NEWS & VIEWS FOR MAGISTRATES

Compulsory HIV tests for sexual offenders

By Steffi Roehrs, LRG

In South Africa, we are confronted with two epidemics: one, the HIV/AIDS epidemic, and the other, the rape 'epidemic'. As HIV is a sexually transmitted disease these phenomena are clearly interrelated. The question is: how should the law respond?

The legislature is trying to address rape and HIV through various projects of the South African Law Commission (SALC). Project 85 is the Compulsory HIV Testing for Alleged Sexual Offenders Bill (The Bill). This Bill is intended to empower the victim and diminish the popular perception that it is 'the perpetrator who has all the rights'. However, the Bill has met with much controversy from legal and women's organisations.

The Bill provides for the victim of a sexual offence to make application for a mandatory HIV test of the alleged offender. The objective is to let the victim, male or female, know whether s/he might have contracted HIV. According to the legislation the benefits will be:

- to enable rape survivors to make sound medical decisions for themselves and their partners, and
- to give survivors 'peace of mind'.

However, the process of obtaining an order for an HIV test of an alleged offender is probably more difficult than the Bill anticipates. Firstly, the rape survivor has to go to the police to report the offence. The police officer must advise the survivor of the application for a mandatory HIV test of the alleged offender. The application has to be made by the survivor personally or by a person acting on behalf of him/her. It has to be verified by affidavit or solemn declaration.

As soon as is reasonably possible, the investigating officer must take the application to the magistrate of the magisterial district in which the offence has allegedly happened. The magistrate must consider the application in chambers. S/he may call for additional evidence. The Bill does not allow the accused to adduce any evidence.

To order an HIV test of the accused, the magistrate needs to be satisfied that:

- there is prima facie evidence that a sexual offence was committed
- there was exposure to body fluids
- this happened no more than 50 calendar days ago

If the magistrate issues an order, the investigating officer must notify the alleged offender and the rape survivor. A health care facility must then test the accused for HIV. The investigating officer must notify the survivor about the test result.

The outcome of the HIV test may not be used as evidence in any criminal or civil proceedings. Information which relates to the application or the test result, is confidential and may only be used for the purpose of the Bill. A person who discloses any of this information or who makes an application on false allegations as well as an offender who without good cause refuses his blood to be tested is liable for penalties or imprisonment.

The Bill encounters a variety of practical and legal obstacles. If the Bill is to enable the survivor to make life decisions, which can only be understood as referring to the use of anti-retrovirals, it seems surprising that PEP itself is not mentioned in the Bill. The medication to suppress HIV or reduce the viral load in an HIV-positive person is known as 'anti-retrovirals'. PEP is a combination of those drugs which can under certain circumstances possibly prevent the conversion from HIV-negative to HIV-positive after exposure to HIV (e.g. needle stick injury of doctors in hospitals, drug users sharing a needle, transmission through sexual intercourse).

The Bill states that testing the alleged offender for HIV and giving the results to the victim are crucial aspects in deciding for or against taking anti-retroviral drugs. If only it was this easy. The most important omission is the alleged offender's 'window period'. During this period, the alleged offender might test negative even though he is infected with HIV. The window period of an individual varies. Four to six weeks after an HIV infection, it is unlikely that someone will test HIV-positive in an HIV antibody test. This

What magistrates say:

'Even if the Compulsory Testing for Alleged Sexual Offenders Bill gets passed – let an accused get tested for HIV and then be found innocent of the rape, he will claim damages from the state or go to Constitutional Court.'
— Regional Court Magistrate, Sexual Offences Court, Wynberg, Cape Town

'What about s 37 (2) Criminal Procedure Act 51 of 1977? Thereafter the outcome of blood samples may be used for court proceedings? So why can the test results in this case not be used for any other proceeding?'
— Regional Court Magistrate, KZN

'Why doesn't the government instead enact legislation with the obligation that anti-retroviral treatment has to be given to a rape survivor within 72 hours if they report the rape?'
— Regional Court Magistrate, Durban

WHEN TOILET PAPER BECOMES A LUXURY

By A. M. Agistrate

The name 'New Law Courts' may sound pretty impressive; but alas what has remained of this 'once upon a time' establishment, housing even the Supreme Court, is nothing short of a shame and a disgrace for whoever has to go there, let alone those having to earn their bread and butter there.

