutional spaces are not transient, and that they provide important sites for engagement with the local state.

#### 4.1 The challenges of inclusive participation in multiple spaces

TAC is an example of a new social movement that has constructed its own arena of action in multiple spaces. The strength of the organisation as a social movement lies in its capacity to mobilise the poor in a variety of spaces, ranging from regularised institutions which serve as an interface between people and authorities of various kinds to more transient institutions such as one-off campaigns aimed at opening up deliberation over policies. Its campaigns have expanded the legitimacy of civil society-led participation. They have also expanded the scope of deliberation in the public sphere to include the formulation and construction of new discourses of citizenship.

As a result of its contestation of multiple sites, TAC is enabling ordinary citizens to build their political capabilities for democratic engagement. Alongside TAC's effective use of the courts, the

Internet, media, email and transnational advocacy networks, a crucial aspect of TAC's work has been its recruitment of large numbers of mostly young and unemployed black African women into its ranks. Without this grassroots support, along with local and international public pressure displayed through marches, demonstrations, press conferences, petitions, Internet websites and email networking and so on, the High Court Judges would not necessarily have decided in TAC's favour in the crucial court cases against the pharmaceutical companies and the government. TAC's interventions in these multiple spaces have allowed its membership to gain organisational experience in institutional and non-institutional spaces, thereby creating a rights-based activism that can be described as "grassroots globalisation". Future challenges for the organisation lie in consolidating past gains and "deepening democracy" (Appadurai 2002b) among its members and the broader South African society. These challenges are becoming particularly evident as ARV programmes are launched in rural areas where there has been little AIDS activism and social mobilisation. It is in these rural spaces that the socio-cultural obstacles to AIDS treatment are being encountered. It is here that TAC's brand of AIDS activism and social mobilisation could make the difference between life and death.

#### Notes

1. 'Treatment Action: An Overview', 1998–2001: 2, in [www.tac.org.za](http://www.tac.org.za).
2. 'Treatment Action: An Overview', 1998–2001: 2, in [www.tac.org.za](http://www.tac.org.za).
3. For a detailed account of the early history of TAC and its campaign for MTCT prevention programme, see 'Treatment Action: An Overview', 1998–2001: 2, in [www.tac.org.za](http://www.tac.org.za).
4. TAC's argument drew extensively on the Constitutional Court case *Government of the Republic of South Africa and others v. Grootboom and others 2001 (1) SA 46 CC*. The South African Constitution is unique in providing for water and housing (along with health care and a clean environment) as basic rights in the Bill of Rights. The *Grootboom* Case was a landmark Constitutional Court judgement made on 4 October 2000 on the question of socio-economic rights. The ruling re-asserted the government's constitutional obligation to take all 'reasonable ... measures to achieve the progressive realization of the
- right to access to housing', including specific steps to cater for the more needy elements in the population. It demonstrated that the courts could enforce compliance with socio-economic rights enshrined in the South African Constitution. This ruling has set a precedent that potentially opens up the way for challenges to social and economic policies for their failings and omissions (see Isandla Institute Poverty Communique, 'The Grootboom Case', *Landmark Constitutional Judgement on Socio-Economic Rights*, 8 March 2001, Vol 3 No 3).
5. During the latter half of 2002, TAC along with its trade union partner, the Congress of South African Trade Unions (COSATU), was involved in lengthy negotiations at the National Economic Development and Labour Council (NEDLAC) in an attempt to arrive at an agreement with government and business to establish a national AIDS treatment programme. The negotiations came to a standstill in early 2003, but by the end of the year, the government announced the establishment of a national ARV programme.

**IDS Bulletin 35.2** New Democratic Spaces?**References**

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