

# TREATMENT INFORMATION GROUP

*thinking about AIDS drugs*

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## **TAC and SAMA v Matthias Rath and eleven others**

### **TIG press statement on the TAC's withdrawal of its case against Anthony Brink and the TIG**

On Friday 7 March, three days after receiving our Heads of Argument, the Treatment Action Campaign dropped its case against us. Not surprisingly, because as our Heads clearly show, the TAC never had any case against us in the first place. Since we'd drawn our own papers without outside legal help, and so hadn't incurred any costs, the TAC's proposal to abandon its case against us on the eve of trial wasn't one we could justifiably turn down.

The essential issues for decision in the case are whether in giving multivitamins to the sick African poor, and having a doctor keep an eye on how they're doing, the first to fifth respondents are distributing unregistered medicines and conducting unlawful clinical trials in South Africa; and if so, whether the Minister of Health and the Director General have been remiss in not stopping them. The TAC's allegations in this regard can best be described as pitiful (read Moerane SC's brilliant Heads of Argument for the Minister of Health and Director General to see why).

Instead of sticking to the point and confining itself to making its case on its peculiar version of the relevant facts, the TAC thought it would abuse the platform afforded by the litigation to toot its horn as a philanthropic human rights organization representing the country's AIDS sufferers, plug the pharmaceutical industry's patented ARVs on its behalf, and propound the industry's basic business model for the sale of these drugs, namely the germ/poison theory of AIDS – which is that if you light up an HIV antibody test it means gee you're got an invisible lethal virus swimming around in your blood and also lurking in your groin because hey you once actually had sex with someone, from which you're definitely going to die an awful, lingering, painful and lonely death in a few years time, unless you buy and swallow (extraordinarily toxic) ARVs every day until you die on them, to extend your now guaranteed short life. Which drugs the pharmaceutical industry is fortunately selling. (George Bush believes this, and Zackie Achmat pretends to.)

To make its case, the TAC wheeled in big-time white AIDS experts Francois Venter and Rob Dorrington to make a scene about the terrible epidemic of sex-disease among Africans in South Africa (not whites), but how thanks to the

pharmaceutical industry's wonderful ARV drugs, their lives have all been saved, so wow they're not soon going to die of HIV-AIDS any more.

What the TAC intended was that in determining the lawfulness or otherwise of the first respondent's donation of micronutrients to impoverished, malnourished sick people, the judge should at the same time jubilantly cheer over the TAC's further claims about what an heroic organization it is, saving lives and everything.

Unfortunately for the TAC, things didn't go according to plan. By first setting up a much wider case than necessary for the decision of the core issues, and then pointlessly dragging us (Brink and the TIG) into the dispute, we got to examine, deconstruct and refute the TAC's case line by line in our [answering affidavit](#) (PDF, 514 kB), and in doing so exposed it as a pack of lies. (After reading our analysis and disassembly of the TAC's experts' evidence, you might fairly wonder whether they aren't mentally retarded.) The downside for us of dropping out of the case before trial is that we no longer get to address the court during argument on the many important matters dealt with in our affidavit. We don't get to point out to the judge that the TAC's misjoinder of us in the application was a classic instance of what American lawyers call a SLAPP case ('strategic litigation to prevent public participation'), illegal in many states and contrived to bog a party down in a meritless and expensive litigation to hinder its work opposing corporate interests – such as the pharmaceutical interests the TAC promotes for a living under the clever guise of selflessly serving the public good.

Nonetheless, it's likely that our answering affidavit will be discussed in the case, because it's cross-referenced by the first respondent in his affidavit on the deadly toxicity of ARVs, and it has many strong, eminently quotable things to say – inter alia, impudently reminding the trial judge about the courts' historical penchant for mass hysterical delusions and racist ideology, both in this country and abroad.