Regular reports of courts having to vacate because of blocked drains and the accompanying stench have been made in the local papers. Birds nesting in the courtrooms have become a common phenomenon, as are those parasites they convey. Rats in the ceilings have now become so accustomed to their habitat, that they share the corridors with those brave enough to bear with their four-footed comrades. Cleaning of the offices, as well as those responsible for cleaning is a rare sight and normally only happens at the request of those in absolute desperation: 'the vacuum is not working' has become a fashionable line.

Crawling insects flourish in the courtrooms and any given day, brings more surprises.....and bites of all sorts. Non-working air-conditioners, noise and overcrowding are all factors that add spice to the robust atmosphere of sheer dirt and filth. Beware however as to how the toilets are approached: it may very well be overflowing with you know what, left unattended for days and of course, my personal favourite: no toilet paper! Which invariably you only discover after the fact, if you know what I mean.

Court recording machines (in workable order), microphones and tapes are hard to come by, let alone decent library facilities and stationery. Dare not ask for accessories such as staplers, staples, case binders or the like.....these requests are severely frowned upon. Pens are now only issued upon bringing the empty ones along.

Grim stuff? Do not despair! The 'New Law Courts' are in the making and should be ready for their first occupants within the very near future! The race is on: who will get there first though? The rats, the lice ... who will it be?

The question remains: How long before this new structure also falls into a state of dilapidation? And even more important: will there be sufficient toilet paper?

continued from page 1

means, the alleged offender might test HIV-negative although he is HIV-positive and the rape survivor might still be at risk of infection. A negative test result might cause a false sense of security.

Educating or counselling the victim on HIV/AIDS, a way to deal with the window period, the problem of pregnancy, and mother-to-child-transmission (MTCT) etc. are not included in the Bill. This seems essential to enable victims of sexual assault to make informed decisions about their responses to possible HIV infection.

SAPS is severely understaffed already. It would carry the greatest burden if the Bill is to be successfully implemented. Training of police officers will be imperative to ensure successful implementation.

In addition the Bill meets several legal problems, particularly considering the rights guaranteed in our Constitution. In the context of mandatory HIV testing, the legislation has to balance the constitutional rights of the victim and the accused.

The interference with constitutional rights prompted several magistrates to comment that the Bill, if enacted will be ruled unconstitutional by the Constitutional Court.

Considering all these practical and legal obstacles, one wonders whether the proposal of this legislation should be supported. If the aim of the Bill is to enable the victim of a sexual offence to make life decisions and to have some peace of mind, it should rather concentrate on the informed, speedy and guaranteed provision of anti-retroviral drugs. Instead, the Bill creates confusion around HIV/AIDS and PEP. The compulsory testing of the alleged offender alone is of very limited use for rape survivors.

What would you do?

By Anashri Pillay

The regional magistrate in a part-heard criminal matter stopped proceedings to refer the case to the High Court on special review. The accused had been charged with contravening the Corruption Act and with defeating and obstructing the ends of justice. The accused's home language was isiXhosa and an interpreter had been used throughout the proceedings. However, it emerged during the trial that the interpreter who had been officiating for the past eight days was not an official interpreter and had not been sworn in as a casual interpreter. This interpreter had officiated over the administering of the oath to the accused and had interpreted the accused's evidence for the court. He had also interpreted the evidence of two state witnesses, given in English and Afrikaans, for the accused. The swearing in of the accused by the interpreter and the interpretation of his evidence for the court was, as a result of the interpreter's unofficial status, irregular. In addition, the interpretation of the evidence of two state witnesses for the accused was also made improperly.

What would you do? Should the proceedings have been set aside and the new proceedings begun?

Answer on page 7.

