

The Botswana Network on Ethics,
Law and HIV/ AIDS (BONELA)

ANNUAL REPORT 2004

Plot 50662
Medical Mews, Fairground Gaborone, Botswana
PO Box 402958, Gaborone, Botswana

Tel: (+267) 393 2516 Fax: (+267) 393 2517

E-mail: bonela@botsnet.bw

Website: www.bonela.botsnet.co.bw

TABLE OF CONTENTS

Introduction	1
BONELA Board 2004	2
BONELA Activities	
Training and Sensitisation	3
New Collaborations	4
Policy Development	4
On-going Support	5
National AIDS Council Sector on Ethics, Law and Human Rights	7
Resources and Training Manual on Human Rights and HIV/AIDS	9
Other Training Materials	10
Media Campaign	11
Publications	11
Legal Aid Programme	12
Meetings and Consultations	15
Conferences/ Regional and International Meetings	16
Staff/Volunteers	19
Visitors to the BONELA Secretariat	21

Introduction to the 2004 Annual Report

The following report provides insight into the activities of the Botswana Network on Ethics, Law and HIV AIDS (BONELA) during 2004. Undoubtedly, the volume of activities has greatly increased at BONELA. From our humble beginnings as a small 'one-woman' office with a committed board, we have grown. In 2004, BONELA consisted of three full-time employees, a World University of Canada development worker (two-year contract), a Human Rights Internet intern (six-month contract) and international and local volunteers. The BONELA board has remained supportive of the secretariat, providing advice, expertise and often representing BONELA at policy fora.

This report provides a brief overview of BONELA's work in our five programme areas: Capacity Building, Education and Training, Research and Advocacy, Media Campaign, and Outreach and Legal Assistance. BONELA also houses the National AIDS Council Sector on Ethics, Law and Human Rights and the Botswana Lawyers' Taskforce on HIV/AIDS. In addition, staff members represent BONELA at different fora, such as in national committees and regional initiatives like the AIDS Rights Alliance Southern Africa.

BONELA activities are aimed at fulfilling Goal 5 of the National Strategic Framework on HIV/AIDS, which stipulates that, to address HIV/AIDS effectively, the creation of an enabling legal and ethical environment is required. BONELA continues striving to place human rights at the core of all activities designed to respond to HIV and AIDS. With increased access to anti-retroviral treatment for people around the world, some seem to suggest that a human-rights approach is less important today than a few years ago. BONELA begs to differ. This development has been brought about by human rights activists who argued for the right to health. We need to keep the momentum to ensure that people will continue to enjoy this right, which includes being in an informed, comfortable position to fully consent to taking an HIV test in order to make informed, healthy life choices, such as talking to their partner and/or children about their status, starting anti-retroviral therapy, and living positively.

We would like to take this opportunity to thank our partners, the institutions that provide financial and other support, such as Hivos, the National AIDS Coordinating Agency, the Global Fund to Fight HIV/AIDS, TB and Malaria, World University Services of Canada, KPMG and the United States Embassy for all their generous financial support of BONELA's work. I would also like to thank the board members for their continued support and assistance. We are looking forward to an exciting and busy 2005 working with all our partners to make human rights a reality in Botswana.

Yours,

Christine Stegling

BONELA Board 2004

The board of BONELA continued to provide guidance and support to the activities of the BONELA secretariat. In May 2004, Bontle Keitumetse joined the board, filling in the vacant position of treasurer. Ms. Keitumetse is an accountant with the Institute for Development Management in Gaborone. The board met seven times during the year (January, March, June, July, August, September and December). In February 2004, BONELA held its Annual General Meeting at Maharaja Conference Centre where past projects and future programmes were discussed.

BONELA BOARD MEMBERS	
Chairperson	Martin Mosima
Vice-Chairperson	Dr. Tiny Masupe
Treasurer	Bontle Keitumetse
Secretary	Maame Awuah
Vice Secretary	Gloria Jacques
Additional Member	Patrick Chengeta
Additional Member	Kenole Leinatsela

BONELA ACTIVITIES

Training and Sensitisation Activities

In 2004, BONELA facilitated or participated at a number of sensitisation and capacity building workshops:

- HIV/AIDS Sensitisation Seminar for District Council Staff and Employees, Mochudi District Commissioner's Office
- HIV/AIDS Peer Educators, Ngwato Land Board, Palapye
- HIV/AIDS Focal Persons, Ministry of Lands and Housing
- Strategic Management of HIV/AIDS in the Workplace, Food Safe International
- Steps Facilitator's Training Workshop, Steps for the Future
- Capacity Building for Support Groups, Botswana Network of People Living with HIV/AIDS (BONEPWA), Palapye
- AIDS Policy Development Workshop, Gaborone City Council
- HIV/AIDS for Educational Managers, Institute for Development Management
- Peer Educator's Training Programme, Ministry of Trade and Industry, Mogoditshane
- Capacity Building for Support Groups, BONEPWA, Kanye
- Workshop on Strategic Planning and Operationalising the National Strategic Framework on HIV/AIDS 2003/2009, Department of Civil Aviation
- Steps for the Future Facilitator's Training Workshop, Lifeline
- AIDS in the Workplace Workshop, Botswana Family Welfare Association (BOFWA), Mochudi
- Gender, HIV/AIDS and Human Rights Workshop, Botswana Network of AIDS Service Organisations (BONASO).
- HIV/AIDS Committee Workshop, Kgatleng Council, Mochudi
- Leadership HIV/AIDS Workshop for Junior Officers, Botswana Defense Force, Thebephatwa
- Sensitisation workshop at Sugar Industries, Lobatse
- Meeting with US Law Students, American Embassy
- Botswana AIDS Impact Survey II Workshop for the Community Advisory Committee
- Sensitisation Workshop for the Department of Civil Aviation
- Panel on the Prospects and Challenges of the 2004 Botswana General Elections, Cape Town Democracy Centre, Gaborone
- Launch of ILO/USDOL Workplace HIV/AIDS Education Project
- Southern Africa Trade Union Council Meeting, Gaborone
- Meeting of World University Services Canada (WUSC) Development Workers

- HIV Vaccine Think Tank, 'HIV Vaccines for Developing Countries: Initiating Vaccine Trials in Africa,' Harvard AIDS Institute, Gaborone

In addition, BONELA took part in HIV/AIDS fairs in the Kgatleng District and in Mahalapye. BONELA also held a workshop at the latter for about 15 participants representing at least five organisations present at the fair.

BONELA also addressed employees in their workplace setting through attending staff briefing sessions at the following organisations:

- The Gaborone Museum;
- The Land Tribunal, Gaborone; and
- The Industrial Court.

New collaborations

The BONELA secretariat expanded its outreach through collaboration with the media by taking part in discussion panels of experts on the following programmes:

- Talk Back, an interactive live television programme aimed at building capacity among teachers to deal with HIV and AIDS in the school setting. This initiative is supported by Botswana Television and Ministry of Education through the Department of Teacher Training and Development. BONELA formed part of a July discussion panel on Programme 18: Planning for Eventualities.
- Seboza Talk, a live radio programme aimed disseminating sexual reproductive health information to young people. BONELA provided expertise on the topic of HIV testing.
- Makgabaneng, a behavioral change radio drama supported by the Botswana United States Partnership. Members of the secretariat sit on the Technical Advisory Committee which seeks to guide the storyline's creative direction.

Policy Development

BONELA was invited to inform policy development for:

- UNFPA and Ministry of Health, Occupational Health Unit, Community Health Service Division at their national workshop on Male Involvement in Sexual Reproductive Health and HIV/AIDS
- Ministry of Works and Transport reference group for the development of its HIV/AIDS policy
- Tebelopele, Review of Voluntary Counseling Testing Policies and Procedures Manual.

Representing BONELA, the Human Rights Research Officer sat as a member of the Drafting Team of the United Nations Development Program's (UNDP) Project Support Document (PSD) on Governance. The document sought to address a variety of issues under this heading including access to justice, legal system reform and public education with HIV/AIDS as a cross-cutting issue. BONELA was responsible for the inclusion of a number of key issues in the draft, but the document had not been finalised by the end of 2004 due to delays on the part of the government. PSDs are jointly funded by UNDP and the Government of Botswana.

BONELA took part in the non-governmental complimentary report on the Convention on the Rights of the Child. BONELA submitted a number of comments that were incorporated into the final document, which was submitted to the UN and the Government of Botswana.

On-going Support

In 2004, BONELA continued to provide support to the following:

- The Gaborone District Multi-Sectoral AIDS Committee (DMSAC) by attending meetings and sitting on its Technical Advisory Committee (TAC). BONELA was also actively involved in this DMSAC's Protocol Sub-Committee for World AIDS Day celebrations held in December.
- The Community Education Board (CEB) for the Tshepo Study, a Botswana Harvard Partnership (BHP) study into Anti-Retroviral

Combination Treatment in Adults. The CEB aims at raising awareness around the study and its findings.