So for serious journalists (corporate stenographers, Pharma bunnies, and TAC pom-pom girls needn't apply) we've printed and bound our answering affidavit as a handy 150-page paperback, and we're offering it bundled with a similar 70-page paperback version of our [Draft Bill of Indictment of TAC leader Zackie Achmat in the International Criminal Court at The Hague](#) (PDF, 137kB), served in January 2007, of which we're very proud. Our [open letter to Mail&Guardian CEO Trevor Ncube](#) (PDF, 193kB) about his newspaper's dismal role in the affair is included in the appendices. Set in the style of a 'serious joke', the document is now available in Spanish, French, Russian, Italian, German and Dutch too. We'd be grateful if journalists wanting copies of these lively and informative documents would chip in a nominal R60 for them both, so we're not out of pocket for the cost of printing and binding them. And since the government's terrific Heads of Argument are essential reading for newspaper and other media reporters, we'll throw in a free copy of those too. Get them from Adv Brink at court; or phone 021 426 4513 (send a text message if his phone's off during the proceedings) or email arbrink at iafrica.com.

## TIG press information kit covering note

In December 1998 Zackie Achmat and his Treatment Action Campaign commenced business agitating to compel the South African government buy AZT from GlaxoWellcome (now GlaxoSmithKline), then engaged in a full-bore marketing offensive to sell the drug to the government for giving HIV-positive pregnant women, practically all African, at a cost of billions of rands. On 25 January 2008 Achmat and the drug industry finally got what they wanted: a resolution by the National Health Council supporting the supply of AZT to pregnant women and their newborn babies.

Newspaper journalists one and all reported this as a tremendous advance for health and human rights: thousands and thousands of little African babies' lives will be saved. The reality couldn't be more horrible, and it's sketched in the enclosed leaflet [Why do Zackie Achmat, Nathan Geffen and Mark Heywood want pregnant African women and their babies to be given AZT? What AZT does to unborn and newly born children](#) (PDF, 76kB) – citing a few of the many research reports showing that children exposed to AZT in the womb and after birth suffer brain damage, neurological disorders, paralysis, spasticity, mental retardation, epilepsy, and a much higher rate of other serious diseases and early death than unexposed children. The reason for this may be understood from another enclosed leaflet, [Why do President Mbeki and Dr Tshabalala-Msimang warn against the use of ARV drugs like AZT?](#) (PDF, 98 kB), providing an brief overview of the hundreds of studies finding AZT to be profoundly toxic to all cells of the human body, as might be expected from a drug designed in 1961 as an experimental cell-poison for possible use as a new cancer chemotherapy. As you'll read in the leaflet, the scientist who invented AZT supports our opposition to the poisoning of the African poor with AZT, and of African babies in particular. For an exhaustive survey of the foetal and neonatal AZT toxicity literature, please see [Poisoning our Children: AZT in Pregnancy](#) (PDF, 551kB) online on our website.

Why journalists are generally ignorant of these appalling findings is explained in the 'Note' at the end of the 'Why do Zackie Achmat...?' leaflet.

Late last year, in an attempt to forestall the introduction of AZT into maternity wards, we embarked on an information campaign to publicize the terrible permanent harm, sometimes fatal, that AZT causes unborn and newly born children. Our [press statement](#) (PDF, 45kB) is enclosed, as is our last-ditch [appeal to the Minister of Health](#) (PDF, 169 kB) in December for a hearing to present the foetal and neonatal toxicity literature (but too late – a budgetary allocation had already been made for the purchase of the drug for this indication).

To conclude, as we asked in our press release about this:

In the interests of a generation of South African children, mostly African, is there a single journalist in our country with the intelligence, the compassion, the diligence, the independence, the integrity, and the courage to follow the example of their European colleagues fifty years ago during the thalidomide disaster, and work towards averting another impending tragedy of thousands of children killed or maimed by AZT, some grossly, some slightly, by bringing the facts about the harm it causes to public attention? Even if the unborn and newly born children in jeopardy of being poisoned in South Africa are only African?

ANTHONY BRINK  
CHAIRMAN: TIG