With the self-declaring slogans ‘There is still no alternative’ and ‘Letsema le tsweletse’ the winner of this year’s elections will come as no surprise.

The people of Botswana have witnessed many improvements under President Festus Mogae, leader of the Botswana Democratic Party (BDP). Some of the party’s accomplishments include a Gross Domestic Product (GDP) increase averaging 5.9% per annum (for 2002/03), 37 new health clinics constructed and the electrification of 86 villages since 1999. Nonetheless, the country continues to grapple with the HIV/AIDS pandemic, its social and economic implications, as well as with income disparity. The polemic theme of HIV/AIDS has certainly been at the epicentre of this year’s election campaign and campaign promises.

From party manifestoes to billboards, HIV/AIDS is being singled out as a priority issue for this election. The BDP’s Manifesto 2004 and policy document Response to HIV and AIDS highlight the party’s initiatives in the area HIV/AIDS. Starting up the Prevention of Mother to Child Transmission (PMTCT) and Anti Retro Viral (ARV) programs are amongst the BDP’s most progressive and acclaimed accomplishments. While there is no doubt that the BDP is committed to the issue at hand, the party should be willing to go one step further by challenging laws that are all too stationary and that do not specifically protect the rights people infected with or affected by HIV/AIDS. For instance, though there are guidelines that discourage HIV-related discrimination in the workplace, throughout the BDP’s campaign and in its various documents referring to HIV/AIDS there has been no indication that national legislation will develop from such guidelines. A legal framework for the protection of the rights of people infected or affected by HIV/AIDS is highly necessary in Botswana, where approximately 37.4% of the active working population is infected with the virus.

For its part, in its 2004 Manifesto, the Botswana Congress Party (BCP) emphasizes that it “is further committed to an immediate implementation of ILO conventions and the passage of necessary HIV/AIDS legislation at the workplace that would render the necessary protection of workers.” The BCP specifically recognizes that health is a fundamental human right and that it is a basis for sustainable socio-economic and human resource development.

Furthermore, the party’s Manifesto presents actual tasks they would like to undertake in the area of HIV/AIDS and health care. Nonetheless, it is difficult to foresee how the BCP would run the country and if it would actually fulfil its promises since there is no basis for comparison.

continued on page 2
As opposed to the BCP’s Manifesto, the BDP’s fails to present new ways of dealing with the pandemic and does not clearly depict what the party’s future plans are in the area of HIV/AIDS. The danger in a party that has never been defeated is that it will rely past accomplishments to win elector’s votes rather make a conscious effort to challenge its ideas and reinvent itself to respond to new realities.

Citizens and civil society alike have a responsibility to question what their government does, especially with regards to its response to an epidemic that has such far reaching effect. Throughout the election campaign, however, it has been striking how little debate has gone on between the different parties on the one hand, and amongst the population, civil society and the parties, on the other hand. Although the political situation in Botswana is very stable and the country is peaceful, the population, civil society and political parties should strive to avoid being complacent.

In its next mandate, the BDP should seriously consider creating and implementing legislation specifically pertaining to HIV/AIDS. Translating policy into legislation is an essential component of the fight against HIV/AIDS; it would protect the rights of people living with HIV/AIDS and would truly demonstrate the government’s willingness to make a difference. Laws make behavior change an obligation rather than a mere option.

Natalie Doyle

HIV/AIDS is a societal problem and thus, it is reflected in Botswana’s politics. However, while political parties and people in general should be committed to the issue of HIV/AIDS, it is important not to trivialize the issue by using it as a bargaining power to obtain more elector votes. The HIV/AIDS pandemic is a national challenge rather than a particular party’s sole responsibility. Moreover, the prevention, treatment and testing methods are not specific to one party.

The infamous billboard caused uproar in the NGO community. On the billboard Helen Ditsebe-Mhone, founder of COCEPWA, links access to ARVs to the BDP party. Many of you may be aware that BONELA was one of the organizations opposed to the Botswana Democratic Party advertising the ARV program, with the assistance of a well known person living with HIV, as a party program. While some of the debate concerning this billboard was ill informed and rather personalized, we still believe that it was not in good taste to use a public program as part of advertising the ruling party.

