

# South Africa: ANC stalls on anti-retroviral AIDS drugs

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The African National Congress government is continuing its campaign to deny anti-retroviral drugs to the South African population.

A recent court ruling ordered the government to make the drug Nevirapine available to pregnant women and their babies, but now the Medicines Control Council (MCC) is attempting to halt its use.

MCC registrar Precious Matsoso said, “We are reviewing their compliance with the South African Medicines Control Act, specifically for the mother-to-child transmission programme. If we prove that they have not complied, we will be guided by the law and its regulations ... and we can ask them to withdraw.”

The government only recently approved the use of Nevirapine for preventing mother to child transmission following legal actions by the Treatment Action Campaign (TAC). TAC—an umbrella group of AIDS activists, the Children’s Rights Centre and Save Our Babies—backed by a group of paediatricians filed an affidavit at the Pretoria High Court in August 2001. One of the main demands was for the universal provision of drugs to pregnant women with HIV/AIDS, to prevent transmission of HIV to their newborn children.

Nevirapine is widely used throughout the world and has been shown to be effective in cutting mother-to-child transmission of HIV by 50 percent. Like all the anti-retroviral drugs that are used to treat AIDS, it is a powerful and dangerous drug with documented side effects. In the West, however, mother-to-child transmission of AIDS has been almost eliminated by the use of anti-retroviral drugs.

In South Africa around 200 children a day are being infected with HIV because their mothers are HIV positive. Research suggests that at least half of these children, who are currently being condemned to die from AIDS, could be protected by the use of Nevirapine.

With 4.7 million cases, South Africa has more people

infected with HIV/AIDS than anywhere else in the world. The country’s Medical Research Council has warned that without urgent action by the government there will be seven million deaths from the pandemic by 2010.

For the past two years, President Thabo Mbeki has justified his government’s disastrous AIDS policy by questioning the scientific evidence linking the HIV virus with AIDS. He has implied that the disease in Africa is a different phenomenon from AIDS in the West and called for an “African solution to an African problem”.

In 2001 the African National Congress (ANC) government issued a report pronouncing against anti-retroviral drug treatment. Despite their own estimates that there were 50,000 children in South Africa who had been infected by their mothers, the government declared that drug treatment would not be available for HIV-infected babies.

Health Minister Mano Tshabalala-Msimang commented, “There is a narrow view again that continues to associate prevention of mother-to-child transmission of HIV with the use of anti-retrovirals only.... We know there are other medical interventions.... We know they [anti-retrovirals] are toxic.”

Ruling last December on the Treatment Action Campaign’s legal action, Pretoria High Court Judge Chris Botha took up the question of the drug’s safety. He said, “The evidence was that the side effects are associated with long-term use, not with the one-off use for the prevention of intrapartum mother-to-child transmission of HIV. The evidence was also that the mutations that lead to resistance are transient and disappear when Nevirapine is no longer in the body.”

The judge concluded, “a countrywide MTCT prevention programme is an ineluctable obligation of the state.”

The ANC government appealed against the decision, raising the constitutional issue of whether a judge has the right to set government policy. In an interim judgement in

March the court insisted, “The government has a duty to provide Nevirapine to all public health facilities where the medicine is needed and can be properly used.”

Last month the appeal was dismissed and the government was instructed to provide Nevirapine to all HIV-positive pregnant mothers. The judge pointed out that the constitution obliges the state to provide universal health care—a right that was written into the South African constitution when Apartheid was ended.

Now the MCC is seeking to undermine the court’s decision by questioning the safety of Nevirapine, although it is already used in 69 countries. In February 1998 the European Commission approved its use in AIDS combination therapy.

Doctors and AIDS activists have come out strongly against the government’s policy.

Kgosi Letlape, chairman of the South African Medical Association, told its annual council meeting that doctors could no longer be part of a system “that commits genocide”. He said that the medical profession needs to draft its own treatment policy and doctors should intervene where the government was slow to act.

The latest move by the MCC has been opposed and questioned. Professor Jerry Coovadia, head of the HIV/AIDS research unit at the Nelson R. Mandela School of Medicine at the University of Natal, described the decision as “quite disastrous”. He said the World Health Organisation and the recent Barcelona HIV/AIDS conference had both reaffirmed the use of anti-retroviral medicines, including Nevirapine.

Professor Alan Whiteside, head of health economics at Natal University, said if the government was trying to get the drug de-registered they were in effect saying to TAC and other activists, “You may think you have won the war, but you have only won the battle.”

Glenda Gray, co-director of the HIV Perinatal Research Unit at Chris Hani Baragwanath hospital, said of the MCC’s objections, “Surely it’s criminal to undermine a safe drug when there is an epidemic and children are dying like flies.”

Nathan Geffen, national manager of TAC, accused the government of having a hidden agenda: “We believe they continue to cast aspersions on Nevirapine because they do not want to roll it out. This is because there is strong support for AIDS denialists by the government.” TAC has accused the MCC of bowing to political pressure from the government.

The drug is already available in some South African provinces, but the MCC’s action puts the provincial

AIDS programmes at risk. Western Cape Premier Marthinus van Schalkwyk has warned that his provisional government will consider taking legal action if the MCC de-registers Nevirapine. The drug has been available in the province since 2000.

KwaZulu-Natal announced in January this year that it would make the drug available. The provincial government applied for and received a \$72 million grant from the United Nations Global Fund to fight AIDS, Malaria and tuberculosis. The national government is now seeking to take away some if not all the grant to KwaZulu-Natal, arguing it should be merged with the national grant for this work.

The effectiveness of anti-retroviral drugs has been spelt out in terms of hard cash by the Anglo American mining company, which has announced that it will offer free treatment to its HIV-positive employees. It estimates that treatment will add \$4-6 to the production cost of an ounce of gold, but doing nothing would add \$9 per ounce.

A growing number of companies in South Africa have been forced to provide treatment in their own economic interests. But treatment will not be made available to workers’ dependants or to workers who lose their jobs with the company.

Company programmes are not the answer to the AIDS crisis, but they do show that anti-retroviral drugs represent the only viable alternative at present. South African government policy denies the mass of the population access to these drugs even when, as in the case of Nevirapine, the company offers their product free of charge.

The ANC government’s policies have also offered a convenient excuse for the West’s refusal to provide the resources necessary to combat the AIDS epidemic. It is the Western governments and transnational companies which are primarily responsible for the unchecked spread of the disease, because they have destroyed the limited welfare provision and infrastructure of Africa by continuing to milk the continent dry.



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