

# **HUMAN RIGHTS DISCOURSES AROUND THE PROVISION OF ANTIRETROVIRAL DRUGS TO HIV POSITIVE PREGNANT WOMEN IN SOUTH AFRICA: IMPLICATIONS FOR SOCIAL WORK**

Misgina Gebregiorgis Tesfamichael

A research report submitted to the Faculty of Humanities, University of the Witwatersrand, Johannesburg in partial fulfillment of the requirements for the degree of Master of Arts in Industrial Social Work by coursework and research report.

December 2004

Submitted with the approval of the supervisor.

---

Dorothee Holscher Maseko

---

Date

### **Declaration of originality**

I hereby declare that this research report entitled “Human Rights Discourses Around the Provision of Antiretroviral Drugs to HIV Positive Pregnant Women in South Africa: Implications for Social Work” is my own unaided work, except to the extent indicated in the acknowledgements and references.

I further declare that this research report or any of its part has not been submitted for any degree at any other institution/university.

Misgina G. Tesfamichael

December 2004

Signed \_\_\_\_\_

## **Dedication**

To those who are committed to the advancement and realization of human rights and social justice.

## **Acknowledgements**

I wrote this research report under the care and close supervision of Mrs Dorothee Holscher Maseko whose expertise and insight have enabled me to complete the study. My sincere gratitude to you Dorothee for your unwavering support, critical guidance and assistance. I would further like to extend my gratitude to the staff of the Department of Social Work at Wits especially Mrs Janine Harrison for her continuous encouragement and understanding.

Special thanks are also due to all my interviewees for their willingness to share their expertise and knowledge with me. I would also like to thank the University of the Witwatersrand for providing me with accommodation when my sponsor terminated my scholarship.

## **List of abbreviations**

**AIDS** Acquired Immune Deficiency Syndrome

**ARVs** Antiretroviral drugs

**AZT** Azidothymidine

**CBOs** Community Based Organisations

**CEDAW** Convention on the Elimination of All Forms of Discrimination Against Women

**CRC** Convention on the Right of the Child

**COSATU** Confederation of South African Trade Unions

**FDI** Foreign Direct Investment

**GDP** Gross Domestic Product

**GEAR** Growth Employment and Redistribution

**HAART** Highly Active Antiretroviral Therapy

**HIV** Human Immunodeficiency Virus

**ICESCR** International Covenant for Social, Economic, and Cultural Rights

**IFSW** International Federation of Social Workers

**MCC** Medicine Control Council (South African)

**MSF** Medicines San Fronteires

**MTCT** Mother to Child Transmission

**NEDLAC** National Economic Development and Labour Council

**NGOs** Nongovernmental Organisations

**PMTCTP** Prevention of Mother to Child Transmission Programme

**SACP** South African Communist Party

**SAPs** Structural Adjustment Programmes

**STDs** Sexually Transmitted Infections

**STDs** Sexually Transmitted Diseases

**TAC** Treatment Action Campaign

**TRIPS** Trade and Related Aspects of Intellectual Property Rights

**UDHR** Universal Declaration of Human Rights

**UN** the United Nations

**UNAIDS** the Joint United Nations Programme on HIV/AIDS

**WALP** Wits AIDS Law project

**WHO** World Health Organisation

**WTO** World Trade Organisation

## ABSTRACT

The study explores pertinent issues around a comprehensive provision of antiretroviral drugs to HIV positive pregnant women in South Africa from a human rights perspective. Although these drugs have been proven to significantly reduce the transmission of HIV from a pregnant mother to her newborn baby/babies at birth, the South African government for over five years refused to roll them out in the public health sector. Reasons that were provided in this regard were multifaceted and have included claims regarding their alleged toxicity, potential side effects, huge cost, inadequate infrastructure, etc until March 2004 when it announced to start a national rollout program.

It is in light of this that the study sets out to explore some of the key positions within the government and amongst activist groups on the health rights of HIV positive pregnant women, and how these different positions have evolved in response to each other. In particular, the paper aims at examining how discourses of human rights were employed, and how they have impacted on the Social Work discipline. It further focuses on developing a Social Work perspective on the human rights of HIV positive pregnant women in South Africa, thereby contributing to the discipline's professional value base and body of knowledge, which inform, *inter alia*, its advocacy role and social action approach.

The research project was embedded in a theoretical framework often referred to as 'standpoint research'. An archival study of local and international literature and policy documents was conducted. This was complemented with a limited qualitative study. Semi-structured interviews were conducted with a purposive sample of five interviewees representing a cross-section of positions on the topic. This data was analyzed using a three step coding procedure that allowed for categorizing, connecting, and systematically relating the gathered data to each other and to the reviewed literature.

The research findings indicate that the South African government's absence of consistency and apparent lack of political will to rollout the drugs have contributed to the deterioration of the right of HIV positive pregnant women to access health care services. The role of civil society organizations in helping to realize, promote and protect the health and related human rights of this group is emphasized. It was also found that the different strategies employed to this end speak well to Social Work's value base, and some of its methods and approaches to practice. Social Work is therefore well placed to join and support those efforts of other segments of civil society that have been investigated in this paper.