Natalie Doyle and Christine Stegling
“Where did all the Human Rights go?” was the question on the lips of most human rights advocates that attended this year’s World AIDS Conference. Upon arriving in Bangkok it was immediately obvious that most Legal, Ethical and Human Rights presentations had been relegated to be poster presentations. This resulted in the poster presentations being where the party was at!

Obviously, Human Rights must and should form the backbone of any response to HIV. BONELA’s own representatives Christine Stegling and Maame Awuah each held a poster presentation. The former presented on a civil society initiative to create and implement HIV employment legislation, and the latter on the spread of HIV/AIDS amongst the prison population and how it is inexorably linked to the lack of effective preventative strategies, such as condom distribution.

At the Barcelona World AIDS Conference held in 2002, Human Rights activists had pushed for the debate around access to treatment to be made the focal point of the Bangkok World AIDS Conference. Many Human Rights activists strongly advocate for access to treatment to be considered a Human Right. However, during this year’s conference, the very instigators of the debate seemed to be  left at the margins. And once again, there was constant debate on who was going to “show us the money”!

This time, however, the conference was structured so that all the lavish and applause generating promises stated by the various leaders in attendance could be documented and the said leaders could be held accountable. To quote Zackie Achmat, a leading treatment activist, we want our leaders to “Tell no lies –claim no easy victories!”

The conference opened with drama, the one and only openly HIV positive person allowed to speak in the opening plenary was effectively snubbed by some of the most powerful figures present, including, most disappointingly, UN Secretary-General Kofi Annan himself, all of whom walked out of the plenary before it was his turn to speak. Granted, Mr. Annan was hustled out by his security detail presumably on the instructions of the Thai President. We were soon to learn that the President allegedly despised intravenous drug users, of whom the HIV positive person was previously one, and had sanctioned the extra judicial slaughter of almost 3000 of them who were shot on sight without arrest or question!

Of great concern was the fact that policy makers appeared to be moving backwards when it came to accepting different sexual realities and practices. There was still talk of making abstinence the major focus of preventative activities funded by U.S. President George W. Bush (no surprises there!) instead of conference delegates applying their minds to new and innovative strategies of preventing transmission and infection amongst men who have sex with men in Africa, intravenous drug users in Asia and sexually active youth all over the world. In including them, they would be providing such populations with access to treatment as well.

The lesson that we learnt is that we must reclaim the position of Human Rights as the most important and all pervasive aspect of the response to HIV/AIDS. Thus it should be the focal point, beginning and end of all discussions at any future World AIDS conference. By keeping a closer watch and being more involved in the decision-making around the agenda thereto we can make it happen.

ALUTA CONTINUA!!! MAY THE FORCE BE WITH YOU!!!

Maame Awuah and Christine Stegling

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BONELA welcomes a new intern

**Natalie Doyle**

I came to Botswana in September as part of a six month internship facilitated by a Canadian NGO called Human Rights Internet (HRI) and sponsored by the Canadian International Development Agency (CIDA).

I recently completed my Master’s degree in International Development Studies at Dalhousie University in Halifax, Canada and was looking to acquire practical experience. Having concentrated on human rights throughout my studies, I am very interested in BONELA’s work and am learning a great deal from my experience.
Making your right to have a family a reality

BONELA is proud to present the second poster in the poster series of its media campaign. This time, we are targeting individuals’ right to have a family. Couples, whether HIV positive or not, are entitled to found a family.

Unrightfully, some individuals systematically discourage people living with HIV/AIDS from establishing a family, claiming that they are not fit to take care of a baby or that they will automatically transmit the virus to the infant. In many cases, this is simply not true. It is proven that consulting a physician throughout pregnancy, enrolling in the Prevention of Mother to Child Transmission program (PMTCT), using ARVs if necessary, eating well and having emotional support can lead to a safe and healthy baby and childbirth. People living with HIV/AIDS should know that there are many options available to them and that, regardless of what people say, it should be up to them to decide whether or not to have a child.

