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TREATMENT ACTION CAMPAIGN

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Vuyiseka Dubula-Majola
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Nathan Geffen
(Treasurer)

Mark Heywood
(Non Managing Member)

From: The Treatment Action Campiagn, the Wits Justice Project, the Centre for Applied Legal Studies

To: Mr Clifford Mkhatsane
LA Commissioner, Pollsmoor Prison

To: Department of Correctional Services

28 August 2012

MEMORANDUM:

STOP TB: RESPECT NATIONAL AND INTERNATIONAL STANDARDS OF INCARCERATION AND BASIC HUMAN RIGHTS OF PRISONERS

Today, 28 August 2012, the Constitutional Court will hear argument in the matter between Dudley Lee and the Minister of Correctional Services. The Treatment Action Campaign (TAC) and partners are simultaneously picketing outside the Constitutional Court in Johannesburg and Pollsmoor prison in Cape Town.

TAC, the Wits Justice Project and Centre for Applied Legal Studies, represented by SECTION27, are participating in this case as Amici Curiae.

Dudley Lee spent over four years as an awaiting trial prisoner in Pollsmoor before he was acquitted and released. Dudley Lee was healthy when he entered Pollsmoor prison. In June 2003, he was diagnosed with TB. While Mr Lee was incarcerated, the Department of Correctional Services violated his constitutional rights to health and conditions of detention consistent with human dignity.

The Department of Correctional Services continues to fail to carry out its duty to reduce the risk of prisoners contracting TB. Pollsmoor is notoriously congested. It holds well over twice as many people as is legally allowed. Prisoners are crammed into cells for 23 hours a day. A study published in the South African Medical Journal found that the prison's poor conditions contribute to a 90% risk of becoming infected per year in Pollsmoor.

TB is the number one cause of death in South Africa. It disproportionately kills poor people and people living with HIV. The conditions at Pollsmoor facilitate the spread of TB. But this is a public health menace beyond prison, because prisoners return to their

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communities with TB. Only by reducing the high rates of TB in our prisons will we be able to reduce TB in our communities.

The South African National Aids Council and the Department of Health acknowledged prisoners in the National Strategic Plan (NSP) 2012-2016 as a key-population that is at a higher risk of TB infection and re-infection. The NSP 2012-2016 therefore calls for intensified TB case finding and TB infection control and explicitly states:

"Correctional and detention facilities (…) have high rates of TB and high rates of HIV. The Department of Correctional Services must ensure the provision of appropriate prevention and treatment services, including HIV, STI and TB screening, prompt treatment of all inmates and correctional services staff, ensuring a continuum of care through proper referrals"

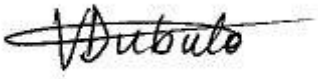
TAC and its partners demand that human rights be recognised and ensure that human dignity is not compromised. According to the study published in the SAMJ, active case finding together with implementation of international standards of incarceration could reduce the transmission risk by 94%.

The TAC therefore urges the Department of Correctional Services to implement the following urgent measures:

- Increase the amount of time prisoners spend outside their cells;
- Cell occupancy must conform to international standards in respect of light, air supply and floor space;
- Nursing staff vacancies must be filled immediately;
- All prisoners must be screened for TB when entering the prison for the first time;
- Prisoners must be screened for TB on a regular basis and active case finding must be implemented in order to detect and refer cases faster;

We are also calling on the Court to make clear that the state has a constitutional duty to protect the health and human rights of prisoners. Not implementing measures to prevent the transmission of TB is a clear violation of those rights.

We can win the fight against TB by protecting human rights!



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