The paper concludes by making recommendations towards, *inter alia*, the need for the South African government to adhere to the values enshrined in the country's Constitution; to work closely and transparently with different organs of civil society; and simultaneously implement the said ARV rollout program while building and strengthening its infrastructural capacity. The various roles Social Work could, and should, assume with regards to improving the human rights of HIV positive pregnant women in this regard are also highlighted.



## List of tables and diagrams

Table 3.1 HIV/AIDS: its historical development, modes of transmission, and factors that contribute to its high prevalence in South Africa	27
Table 4.1 United Nations bodies, declarations and covenants related to HIV/AIDS	43
Diagram 5.1 The complementary relationship between public health, human rights, Social Work and societal power relations	58

.....I do not know nearly enough about science and its methodologies or about the politics of science and scientific practice to even wish to start contributing to the debate that has been raging on the perimeters of this conference [the 13<sup>th</sup> International AIDS Conference].

The President of this country is a man of great intellect who takes scientific thinking very seriously and he leads a government that I know to be committed to those principles of science and reason. The scientific community of this country, I also know, holds dearly to the principle of freedom of scientific enquiry, unencumbered by undue political interference in and direction of science.

Now, however, the ordinary people of the continent and the world - and particularly the poor who on our continent, will again carry a disproportionate burden of this scourge - would, if anybody cared to ask their opinions, wish that the dispute about the primacy of politics or science be put on the backburner and that we proceed to address the needs and concerns of those suffering and dying. And this can only be done in partnership.

Let us not equivocate: a tragedy of unprecedented proportions is unfolding in Africa. AIDS today in Africa is claiming more lives than the sum total of all wars, famines and floods, and the ravages of such deadly diseases as malaria. In the face of the grave threat posed by HIV/AIDS, we have to rise above our differences and combine our efforts to save our people. History will judge us harshly if we fail to do so now, and right now.

*Former President Nelson Mandela's closing address at the 13<sup>th</sup> International AIDS Conference, Durban, 14<sup>th</sup> July 2000*

## TABLE OF CONTENTS

Declaration of originality	I
Dedication	III
Acknowledgements	IV
List of abbreviations	V
List of tables and diagrams	VI
Abstract	VII
<b>Chapter One: INTRODUCTION</b>	<b>1</b>
1.1 Rationale of the study	1
1.2 Aims of the study	2
1.2.1 Major aim	3
1.2.2 Sub aims	3
1.3 Underlying assumptions of the study	4
1.4 Theoretical paradigm underlying the study	4
1.5 Anticipated value of the study	6
1.6 Outline of chapters	7
<b>Chapter Two: RESEARCH DESIGN AND METHODOLOGY</b>	<b>10</b>
2.1 Data collection and sampling process	11
2.2 Research tool	13
2.3 Data analysis	14
2.4 Ethical considerations	14
2.5 Limitations of the study	15

<b>Chapter Three: HIV/AIDS: A GENERAL OVERVIEW</b>	18
3.1 HIV/AIDS: Its history and modes of transmission	18
3.2 Prevention, treatment and cure	21
3.3 HIV/AIDS in South Africa	23
<b>Chapter Four: HUMAN RIGHTS AND HIV/AIDS: HISTORICAL AND CONTEMPRARY PERSPECTIVES ON CONCEPT, INTERNATIONAL MATERIALS AND INSTITUTIONS</b>	28
4.1 A conceptual history of human rights	28
4.2 Global responses to the HIV/AIDS pandemic: A discussion of international human rights statutes and bodies	33
4.3 The promotion of socio-economic rights in relation to the protection of civil and political rights	40
<b>Chapter Five: HUMAN RIGHTS, PUBLIC HEALTH AND SOCIAL WORK: CHALLENGES TO SOCIETAL POWER RELATIONS</b>	44
5.1 The complementary relationship between human rights and public health	44
5.2 Contesting societal power relations: The role of human rights discourses	48
5.3 Social Work as a civil society organ: Its role in promoting human rights	51
<b>Chapter Six: THE DEBATE SURROUNDING A COMPREHENSIVE PROVISION OF ANTIRETROVIRAL DRUGS TO HIV POSITIVE PREGNANT WOMEN IN SOUTH AFRICA (1999-2004)</b>	59
6.1 Contesting positions in the debate	61
6.2 Arguments and processes leading to the provision of ARVs	67

<b>Chapter Seven: PRESENTATION OF RESEARCH FINDINGS</b>	77
7.1 Argumentative barriers against the provision of ARVs	78
7.2 Human rights discourses around the provision of ARVs	84
7.3 The provision of ARVs in the context of the current global market economy: Impact on inequality in South Africa	91
7.4 Processes leading to a change in position of the South African government	97
<b>Chapter Eight: Summary, Conclusion and Recommendations</b>	103
<b>REFERENCE LIST</b>	116
<b>APPENDICES</b>	
Appendix I - The Universal Declaration of Human Rights (UDHR)	
Appendix II - The Bill of Rights (Chapter Two of the South African Constitution)	
Appendix III - Consent form and information sheet for research participants	