Domestic violence on farms: A challenge for the criminal justice system

By Dee Smythe
Researcher: Gender, Law and Development Project, Institute of Criminology (UCT)

Domestic violence is a pervasive social problem in South Africa and it is generally agreed that, because of its private nature, it is also a very difficult issue to police. Moreover, recent studies have pointed to a wide number of systemic problems with the implementation of the Domestic Violence Act. These difficulties become particularly acute, and are joined by other substantial barriers to access, in contexts where people's lives are focussed on basic survival. Many farm workers live within exactly such a context.

There is little doubt that farm workers experience high levels of domestic violence. In 1999 the Centre for Rural Legal Studies (CRLS) found:

- 67% of a sample of 112 farmers said that there was domestic violence on their farms;
- 7% were unsure; and
- 25% acknowledged the occurrence of sexual harassment.

Similarly, in an exploratory study into domestic violence on farms, conducted by Smythe and Parenzee for the Consortium on Violence Against Women, farm workers and development agencies spoke of high levels of physical, verbal, economic and emotional abuse.

The thorny question is whether the Domestic Violence Act presents a viable option for escaping (or at least managing) this violence. Parenzee and Smythe found that most farm workers, both male and female, did not know about the DVA. Those who had heard of it, knew little of its content. In addition, the bulk of stories shared by farm workers about their engagement with the law were negative. Prejudice, real or perceived, against farm workers raises a serious barrier between them and the criminal justice system. One worker said that there was no point phoning the police on a Friday night to report domestic violence, as the first question asked by the police was whether they were drunk. Fear of reprisals from the perpetrator often prevents other farm workers from calling the police. On one farm this had tragic consequences. A woman who had escaped her home to get help was chased down the road by her axe-wielding husband and forced back into their house where he killed her. He had previously told her that if she applied for a protection order he would beat her to death at the police station.

Even for those women who do wish to access the criminal justice system for protection, the expenses are often prohibitive. Farms are often far from the courts. This means that irregular and expensive transport services must be used to go into town to lay a charge or to obtain a protection order. In order to obtain a protection order the applicant will often have to take three days off work: one to make application, another to collect the interim order, and a further day for finalisation. Inevitably no work means no pay. Although the DVA makes provision for the State to cover service fees, research has shown that many women who cannot afford to make this payment are nonetheless required to do so. An incident of domestic violence may also result in the woman being hospitalised or needing medical attention, which means more days off work and additional expenses.

Breach of the protection order can result in the arrest of the perpetrator and a possible sentence of five years. It is assumed that this will act as a deterrent to the perpetrator. In fact, Parenzee and Smythe's research suggests that, within the farming context, the threat of imprisonment may act more of a deterrent to the victim than the perpetrator.

The CRLS study found that 51% of female workers were included in their male partner's employment contract by 'tacit agreement'. These women did not have employment contracts of their own. 52,4% of women farm workers interviewed, indicated that their housing was linked to their male partner's employment; and 48,6% of farmers said that if the male partner died or left the farm for any reason, his family would also have to leave. Farm managers all indicated that the extended imprisonment of a male employee would 'necessitate' his dismissal and the ultimate eviction of his partner and children. This means that the victim would potentially lose both her job and her home. For many women the potential cost of obtaining a protection order is therefore outweighed by the uncertain promise of its protection.

Magistrates can play an important role in reducing these costs by making orders for emergency monetary relief for costs incurred by applicants as a direct result of their victimisation. These can include lost wages, medical expenses and transport costs. There is also an urgent need to consider and implement creative sentencing options that take account the extreme social and economic vulnerability of women living on farms and that are sensitive to the specific context of individual victims and perpetrators. Some examples are periodic imprisonment, correctional supervision and community service.