BONELA interviewed a woman living with HIV/AIDS who has had three healthy children. She said her pregnancies were not planned but that she welcomed the babies and is very happy with the outcome. She said that, in general, most people do not know your status but that those who do sometimes “give you that look: Why did she go and get pregnant when she’s HIV positive?” She found that even people who were supposedly well informed on HIV/AIDS asked her that very question. Our interviewee said that she enrolled in the PMTCT program. What is certain is that couples who are living with HIV and decide to have a child should not be discriminated against.

Discrimination against people living with HIV/AIDS is pervasive at various levels; at the family level, in the workplace and in society. People who chose or who happen to have children while HIV positive are sometimes overtly or implicitly discriminated against. Discrimination can be as simple as receiving disapproving looks that make you feel uncomfortable and as severe as losing your job. In any case, discrimination is painful and it is high time that it stop.

In light of Botswana’s National Policy on HIV/AIDS, which notes that “cognisance is taken of the public health rationale for respecting the human rights, privacy and self-determination of persons living with HIV/AIDS,”1 people living with HIV/AIDS should be free from discrimination and have their status and medical files remain confidential. Individuals’ right to self-determination should also allow them, and only them, to make the decision to have or not have a child, regardless of their HIV status. Unfortunately, as BONELA often points out, Botswana lacks formal legislation around the topic of HIV/AIDS, which would make the aforementioned policy a legal document rather than a mere guideline.

At the international level, human rights documents classify the right to have a family as one of the fundamental rights. With regards to the right to have a family, Article 16 of the Universal Declaration of Human Rights (UDHR) notes that “[m]en and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family” and “the family is the natural and fundamental group unit of society and is entitled to protection by society and the state”. People living with HIV/AIDS or affected by the virus are also entitled to this fundamental right. Likewise, couples or individuals who choose not to have a family, regardless of their HIV status, are also entitled to do so.

In line with this year’s AIDS Commemoration Celebrations, which will be around the theme of “Women, Girls, and HIV”, it is also important to underline that, more specifically, women are entitled to choose to become pregnant or not and to protect themselves from contracting HIV. However, in reality, because of cultural, social and marital expectations, it can sometimes prove difficult or unacceptable for a woman to make her husband use a condom. Nonetheless, his “conjugal rights” should not overrule her right to be free of HIV infection and pregnancy. The decision to become pregnant should be reached through open and free negotiation.

This is why education around family planning, HIV, one’s basic rights and women’s rights is so crucial to fighting the epidemic in Botswana. Stigma, discrimination and misunderstanding around the topic of HIV/AIDS deter people from testing and seeking care, even when it comes to pregnancies. Still aiming to reduce discrimination and promote fundamental rights, the next poster of BONELA’s media campaign will address the right to work.

Natalie Doyle

Botswana at the forefront: PMTCT

Access to the Prevention of Mother to Child Transmission (PMTCT) program can allow couples to found families in the safest possible conditions. Botswana was the first country to put this program into practice. In April 1999, Botswana implemented a pilot project in Gaborone and Francistown to verify the effectiveness of administering AZT to prevent mother to child transmission of HIV. Since the pilot project was successful, at the beginning of 2002, the ARV and PMTCT programs were made available, free of charge, for all nationals (and non-nationals married to a Motswana) who require them.1

An HIV positive woman who has had three children explained to BONELA how the PMTCT program effectively worked for her. She said that she was closely followed by a physician throughout the pregnancy and after childbirth. She underlined that as soon as you know you’re HIV positive, and especially when you find out you are pregnant, you should start using condoms with your partner to avoid reinfection. Involving your husband or boyfriend into the PMTCT program is a key factor since he can provide good support and help prevent reinfection. Our interviewee said that after 8 months, if you are not on ARVs you get put on them. During labour and delivery, doctors administer a tablet of Neverapane or Zidovudine to HIV positive women, as the case may be. She said that when the baby is born he or she is given AZT and free formula is provided for the first 6 months and for 12 months if a couple’s financial situation requires it.