- The AIDS Rights Alliance for Southern Africa (ARASA), a regional network of organisations. BONELA is the network's focal point for Botswana and sits on the ARASA Advisory Board.
- The Botswana Lawyers Taskforce on HIV/AIDS, an informal network of private and public practicing lawyers that aims at increasing the involvement of the legal fraternity in the fight against HIV and AIDS. During 2004, BONELA undertook preliminary background research in support of the work of the Lawyers' Taskforce (i.e., international law and practice on access to HIV prevention materials in prison). During the year the Taskforce met five times.
- BONELA takes a very active role in the Project Advisory Board at the Ministry of Labour and Home Affairs that provides the reference group for the development of a national policy on employment and HIV, which will ultimately inform national legislation. BONELA had offered its own draft bill on HIV/AIDS and Employment, but it was decided that the government required wider consultations with national stakeholders. In 2004, the National AIDS Council advised the Ministry of Labour and Home Affairs to produce a policy and legislation to be discussed by the Council in its March 2005 meeting.
- BONELA has been an active member of the Country Coordinating Mechanism (CCM) that coordinates the implementation of the country grant of the Global Fund to Fight HIV/AIDS, TB and Malaria and assists with new applications to the fund.
- The director of BONELA sat on the reference group for the Botswana AIDS Impact Survey II (BAIS II), which is the first HIV general population survey undertaken by the National AIDS Coordinating Agency in collaboration with the Central Statistics Office. The survey included a biomarker providing data on national HIV prevalence based on the general population rather than on a sentinel survey. On the insistence of BONELA, the reference group established a Community Advisory Committee, on which Dr. Tiny Masupe, Vice-Chairperson of BONELA, represented BONELA. Dr. Masupe's participation ensured that a rights-conscious and confidential approach was maintained throughout.
- The BONELA director continued to serve as the secretary on the Community Advisory Board for the HIV Vaccine Trials which she has done since its inception. The board was established in 2001 to help the

research team address concerns that the general community may have about HIV vaccine research. In addition to attending monthly board meetings, BONEA participated in World HIV Vaccine Awareness Day in May and in a CAB workshop in September 2004.

- BONEA participated in the Behavior Change Intervention Committee at the National AIDS Coordinating Agency.

National AIDS Council Sector on Ethics, Law and Human Rights

In 2004, BONEA continued to house the National AIDS Council Sector on Ethics, Law and Human Rights. The sector held five regular meetings at the BONEA offices during the year, in addition to a stakeholders' conference which took place on 26 February.

The sector was established in 2002 and has since been housed by BONEA. It is the only multi-sectoral sector at the Council that is being housed by a civil society organisation. The sector is chaired by the Executive Secretary of the Law Society of Botswana while the vice-chairperson comes from the Industrial Court and the director of BONEA is the secretary to the sector.

Other members come from the Botswana Network of People Living with HIV/AIDS, the Attorney General Chambers, Ditshwanelo—The Botswana Centre for Human Rights, the Health Research Unit of the Ministry of Health, Botswana Federation of Trade Unions, the Law Reform Committee of the National Assembly and the Law Department at the University of Botswana.

Sector Vision:

In line with the national vision of no new HIV infections by 2009 and the goal to provide a strengthened legal and ethical environment, there is a national commitment to increase the number of policies on ethical, legal and human rights issues to create an enabling environment to support the implementation of the National Strategic Framework (NSF). According to the NSF, Botswana's ethical, legal and human rights environment should conform to international standards. In fact, it is intended that Botswana's legal and ethical practice should be amongst the best globally.

The sector's mission is to facilitate the promotion and protection of human rights enshrined in the constitution of Botswana and international human rights instruments in the prevention, management and control of HIV/AIDS by all stakeholders. The sector ensures adherence to ethical standards and develops a culture of human rights through advice, education and advocacy for legislative and regulatory reforms.

In 2003, the sector had developed a strategic plan to contextualise the vision and mission of the sector into an operational plan. In February 2004 stakeholders were invited to share the plan and to appreciate a preliminary legislative review that had been undertaken by Professor Warren Allmand. Reviewing national law, Professor Allmand commented that the Constitution of Botswana did not include health status, disability or 'other status' in its anti-discrimination provisions. While reflecting favourably on the many rights-protective policies in the country, he noted that "these are not legally binding and will not protect victims of discrimination in court." Professor Allmand also emphasized the need for expansion or specialisation of the Ombudsman's role or the foundation of a national Human Rights Commission to ensure that people had easy and affordable access to a remedy if they felt that their rights had been violated.

Even before Prof Allmand's visit, BONEA had included a legislative review in its part of the Botswana country application to the Global Fund to Fight HIV/AIDS, TB and Malaria. While awaiting receipt of the funds, BONEA and the sector started preparatory activities in order to undertake the legislative review in 2005. In late 2004, the sector advertised a tender for the legislative review to be undertaken by a multi-sectoral team. A reference group, including the Deputy Attorney General and a representative of NACA, was formed to review applications that were made to the tender. The team considered five proposals and two teams were identified for interviews that were held in December at the Attorney General's Chambers. The tender was awarded to Molatlhegi and Associates. The consultancy team is expected to report on the following:

- the desirability or otherwise of HIV/AIDS-specific legislation;
- the legislative reforms required to be initiated;
- appropriate institutional machinery for the implementation of the proposed legislation;
- drafting instructions to give effect to any conclusions or recommendations that may be necessary.