Notes

1. See, for example Parenzee, P, Artz, L and Moult, K (2001) Monitoring the Implementation of the Domestic Violence Act: First Research Report Institute of Criminology, University of Cape Town and Mathews, S. and Abrahams, N. (2001) Combining Stories and Numbers: An Analysis of the Impact of the Domestic Violence Act (No. 116 of 1998) on Women. Cape Town: Gender Advocacy Programme and Medical Research Council's Gender and Health Research Group.
2. Sunde, J. and Kleinbooi, K. (1999) 'Women Workers at Home and in the Community' in Promoting Equitable and Sustainable Development for Women Farmworkers in the Western Cape. Stellenbosch: Centre for Rural Legal Studies.
3. Parenzee, P. and Smythe, D. (2003) Domestic Violence and Development: Looking at the Farming Context. Institute of Criminology, University of Cape Town. See, for example Footnote 1 above.
4. See footnote 2 above.
5. See footnote 3 above

COURT BY SURPRISE

Something fishy is happening in Hermanus!

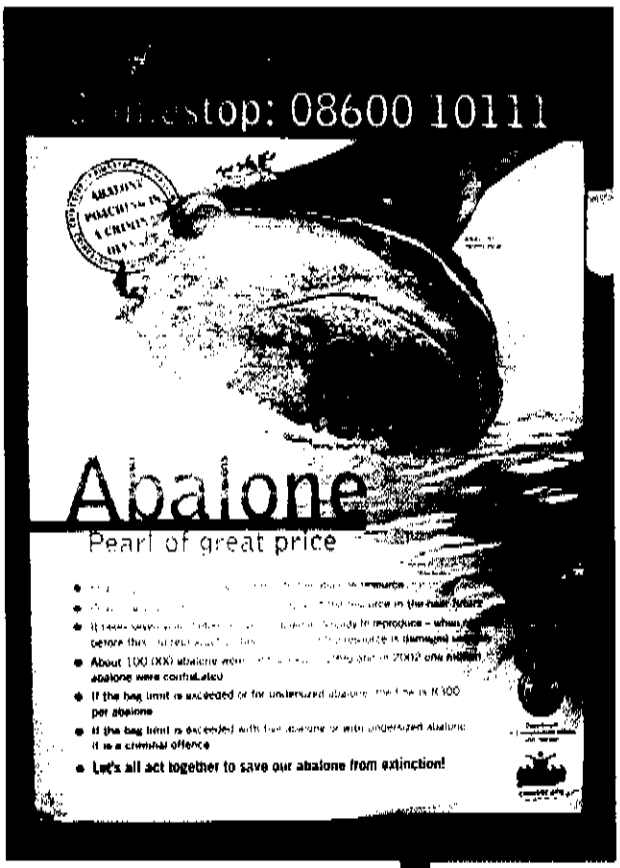
By Vanja Karth

An Environmental Court, the first of its kind in South Africa, has been created. It is adjacent to the Hermanus Court which is unable to deal with the flood of perlemoen poaching cases. The new presiding officer is Magistrate Chris Naude. I visited him at the new court in mid-May. The physical structure of the Court is rather uninspiring. However, Chris' passion for his work more than compensates for the rather dismal, makeshift appearance of the court. Chris' motivation for becoming the presiding officer here lies close to his heart. He has property and family in Gansbaai which is now under threat as it has become a perlemoen poaching hotspot on the Cape south coast. Chris feels so strongly about this work that he is even prepared to leave his home in Cape Town, spend the week away from his wife and return home only for weekends!

The Court began operating in February 2003 and has regional court jurisdiction. It covers the Greater Hermanus area and specialises in prosecuting environment-related offences. The Court was established with the intention of processing cases quickly and attaining a higher conviction rate with stricter sentences.

The Court is a tiny prefabricated building. You could easily miss it as it is squashed between the regular court building on one side and the police station on the other. For this Court, however, 'size doesn't count'! In May the roll was full until the end of August. They are postponing about 7-12 cases a day.

The small team of dedicated 'greenies' in this court have a formidable portfolio of experience. Magistrate Chris Naude was formerly a prosecutor in a number of trials against Pagad. Tania Wentzel has been a prosecutor for 13 years and has a master's degree in criminal law, and Phil Snyman is a veteran state advocate with a master's degree in Environmental Law.



From top, clockwise: An anti-poaching poster; the prefabricated Environmental Court building; Magistrate Chris Naude outside the Court

Postscript
It is with sadness that we report that Tania Wentzel recently passed away tragically.