Women should also know that although PMTCT is recommended, in certain circumstances enrolling into the PMTCT program may not be the best option for an HIV positive woman and that, in any case, it should be up to her to decide whether or not to enroll in the program. For instance, some women may have adverse reactions to the treatment which would undermine their health and potentially, that of their child. One of the thought provoking steps recommended in the PMTCT program is formula feeding instead of breastfeeding. Some women may not want to give up breastfeeding and may fear that people will know she is HIV positive if she formula feeds. These are some of the factors to consider before enrolling into the PMTCT program. However, the decision not to have PMTCT should be made after consultation with a medical practitioner and couples should be responsible for the health of their child.

As in most areas of the fight against HIV/AIDS, the PMTCT program is widely publicized through billboards and preventative campaigns. Nonetheless, the message does not always reach all couples. In the Botswana PMTCT program, researchers Mazhani et al (2000) found that the uptake of VCT by pregnant women was under 50%; one key factor was the low involvement of men and the fear of reprisals if found to be HIV positive.2 The lack of community ownership of the PMTCT program, the limited engagement and involvement of men and the stigma surrounding HIV/AIDS are some of the barriers to increasing enrolment in the PMTCT program.

Natalie Doyle

2 Quoted in Helen Jackson’s AIDS Africa: Continent in Crisis, p.148.

Using a gender-based as well as a rights-based approach in the fight against HIV/AIDS and STDs is essential.

Gender-based approach:
“..."A gender-based response to HIV/AIDS and STDs focuses on how different social expectations, roles, status and economic power of men and women affect and are affected by the epidemic. It analyses gender stereotypes and explores ways to reduce inequalities between men and women so that a supportive environment can be created, enabling both to undertake prevention and cope better with the epidemic."1" 

Rights-based approach:
A human rights based approach is a framework for the pursuit of human development that is based on and directed to the development of capacities to realize human rights.2 In the context of the fight against HIV/AIDS, using a rights-based approach means that prevention, counselling, testing, treatment and therapy should be done in a way that protects and promotes people’s inherent human rights. These rights include the right to privacy, the right to self-determination, the right to have a family, the right to equality and the right to be free from discrimination, among others.

ON THE INTERNATIONAL FRONT

Kenya’s all-inclusive draft bill on HIV

In late September, members of the Kenya HIV and AIDS Workplace Policy Task Force visited BONELA to learn about policy and legislative frameworks. The visit was also a useful opportunity to learn more about Kenya’s all-inclusive draft bill on HIV.

In Kenya, the decision was made to draft one comprehensive “HIV and AIDS Prevention and Control Bill” instead of incorporating HIV into existing legislation. The bill, which was gazetted on 23 September 2003 and has yet to be passed, covers many areas including: HIV/AIDS Education and Information, Safe Practices and Procedures, Testing, Screening and Access to Health Care Services, Confidentiality, Transmission of HIV, Discriminatory Acts and Policies, and Research.

The bill has been greeted with some controversy. According to the delegation that visited BONELA, some HIV activists feel that the very existence of a single bill on HIV is in itself an act of discrimination as no similar bill exists for any other virus.

Although Botswana is not following Kenya’s path of developing one bill to address the many issues around HIV and human rights, two sections of this draft bill are of particular interest to Botswana as they address areas of concern on which the law is currently silent.

First, the Kenyan draft bill prohibits discrimination solely on the basis of “actual, perceived or suspected HIV status” within the sphere of employment, education and travel and residence. Denial of employment, promotion, transfer and termination on the basis of HIV status are all specifically outlawed. Similarly, educational institutions are not permitted to deny admission, expel, segregate, discipline or deny participation or benefits to any students.

Though there are countless campaigns in Botswana against stigma and discrimination, the anti-discrimination clause in the Constitution does not mention HIV or “health status.” This means that it remains difficult to argue that there is legal protection from discrimination on the basis of HIV status.