The review was to commence in February 2005 and last for six months.

In support of sector activities and in her capacity as the secretary to the sector, the director of BONELA attended the quarterly National AIDS Council meetings that are chaired by His Excellency President Festus Mogae.

Development of the Resource and Training Manual on Human Rights and HIV/AIDS

The impetus for the manual came from the realisation that no training materials existed on human rights and HIV in Botswana. BONELA staff felt that it would be useful to formalise the training already offered by BONELA. In addition, the training manual is intended to be used as a tool to train trainers thereby developing a network of resource people throughout Botswana.

Through its creation, we aimed to make the manual as comprehensive as possible considering that if trainers had only this one resource they would be able to cover a considerable amount of ground and be able, through the resource pages included at the end of each module, to locate additional information and organisations to help answer outstanding questions.

The concept behind the manual relates to making available a personalised training package can be developed for a targeted audience by choosing a combination of relevant models. In doing so, it uses a building block approach to tailor each workshop to the needs and interests of each group.

The manual contains modules on:

- Understanding HIV
- Human Rights
- Human Rights and HIV
- HIV and the Law
- Confidentiality
- Testing
- Right to Health
- HIV in the Workplace
- Youth, Children, HIV/AIDS and Human Rights
- Men, HIV/AIDS and Human Rights
- Women, HIV/AIDS and Human Rights
- Sexuality and Sexual Orientation
- Research and HIV

- Wills and Inheritance

The training manual has come a long way since its conceptualisation several years ago. Over the past year, the writing team (Kristi Kenyon, Elizabeth Maxwell, Milikani Ndaba, Nthabiseng Nkwe, Natalie Doyle) has held consultative meetings with non-governmental organisations (NGOs), doctors, lawyers, activists, academics and other stakeholders, and has conducted library and internet-based research. Two training manual retreats (October and December 2004) have taken place for all BONELA staff to give feedback on the structure and content of the manual.

In December 2004, the consultancy team of John McAllister, Kabo Ditlhakeng and Tony Okuku was hired in order to put the text into an adult education format including activities, editing, Setswana translation of key components, illustrations and professional layout. We would like to thank Hivos, NACA, the Global Fund and WUSC for their support of this project.

Other Development of Training Materials

In consultation and in cooperation with the Botswana Baylor Centre of Excellence on Pediatric HIV, BONELA developed a training workshop on the Ethical, Legal and Human Rights Dimensions of Pediatric HIV Care. The training workshop was developed to form part of the pediatric KITSO training and is planned to be rolled out nationwide. During the year a consultative meeting was held with Baylor staff, a pilot was carried out at their facility in Gaborone.

BONELA sat on the organising committee for BONASO's conference on Gender, Human Rights, Development and HIV/AIDS held in June 2004. In addition to helping to develop the program, BONELA developed new material for a workshop on Gender, Human Rights and HIV/AIDS. This material served as a precursor and an opportunity to pilot some of the training manual material. The workshop was developed and presented by the Human Rights Education Officer and Nthabiseng Nkwe, a Social Work student from the University of Botswana undertaking a placement at BONELA.

In addition to developing our own training manual and materials, BONELA was also involved in assisting the Botswana Business Council on AIDS (BBCA) with a training package of their own. We contributed a chapter on legal issues at the workplace relating to HIV/AIDS as well as materials to be used in poster format.

BONELA Media Campaign

In 2004, BONELA published two posters as part of the BONELA media campaign. The two posters are part of a series highlighting human rights that are particularly relevant to people infected or affected by HIV.

The first poster addressed equality and non-discrimination with the slogan “Making your right to equality a reality.” It depicts a cross-section of society, including a doctor, a lawyer, children, a farmer, a construction worker, a student, an office worker and others grouped together and wearing red HIV ribbons. The poster cites Article 28 of the African Charter of Human and Peoples’ Rights, which reads, *“Every individual shall have the duty to respect and consider his [or her] fellow beings without discrimination, and maintain relations aimed at promoting, safeguarding, and reinforcing mutual respect and tolerance.”*

The second poster highlights the right to have a family, emphasising that couples, whether HIV positive or not, are entitled to found a family. The poster cites the Universal Declaration of Human Rights, Article 16, “Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and found a family.” The poster shows a pregnant woman and her partner.