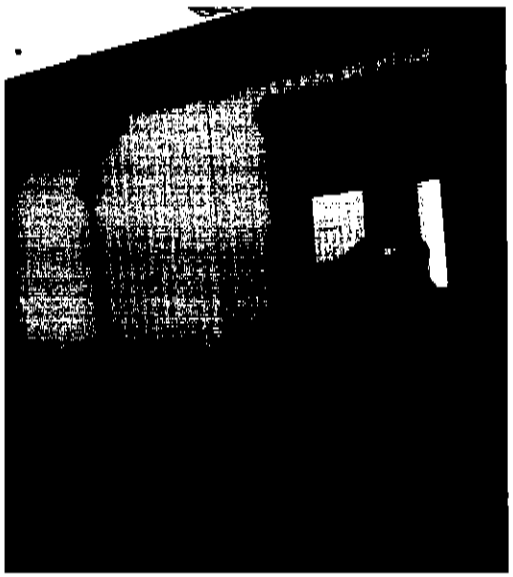
Protecting our 'perly'

Preventing crime and encouraging sustainable economic growth

By Mira Dutschke

The impact of perlemoen poaching is complex: besides the detrimental impact of over-exploitation of perlemoen on the environment, poaching has caused political tension amongst the legal and illegal perlemoen divers often leading to outbursts of violence. Negotiations between the illegal poachers and licensed divers to a common solution have failed. Violent confrontations between the police and illegal poachers are frequent.

One source of conflict is the composition of the perlemoen industry. Since 1984 the department of Environmental Affairs issues a yearly quota of the amount of perlemoen that may be taken out of the sea. This quota is distributed amongst the perlemoen factories, which have processing and distribution rights. Licensed perlemoen divers supply those factories. A diving licence costs between R 65 and R 70 per kilogram of perlemoen



caught. Licensed diving is the main source of income for the local communities. The poachers who take large amount of the precious perlemoen out of the sea threaten this source of income: the quotas are being reduced to protect the perlemoen from extinction, making the licenses more expensive. Licensed diving is thus becoming impossible for poorer people who do not have enough assets to take out a loan to pay for the license. To make a living therefore, many people dive for the perlemoen with out a license.

Poaching is also attractive because the price paid by illegal, international buyers is higher. The foreign buyers or syndicates buy poached perlemoen directly from members of the community and sell them to large Asian companies. One kilogram of perlemoen fetches about R 6000 on the Asian market thus giving the syndicate enough resources to fuel the illegal industry. This creates a platform for criminal activity: there is enough money to buy electronic equipment for tapping in on police presence in a particular area, or if this fails, to bribe their way out; thus making policing of the poaching increasingly difficult. The police have been aware of the Chinese triads in the coastal areas since the 1980's but have been unsuccessful in their attempts to control the problem. This is an opportunity for a variety of illegal transactions to run parallel to perlemoen poaching. In effect poaching brings the fishing community in touch with large organised crime syndicates thus making drugs and weapons easily accessible to the community.

In May 2003 the *Cape Times* reported, for example, that investigations into abalone poaching revealed that the Chinese syndicates exchange mandrax for perlemoen. Besides exposing local poverty-stricken fishing communities to these illegal and dangerous transactions, the poaching reduces the income of licensed divers. This encourages all members of the local community to poach and thus forms part of the vicious circle of organised crime.

Another problem is that the foreign market does not distinguish between illegally and legally caught perlemoen. A legal seller consequentially has to compete on an unfair economic footing. Flooding the market with poached perlemoen means that licensed divers and factories do not get the appropriate price for their goods. Illegally exported perlemoen affects the economy as a whole: The market becomes saturated thereby lowering the overall monetary value of perlemoen to the disadvantage of licensed divers. In addition the South African government does not receive revenue on poached perlemoen.

It does not take a mastermind to predict the future economic impact of poaching. Government's current strategy of issuing less quotas and licenses is a losing battle. It discourages legal divers and does not protect the perlemoen from the poacher. This problem is compounded by the fact that poachers often dive for perlemoen that has not reached its reproductive age thus contributing to the looming extinction (Perlemoen is already threatened due to the decrease of sea-urchins, the natural protector against crayfish- perlemoen's natural predator.) A lower quota will also encourage even licensed divers to poach in order to cover their costs for the diving, boat and bakkie, licenses, their equipment and their employees.