Second, the act has a clear section on testing which specifically states that “no person shall compel another to undergo an HIV test.” This general prohibition is further elaborated to explicitly preclude testing “as a precondition to, or for the continued enjoyment of (a) employment (b) marriage (c) admission into any educational institution (d) entry into or travel out of the country; or (e) provision of healthcare, insurance cover or another service.”

As articles in previous editions of the BONELA Guardian show, both pre and post employment testing have taken place in Botswana. Although policies, such as the National AIDS Policy, specifically prohibit pre-employment testing there is a complete absence of law regarding HIV testing in Botswana.

Several recent court cases have highlighted the risks and challenges of addressing this issue in a legal vacuum (see the 2nd and 3rd newsletter, “HIV Testing, Work & the Law: The BBS Cases” and “Decision Reached on Third Case”).

The fact that the draft bill does not permit testing for insurance cover is a particularly interesting and progressive inclusion. As in many parts of the world, an HIV test is usually a prerequisite to health or life insurance in Botswana. Health insurance may be restricted, denied, or subjected to a qualifying period during which time some HIV-related medical expenses will not be covered. Life insurance premiums may rise dramatically, or cover may not be offered at all. As life insurance is often used as a bond which is necessary in order to buy a house, testing as a prerequisite for insurance coverage can also negatively affect the ability of people living with HIV to own their own homes.

While the Kenyan draft bill is not necessarily the model Botswana may wish to follow it does provide interesting ideas towards strong legal protection in some key areas. When drafting legislation specific to the Botswana context it may be useful to refer to similar legislation in other countries and to learn from their experiences.

Kristi Kenyon

2 Ibid., 21.
3 Ibid., 32.
4 Ibid., 13(1).
5 Ibid., 13(2).

Call for submissions

THE BONELA GUARDIAN is looking for timely, insightful articles on any topic related to HIV/AIDS and human rights, ethics, policy development, or the law.

We welcome first-person accounts, opinion pieces, and responses to articles we have published. Alternative topics, including articles about the medical or social dimensions of living positively with HIV, will also be considered. Submission of relevant photographs or other artwork is encouraged.

For further information, or to submit your ideas, please contact Natalie Doyle or Milikani Ndaba at BONELA (tel: 393-2516)

Have your say!
Milikani Ndaba attended part of a Pan-African Treatment Access Movement (PATAM) workshop on Treatment Literacy and Advocacy hosted by the Treatment Action Campaign (TAC) in Bronkhorspruit, South Africa, 2nd-6th October 2004. Approximately 70 delegates from 40 countries in and around Africa as well as from Indonesia took part in the workshop that aimed to capacitate organizations on the above-mentioned themes. The outcome will be the dissemination of the workshop content to organizations’ constituencies in various countries.

Topics ranged from access to ARVs for adults and children to the roles of the donor community and bilateral partners, such as the Global fund and Brot fur die Welt1. The delegates even had an introduction to HIV virology and wellness. Most of the sessions were facilitated by public and private medical practitioners and workshop delegates.

Through country presentations slotted throughout the program, delegates shared information on the state of ARV roll-out and challenges their countries face. Delegates interacted more directly during voluntary evening discussions on a variety of topics. BONELA’s Program Officer Milikani Ndaba, being the only Botswana representative, held a well attended evening session on Policy, Law and Human Rights in HIV/AIDS on October 5th. During this session, participants discussed their country’s policies and laws as well as the impact these have on the respect for human rights, with particular regard to discrimination, confidentiality and Lesbian, Gay, Bisexual and Transgendered (LGBT) people. In addition, Milikani was interviewed by Swayinqoba Beat It2 on the state of the epidemic in Botswana.

On the third day, 6th October, TAC treated delegates to a one day study tour of the Chris Hani Baragwanath hospital in Soweto and Johannesburg’s Apartheid museum, followed by an excursion to Johannesburg’s city center. Unfortunately, Milikani could not stay for the rest of the workshop as she had to return to attend BONELA’s training manual retreat in Kanye, 7th-8th October.