Both posters were produced with the support of volunteers. Some people volunteered their time and posed as models and others lent clothing and other attire for the photo shoots. Thanks are also due to former Human Rights Internet intern Koreen Reece, who generously donated her time and skills as a photographer even after she finished her placement at BONELA.

Publications

In 2004, BONELA published a booklet under the title, ‘Challenging HIV-related Discrimination: Protection for Employees in the Workplace’. The publication includes an analysis and summary of two Botswana Building Society cases (Industrial Court case no. 35/2003 and no. 50/2003) relating to HIV testing in the context of employment as well as a policy framework on HIV/AIDS and employment. The policy framework is the result of a

cooperative drafting process involving representatives from civil society, government, unions and the private sector. The booklet builds on BONELA's earlier work in the sphere of employment and HIV, which includes the publication of 'HIV/AIDS and the World of Work' prepared by Monica Tabengwa in May 2003. 'Challenging HIV-related Discrimination' enjoyed such successful distribution that BONELA ran a second reprint of 1000 copies later in the year. BONELA would like to thank Elizabeth Maxwell for her kind assistance with this publication.

In 2004, BONELA published its information leaflet in Setswana in order to be more accessible to the general public.

Early in the year, BONELA assisted with the production of the BONEPWA Report on the 2nd National Conference for People Living with HIV/AIDS. Milikani Ndaba and Koreen Reece of BONELA spent much time and energy assisting with the conference, which took place in December 2003 in Francistown. According to the official evaluation of the conference, participants highly valued BONELA's contribution. Analysis of the evaluative questionnaires completed by over 150 delegates indicates that BONELA's Human Rights Session was considered the most valuable part of the conference. A strong desire to see human rights education in future conferences for people living with HIV/AIDS was also evident.

Publications by BONELA staff in 2004 included the following by Director Christine Stegling:

1. HIV/AIDS and Home Based Care in Botswana: Panacea or Perfidy?, chapter in *Social Work Approaches in Health and Mental Health From Around the Globe* (Binghampton, New York: The Haworth Social Work Practice Press), co-authored with G. Jacques.
2. HIV/AIDS and Home Based Care in Botswana: Panacea or Perfidy?, in *Social Work in Mental Health*, Vol. 2, No. 2/3, (Binghampton, New York: The Haworth Press), co-authored with G. Jacques.
3. Botswana's HIV/AIDS Programme: A model for SADC?, in *Development Update –From Disaster to Development- HIV and AIDS in Southern Africa*, Vol. 5, No. 3 (Johannesburg, South Africa).

Legal Aid Programme

While the legal aid department assisted several clients, two cases were successfully resolved in 2004.

BONELA Applicant v. K.F.C (Pty) Ltd

The applicant was employed as a cook by K.F.C (Pty) Ltd from 1991 to 9 April 2003 when she was unfairly dismissed. The applicant apparently habitually had flu and headaches. This then prompted her supervisor to constantly and continually demand the causes of her illness. As a result, the applicant ended up complying with these demands and disclosed her status to the supervisor in a personal capacity. It was after this disclosure that the relationship between the parties started to sour. Management was unduly and unlawfully informed by the supervisor of the applicant's HIV status. The management's immediate reaction was to verify her HIV status through testing at Tebelopele. She refused to obey the instruction as it was unlawful. The management, on the basis of her health status, decided to demote her to the position of a casual employee. She refused to accept the demotion offer and was subsequently dismissed from her job after also being subjected to verbally abusive words.

The dispute was finally resolved by the Commissioner of Labour who recommended compensation equivalent to four months' salary and payment of other contractual obligations (e.g., leave pay and severance benefits). The company accepted the Commissioner's findings and recommendations, and paid the entire settlement amount.

BONELA Applicant v. Northern Air Maintenance

On the 22 November 2004, the Industrial Court delivered a judgment regarding a dispute that directly involved HIV/AIDS in the workplace.

The employee had been employed by Northern Air Maintenance (Pty) Ltd since 1998. Between the period 1999 and 2004, his health deteriorated badly to the extent that he obtained unpaid leave on several occasions after exhausting all his entitlements to annual leave and paid sick leave. In actual fact, the court observed that he was persistently and intermittently on sick leave and therefore absent from duty for nearly 191 days.

In the light of this poor attendance, the employee was called for a meeting by management to discuss his situation on 28 January 2004. At the meeting, the employer suggested that he consult a private medical doctor, apparently to assess his fitness, or lack of, to work. The employee, however, refused to accept the suggestion and instead preferred Maun General Hospital, whom he argued were best suited to attend to his illness as they were familiar with his medical background. Wanting to obtain the medical status of the employee, the Northern Air Maintenance's

representative would have preferred for the employee to consult a private doctor who would have then shared the employee's medical status with management.