Creative solutions are needed to deal with this urgent problem. Solutions require the expertise of all people involved in the abalone industry. A specialised court may serve as a mediator for negotiations between divers and poachers. Such negotiations have previously resulted in creative solutions (such as breeding young abalone in factories and then returning them into the ocean once they have reached their reproductive age) but implementation has failed largely because of political differences between poachers and licensed divers. A specialised court could in addition to prosecuting illegal divers communicate ideas of local residents to government to inform policy-making. Such solutions will not only protect the environment but also fuel the economy thereby uplifting the fishing communities and enriching society as a whole.

The South African Young Sex Offenders Programme: SAYStOP

Diversion of children in conflict with the law

The South African Young Sex Offenders Programme (SAYStOP) is a management system that was specifically created to provide a space for the diversion of children charged with sexual offences in order to treat and manage these children and prevent future re-offending. Before this, the young age of the accused, combined with the difficulties involved in prosecuting sexual offence cases, meant that prosecutors regularly recommended that these cases be withdrawn, without any effort being made to ensure that children accused of sexual offences take responsibility for their actions. As a result, in 1997, a group of concerned individuals and organisations formed a working group aimed at developing an appropriate intervention programme in such cases. After a research and piloting process, the SAYStOP Diversion Programme was developed, comprising of ten two-hour sessions held for one afternoon per week over ten weeks. The aim of this programme is to encourage the young sex offender to develop respect and empathy for others and to take responsibility for his or her behaviour. Since 2000, ninety-eight probation officers across the Western and Eastern Cape were specifically trained to be able to facilitate such group sessions using the SAYStOP manual.

Courts refer the youth to these probation officers, who assess the children before accepting them onto the programme. Selection criteria include:

- **Age** – The most suitable age of youth for inclusion in the programme is 12 - 18 years (preferably 12 - 16 years). The material and exercises might not be appropriate for younger or older youth.
- **Offence** – The programme is specifically designed for children who committed sex crimes, are first offenders and generally where the offence is of an exploratory rather than of a violent or coercive nature. For the offender to qualify for inclusion in the programme consent must be obtained (whenever possible) from the victim and the offender must acknowledge guilt and accept responsibility for his or her actions.
- **Address** – a fixed address is essential to exercise some form of control over the whereabouts of the young offender.
- **Guardian** – the young offender must have a parent, guardian or caregiver who is prepared to take co-responsibility for his or her attendance at the programme.

Where the child does not fit the selection criteria, the magistrate may decide to impose a suspended or postponed sentence with an added condition that the young offender attends the SAYStOP Programme. Most children that were followed up 15-23 months after attending the programme, reported that the core lesson learnt was not to re-offend.

"The programme helped me see the incident in a different way and acknowledge that I was wrong" (N., Aged 17).

"He has changed a lot. He is easier now and doesn't fight with me and his father when we ask him to do things. He just gets on with what he has to, and school too. There are no more problems with him" (Mother).

The SAYStOP Consortium is a group of organisations [NICRO, Community Law Centre (UWC), Institute of Criminology (UCT) and RAPCAN] that collectively manage the SAYStOP Diversion Programme, providing training and mentoring to probation officers and constantly evaluating the effectiveness of the programme. As probation officers leave the Department of Social Development, more are being trained to facilitate these programmes. The programme is, however, currently only available in the Western and Eastern Cape.

For more information on the SAYStOP Diversion Programme or for a list of probation officers who have been trained to run SAYStOP in your area of jurisdiction, contact:
Anneke Meerkotter (SAYStOP coordinator), Tel: 021 959 3706/3701, Fax: 021 959 2411, ameerkotter@uwc.ac.za or **Lizo Cagwe** (Eastern Cape Coordinator), Tel: 041 582 2555, Fax: 041 582 2253.