Milikani Ndaba

1 Bread for the World is a campaign of church –related development aid cooperation under the auspices of the Evangelical Regional and free churches in Germany. For more information please visit: www.brot-fuer-die-welt.de.

2 A TV magazine programme for people infected with and affected by HIV/AIDS broadcast every Thursday on SABC 1. For more information please visit: www.beatit.co.za.
From the directors desk

There is no doubt that BONELA has been busy over the past few months. Many of you will have received another poster on ‘the right to have a family’ which was, once again, produced with the help of volunteers. The theme has many dimensions worth discussing and we hope that many of you take this opportunity to think through issues of family planning and HIV.

The past few months have also been characterized by many heated debates about the up-coming elections and whether and how political parties should be involved in issues concerning HIV and AIDS. As an organization, we would have appreciated a lot more debate around HIV and AIDS from all political parties in order for voters to make informed choices about the party with the best way to undertake the enormous task of preventing new HIV infections and caring for those already infected.

Some of the most recent developments at BONELA have included the arrival of the Global Fund funds not only in Botswana but finally also in some of the implementing organizations. BONELA will benefit mainly through the strengthening of our training program which, we hope, will be formalized and fully operational by the beginning of 2005. We have also been able to secure some funding on behalf of the National AIDS Council Sector on Ethics, Law and Human Rights for the long awaited legislative review on HIV/AIDS. We are extremely excited about this review and will keep you posted on future developments.

Let me also take this opportunity to wish the coordinator of the National AIDS Coordinating Agency, Dr. Banu Khan all the best for her retirement from the agency. Dr. Khan will be leaving NACA by the end of October after four years of heading the agency. On behalf of the board and staff of BONELA I would like to thank Dr. Khan for all her efforts to include civil society in the national response and for all her support to BONELA and the National AIDS Council Sector on Ethics, Law and Human Rights. We wish her good luck.

Finally, I would like to welcome a few new members on the BONELA team. We have currently two students from the University of Botswana working in their free time on BONELA projects. Uyapo Ndadi, a Law student, is assisting us with the growing number of complainants coming into the BONELA office, reporting cases of discrimination, unfair termination of employment and breaches of confidentiality. Nthabiseng Nkwe, a social work student, recently did her internship at BONELA and has decided to continue to work with us, mainly on the training manual. Natalie Doyle, a Canadian intern, joined us in September. She has come through Human Rights Internet and is focusing her energies on the BONELA media campaign, including the production of this newsletter. We are grateful to all of them and appreciate all their time, effort and energy spent at BONELA.

As always, we would like to invite you to let us know of any ideas or initiatives you would like for BONELA to take up. We are always open to suggestions.

Yours, Christine Stegling

BONELA round up

- A legal case involving a client working at a fast food chain was concluded in favor of our client.
- BONELA conducted training for the staff of Baylor Clinical Center of Excellence for Pediatric HIV in Gaborone and Francistown.
- Christine Stegling presented at a CAB workshop to build capacity for the participants of the vaccine trials.
- Milikani Ndaba and Natalie Doyle attended President’s Emergency Plan for AIDS Relief (PEPFAR) meetings for the allocation of funds to Botswana by the US Government.
- Milikani Ndaba led a training workshop for the Botswana Marketing Board’s peer educators at the Institute of Development Management on the 22nd of September.
- BONELA participated in a team building activity in September.
- Natalie Doyle attended AIDS Day Commemorations meetings and is involved in the organization of this event. This year, the 1st of December AIDS Day celebrations will be held in Ghanzi and the theme is Women, Girls and HIV/AIDS.
- Ongoing work has continued with the ministry of labor and home affairs to create a national policy on HIV/AIDS to inform National Legislation.
- BONELA published its information pamphlet in Setswana.
- BONELA is seeking a consultancy team to help develop our training manual, the job posting appeared in various Gaborone newspapers.