The day following the meeting, the employee disclosed to the employer his HIV-positive status. He testified that he did not disclose his status earlier because he was afraid that if he did so he would be prejudiced. He lamented that the company's administrator would at times ridicule this particular employee, saying that he may be HIV positive. This was well before he knew of his status.

On the 30 January 2004, the employee was dismissed allegedly on the basis of his "continual poor attendance over the last three years." The employee then challenged his dismissal alleging that he was unfairly dismissed on the grounds of his HIV-positive status.

Justice Dr. O.B.K Dingake presided over the dispute and noted that the employer had demonstrated the highest level of compassion and care, as the company had cooperated throughout the three years to ensure that the employee receive the medical attention he required. The Court ruled that his dismissal was substantially unfair as it was "not clear" what triggered the dismissal after tolerating absenteeism for about three years. The employee was not warned at the meeting of the 28 January 2004 that his job was in jeopardy. Furthermore, the Court noted that it was not shown, let alone suggested, that the employee was incapacitated to perform his job.

Justice Dingake highlighted that even in the case of progressive incapacitation, the employee cannot be dismissed without first being given a fair enquiry. At this enquiry, the following should be considered amongst other circumstances: the nature of the incapacity; the cause of incapacity; the likelihood of recovery; improvement or recurrence; the period of absence; its effect on the employer's operations; and the employee's length of service. The Court underscored that to exclude an HIV/AIDS positive employee from employment through dismissal solely because he is HIV-positive and without having established that he is incapacitated, lacks a rational foundation and is unfair. Moreover, the Court reasoned that the Constitution, Section 7 (1) thereof, which prohibits inhuman and degrading treatment, was violated in that the employee's right to dignity was infringed.

The Court also held that the employee's dismissal was procedurally unfair in that he was not given an opportunity to make arguments concerning his fate. It was also noted that the employer ought to have fully explained to

the employee why what had been accepted for the past three years could no longer be accepted. The employer should have held a proper discussion with him as to whether and to what extent his post should be adapted. The employer was ordered to pay compensation equivalent to his salary for six months.

According to Attorney Monica Tabengwa, who represented the employee on behalf of BONELA, this is a sound and palatable landmark judgment which should inspire persons in similar circumstances to fight for the observance of their rights.

“The sad and cold reality is that similar cases of discrimination go on undetected and/or unreported. I urge Batswana to come out of their closets and advocate for their rights at all costs. It is long overdue that legislators should enact substantive laws regulating discrimination in the workplace”, she concludes.

In the final analysis, this case and three other previously decided cases involving HIV/AIDS at the workplace, demonstrate amply that it is incompetent and unlawful to dismiss an employee solely on the grounds that such an employee is HIV positive.

Meetings and Consultations

- Consultation with Dr. Mazonde, Director of Medical Services, Ministry of Health, about the public ARV programme in January 2004
- Meeting with Maungo Mooki, Managing Editor of Makgabaneng radio drama about possible involvement of BONELA in Makgabaneng to include human rights and legal issues infused in the programme
- Meeting with Mark Mallock-Brown at COCEPWA and later reception at the UNDP Resident Representative residence
- Ministry of Health, 3 by 5 Meeting, 2 April
- Botswana Business Coalition on AIDS, Breakfast Dialogue, 27 April
- Botswana HIV/AIDS Partnership Forum, 27 April
- IDM Workshop on the Family Care Model–Orientation Session, 12 May
- Botswana Business Coalition Meeting to develop a Workplace Toolkit, 17 and 18 May
- BONASO Small Grants Programme Evaluation and Dissemination Workshop, 25 May
- CSO Labour Survey, 18 August

- Mr. B. Palai, Permanent Secretary, Ministry of Labour and Home Affairs, to discuss BONELA's draft bill on HIV and Employment
- World University Service of Canada meeting, 23 September
- Participation at the Seminar on Emerging Protection of Human Rights of Women in Botswana, National Bar Association (America), The Law Society of Botswana, November
- Ministry of Health, HIV Vaccine Plan Meeting, 13 and 14 December
- Participation in the Evaluation of UNDP Regional HIV/AIDS Programme

Conferences / Regional and International Meetings

PATAM Meeting, Harare, Zimbabwe, 2 to 5 March

HIV/AIDS activists from countries in Southern Africa, including six delegates from Botswana, met in Harare (Zimbabwe) for the Pan-African Treatment Movement conference on HIV/AIDS and Governance. The conference under the theme 'Scaling up Access to Antiretroviral Treatment' opened with a moving speech by Bishop Trevor Manhanga. Over three days, participants discussed challenges and opportunities for assessing treatment in the SADC region; seeking a consensus on possible regional actions to reduce drug prices; and investigating ways to build a people's health campaign. Christine Segling and Milikani Ndaba of the BONELA secretariat were joined by board members Maame Awuah and Dr. Tiny Masupe along with BONEPWA's Ruth Baloyi and Dr. Ndwapi of Princess Marina Hospital.