Court offers confidential support to those living with HIV/AIDS

by Fathima Moola, Magistrate's office, Ladysmith

HIV/AIDS is a 'closed subject' in my court and community. Yet so many are dying. They are sick today and gone tomorrow. During the weekend of 16-18 May 2003, I attended the workshop on Social Context training protecting the rights of those living with HIV/AIDS, hosted by LRG at Fern Hill, KwaZulu-Natal. The workshop proved very interesting and beneficial. The motto was 'Fear and ignorance can never justify the denial to all people who are HIV positive their fundamental rights.' (Justice Ngcobo in Hoffmann v SAA)

I returned from the workshop resolved to expand my previous initiative of an AIDS desk. I will show colleagues the LRG workbook. I am waiting for a circular offering confidential support to those living with HIV/AIDS to be approved by my head of office. I will network with the hospital and the local paper. I hope that this will result in training at the court, the police station and the supermarkets. Hopefully we can have something on track in time for Women's Day.

The Rose, Eveready and HIV/AIDS

By Paula Soggot, LRG

Magistrate Rose Mogwera attended and facilitated the HIV/AIDS workshop at Kei Mouth, Eastern Cape in November 2002. She returned to her court convinced of the need for magistrates to know more about HIV/AIDS in order to protect the rights of those living with HIV/AIDS. She told her colleagues about it. This sparked an interest and so together with Eric Mbiyo, Robyn Doubell, Debbie Branford and Deon Bender, she arranged a day of training on 30 May for her court at Port Elizabeth.

Rose approached Business Against Crime who introduced her to Peter Marriott of Eveready (Eveready batteries). Peter offered premises based at Eveready so Rose managed to secure a welcoming and well-resourced venue. She contacted her local ATICC branch (AIDS training information and Counselling Centre). Fortunately Allman Mazosiwe and Nombuso Diliza accepted her brief to facilitate the session on medical and scientific aspects of HIV/AIDS. Reverend Diana Nkesiga, a Priest from Uganda who is now involved in HIV/AIDS education and counseling in the Eastern Cape gave an excellent keynote speech.

We salute Rose and her colleagues for their efforts to cascade the training! If you wish to initiate similar ventures and would like some help from LRG, please let us know!

Left: Illustration from the invitation to an HIV/AIDS workshop
Above: Rose Magwera

What would you do? (from page 2)

The answer!

The High Court found that the question in such cases is always whether the irregularity had produced a miscarriage of justice. There is no such miscarriage where the irregularity may be cured without prejudice to the parties. The Court noted, in addition, that prejudice to the accused is not balanced against other interests such as convenience and the avoidance of delay. Any potential prejudice to the accused would necessitate the trial itself beginning anew before a different magistrate. The Court found that the evidence of the accused in this case had to be ruled inadmissible and struck from the record. A 'practical and sensible' approach to dealing with the irregularity in the interpreting of the evidence of the two state witnesses, however, would be to find that the evidence of the witnesses should begin afresh with an official interpreter (or one sworn in specifically for the trial). The irregularity here could be corrected without a miscarriage of justice. The fact that the accused understood English and was reasonably proficient in Afrikaans was an important factor in the Court's decision, as was the fact that he was represented by counsel who was fluent in both English and Afrikaans. The Court noted that this was 'not a case of evidence being given in a language which the accused did not understand as contemplated in s 25(3)(i) of the Constitution'. The Court found the evidence given by the accused to be inadmissible because of the irregularity in the administration of the oath. The Court ordered that the matter be sent back to the magistrate, for the evidence of the two state witnesses to be interpreted by an authorised interpreter, for any 'further cross-examination, re-examination or examination by the court' and 'for the further conduct of the trial'.

A Reference Guide to Refugee Law and Issues in Southern Africa

The Legal Resources Foundation (Zambia - http://www.lrf.org.zm/), the Legal Resources Centre South Africa (http://www.lrc.org.za/) and Zambia Civic Education Association have produced a new publication, *A Reference Guide to Refugee Law and Issues in Southern Africa*.

The guide provides a comparative analysis and factual guide to refugee law throughout Southern Africa, including in-depth country guides for Angola, Botswana, Lesotho, Swaziland, Mozambique, Namibia, Tanzania, Uganda, South Africa, Zambia, and Zimbabwe. It is hoped that the guide will be a wealth of information in the areas of domestic and international refugee law, as well as the factual situation of refugees across Southern Africa.

This publication is available free of charge. If you would like a copy of the Guide please email mailing details to Cyrenne Christodolou, Legal Resources Centre National Office at cyrenne@lrc.org.za.

The Guide is a project of the Southern African Legal Assistance Network (SALAN) and was funded by the Canadian Bar Association and the Canadian International Development Agency (CIDA).

EDITORIAL

Next year South Africans will reflect on the triumphs and troubles of 10 years of democracy. In the meantime we tend to remain preoccupied with more everyday matters that affect our lives both at work and at home. And working in the justice system provides many such preoccupations. Some issues hit the press, often as a result of frustrated outbursts by Johnny De Lange, chair of the Justice Portfolio Committee in the National Assembly. Others may be less public but are no less frustrating. For instance, are the lifts in the (tall) High Court in Johannesburg working yet? Has the roof in Ratavi Court been fixed yet? Are the toilets in Mutale Court working? On page 2 of this issue of *News and Views* A. M. Agistrate describes in vivid detail problems in a court in one of our larger urban centres. S/he reflects on rats, insects, overcrowding and malfunctioning toilets in a couple of paragraphs that might be expected in a report on a 19th century prison but surely not in a description of a modern South African court.

The question that faces us all is how to deal with these problems. Some magistrates leave, using their rare skills in other sectors. But many stay, struggling to balance the hugely important task of ensuring that justice is done in every case that comes to court, however big or small, with the stresses of poor working conditions. The salaries of magistrates are often in the news (well, in the news that circulates amongst magistrates and those who care about the Magistrates' Court system). But awful working conditions in many courts receive much less attention. Why? Dirty courts affect both the staff and the public that they serve. Perhaps the Magistrates' Commission, JOASA and ARMSA could rally together to deal with this problem and bring it to the attention of the powers that be.

— Christina Murray

bit S & PIECES

CONGRATULATIONS to magistrates Andre le Grange (Bellville Court) and Daleen Grevenstoyn (Wynberg Court) on their marriage (see photo on left). The ceremony took place on the 16 May 2003.

STAFF NEWS: Paula Soggot compiled and edited every edition of *News and Views* from March 2002 to now with just one exception (the March 2003 edition was Veronica de Beer's work). At the same time, Paula has been working on the HIV/AIDS project and is putting the finishing touches to a training manual. Paula's father has been seriously ill over the past 18 months and she leaves LRG at the end of July to return to Johannesburg where he is. Our very best wishes go with her – and we know that her work will bear fruit for a long time to come as AIDS training becomes integral to all magistrates' training.

Cooking up a storm!

We bring you the winning recipes from the cooking competition at the HIV/Aids workshop held at Fern Hill KwaZulu - Natal 16-18 May. The first prize went to the 'Halaal' group (see photo), whose winning recipe is:

The winning cooks, from left to right: **Ellen Gröpp, Lavindhran Yengopal, Cagney Musi, and Fathima Moola.**

Halaal Banana Caramel Treat

Ingredients: 6 bananas, 1 tin caramel treat, 250 ml whipped cream, ½ cup chopped pecan nuts, 100 g grated dark chocolate. Method:

1. slice bananas lengthwise and place in dish
2. smooth caramel treat slightly and smooth/pour over bananas
3. add pecan nuts
4. smooth with cream and decorate with chocolate

The second prize went to Fariedha Mohamed, Prem Singh, Kate Pillay who produced:

Blueberry Muffins

Melt 250 grams butter. Allow to cool

Mix in a bowl: 550 ml flour, 10 ml baking powder, 300 ml sugar

Make a well in the centre, and add in: 2 eggs, 340 ml milk and melted butter, mix well. Stir in 1 can of drained blueberries and 100g sliced almonds. Pour into muffin pans and bake at 220°C for 15 minutes.

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