Certificate Course on Ethical Issues in International Health Research, Harvard School of Public Health, Boston, MA, USA, June 2004

The director was sponsored to attend this medical ethics course at Harvard University in the United States. The course discussed a number of issues that are of great importance in the Botswana context, including medical consent, confidentiality and the principle of autonomy. After some internal discussion, BONELA felt that such a course would benefit a number of stakeholders in Botswana, discussing ethical concepts in the socio-cultural context of our own society. We therefore invited the course convener, Professor Richard Cash of Harvard University, to run a similar course in Botswana. Professor Cash has agreed to our suggestion and with the financial support of Hivos, BONELA will run a course in Botswana in early 2006.

XV International AIDS Conference, Bangkok, Thailand, July 2004

Board member Maame Awuah and BONELA director Christine Segling traveled to Thailand to participate at the XV International AIDS

Conference and presented two posters. Christine Stegling presented a poster on a civil society initiative to create and implement HIV employment legislation while Maame Awuah presented a poster 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. The two BONELA delegates, and most other human rights activists at the conference, were surprised at the obvious absence of human rights related topics on the programme. Most legal, ethical and human rights presentations had been relegated to be poster presentations. At the previous World AIDS Conference in Barcelona in 2002, human rights activists had pushed for the debate around access to treatment to be made the focal point of the Bangkok conference. Many human rights activists strongly advocated for access to treatment to be considered a human right. However, during the Bangkok conference, the very instigators of the debate seemed to be left at the margins.

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 the US government instead of conference delegates applying their minds to new and innovative strategies of preventing transmission amongst men who have sex with men in Africa, intravenous drug users in Asia, and sexually active youth around the world.

The lesson learned by the BONELA delegates is that we must reclaim the position of human rights as the most important and all-persuasive 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, we can make it happen.

Workplace Symposium: 'Securing the Future for Southern Africa—Perspectives in the World of Work', Windhoek, Namibia, November 2004
This symposium brought together representatives from the business community, workers' organisations, policy makers and AIDS activists from the region to discuss the challenges of HIV at the workplace. There were some interesting presentations on best practices of employers with regard to the provision of ARV treatment in their workforce. The BONELA director has been invited to present on some of the litigation that has taken place with regard to HIV/AIDS at the workplace in Botswana. She presented a paper entitled, "Protecting the Rights of Employees through Litigation, Case Studies from Botswana." The presentation was followed by an interesting and lively discussion around the issues of anti-discrimination laws

within the world of work. Most countries in the region are still in desperate need of such legislation in order to ensure that HIV-positive workers are able to continue contributing to our economies and leading healthy and fulfilled lives.

Regional Conference on Youth, Children and HIV/ AIDS, Mangochi, Malawi, August 2004

The Human Rights Research Officer, Kristi Kenyon, attended the meeting, which served as an opportunity to gather information on youth and children to guide development of training materials in this area, a chance to network, and an opportunity to share BONELA's experiences through a PowerPoint presentation and discussion. BONELA's participation in this conference was funded by HIVOS.

The conference was opened by the Minister of Youth and Culture indicating the high political profile it received in Malawi. It was attended by youth delegates and youth programmers from Mozambique, Malawi, Botswana, South Africa, Zambia, Namibia, Lesotho, Uganda, Kenya, Tanzania, and Zimbabwe. In total roughly 100 participants attended. The organising body was Youth Net and Counselling, a Malawian NGO located in Zomba. The conference concluded with a proposal for an East and Southern Africa NGO Network on Youth, Children and HIV/ AIDS.

The objectives of the conference were as follows:

- to share experiences on youth, children, sexuality and HIV/ AIDS in eastern and southern African countries and their responses to HIV/ AIDS in the SADC Region;
- to allow youth programme managers to deepen their understanding of HIV/ AIDS and the socio-cultural dimensions at grassroots level;
- to provide a forum for dialogue on issues relating to HIV/ AIDS and poverty and how it affects youth and children programming;
- to establish a regional network of youth and children's organisations on HIV/ AIDS as a forum for sharing information, experiences and strategies in dealing with youth, children, sexuality and HIV/ AIDS;
- to promote collaboration and coordination among youth and children related programmes in the SADC region on HIV/ AIDS at the community level; and
- to allow HIVOS partners and other organisations dealing with youth and children a forum for sharing experiences and strategies in responding to HIV/ AIDS at grassroots.

Staff / Volunteers

Human Rights Research Officer KRISTI KENYON

Kristi Kenyon, a development worker through World University Service of Canada (WUSC) began work with BONELA in January 2004. Originally recruited as a Training and Advocacy Specialist, her position and title were subsequently revamped to focus primarily on research.

University of Botswana Social Work Placement NTHABISENG NKWE

BONELA hosted a Social Work student, Nthabiseng Nkwe, from the University of Botswana. Nthabiseng was at BONELA for a nine-week period during which she undertook a wide variety of activities ranging from involvement in the development of training materials to carrying out workshops. Nthabiseng was co-supervised by the Program Officer and Human Rights Research Officer.

Human Rights Internet Intern NATHALIE DOYLE

Nathalie Doyle joined BONELA as the second intern from Human Rights Internet, following the successful placement of Koreen Reece, which ended in March 2004. Nathalie holds a Master's degree in International Development Studies from Dalhousie University in Halifax, Canada. Nathalie took over the running of the BONELA media campaign and also assisted with community activities, such as the AIDS fair at Ghanzi on World AIDS Day.

International Volunteer NICK MURPHY

Nick volunteered at BONELA from June 2004 for six weeks. His placement was part of a Canadian project raising awareness about HIV/AIDS in his home community. At the time, Nick was a second-year cultural studies/global studies major at Wilfrid Laurier University, Waterloo, Ontario.

Legal Aid Clinic Volunteer UYAPO NDADI

Uyapo Ndadi joined BONELA in 2004 while doing his law degree at the University of Botswana. He is assisting BONELA with the growing number of complainants seeking help from BONELA as well as reporting cases of discrimination, unfair termination of employment and breaches of confidentiality. Uyapo and our programme officer Milikani Ndaba have been running the BONELA legal clinic, assisting clients through mediation or by taking their cases to the law firm that supports our work.

Appointments for 2005 ORATILE KIDD and MOSES TSHIPO

In November 2003, BONELA advertised two positions funded by the Global Fund to Fight HIV/AIDS, TB and Malaria. The Training Officer Oratile Kidd,

and Driver Moses Tshipo were appointed in late 2004 to start work in early 2005. We are looking forward working with them.

In September 2004, BONELA staff met for two days with facilitator Wendell Allmond for a team-building exercise. The activity greatly assisted the team to communicate and work more effectively in an increasingly busy office.

Visitors

Warren Allmand, a former Cabinet Minister and Senior Parliamentarian from Canada, came to BONELA for a two-week visit to Botswana in mid-2004 through Coady International Institute's Xtending Hope Project. While at BONELA, he met with key stakeholders and undertook a preliminary legislative review with respect to HIV/AIDS. Mr. Warren Allmand was an active and highly visible Member of Parliament in the Canadian House of Commons for more than 30 years. He has been very involved in human rights issues throughout his career, working for tougher gun control and against the death penalty in Canada, against apartheid in South Africa, and for the protection of the rights of vulnerable groups both within Canada and around the world. In 1997, he became President of the International Centre for Human Rights and Democratic Development.

Members of Kenya's Parliament visited BONELA on 24 September 2004 and were briefed on our activities as well as the general situation in Botswana. The parliamentarians briefed BONELA staff on a draft bill on HIV/AIDS under consideration by their parliament and surrounding issues.

Other visitors in 2004 included:

- Jessica Birks (WUSC) and Bill Duggan (Director of Education Services and Program Development, WUSC)
- Anne Forester (United Nations Development Programme)
- Ms. Alexis McDonald (Xtending Hope, Canada)
- Catherine McNab (Gender Unit, International Development Research Centre, Canada and Women's Shelter, Botswana)
- Baredi Mogometsi (BOTUSA)
- David Luke (UNDP Regional Service Centre for Eastern and Southern Africa), Yvonne Nkrumah (Third World Network, Ghana), Francisco Rossi (UNDP Poverty Centre, Brazil) as a UNDP Mission to Assess Options for Assessing Low Cost Generic ARV Medicines in Southern Africa
- Madeleine Maurick (Consultant, Behind the Mask, South Africa)
- Kumiko (Japan)
- Dr. A. Lawson (UNFPA)
- Fanny Chabrol (France)
- Waheeda Lottering (UNICEF Botswana)
- Karen Leiter (Physicians for Human Rights)
- Wame Jalo (Botswana Business Coalition on AIDS)
- Agnes Makonda-Ridley (Chief Technical Advisor, International Labour Organisation)
- Ms. Eugenia Marinova, World Bank
- Aaron Cope (Political/Economic Officer, US Embassy)
- Richard Sebastian Wanless (Secure the Future, Bristol-Meyers Squibb Foundation)
- Ann Ackman (Futures Group, Policy Project)