

Advocacy in Context: Human Rights and HIV in Settings of Confrontation and Consensus

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Despite being neighbours, South Africa and Botswana are strikingly different countries, particularly with respect to civil society advocacy. The former has gained an international reputation for its vibrant activism dating to the anti-apartheid struggles, while the latter is a small consensus-driven society, where aggressive criticism of the government is unusual, and generally unwelcome. Despite these differences, strong common threads exist between two dominant HIV advocacy organisations in the two countries: South Africa's Treatment Action Campaign (TAC) and the Botswana Network on Ethics, Law and HIV/AIDS (BONELA). Both groups rely heavily on human rights language in their advocacy using it as a dominant frame. However, this common approach emerges from differing origins, and has critical and divergent linkages to integral local conceptions of appropriateness and legitimacy. Drawing on anti-apartheid activism and activists, TAC was borne of an activist culture and draws directly on apartheid-era techniques and the post-apartheid constitution in mobilizing grass roots actors utilizing techniques uniquely situated in South African history. Grounded in a culture of consultation and dialogue, BONELA's approach was initially conceptualised by external forces, but the organisation has come to occupy a unique niche due to its domestically unusual approach, using human rights language strategically and making efforts to ground this language in elements of local culture. This paper will argue that while TAC in many ways appears a logical fruit of South Africa's political culture and BONELA appears to contrast with its surroundings, both groups are informed by and responsive to their settings, even as they draw on similar language in vastly differing contexts.

Following a brief overview of key concepts, this paper will examine this complex reality, focusing on contemporary organisational-domestic interaction, through analysis in three areas. First, organisational factors will be examined for both cases, including the origin and history of the group and contemporary viewpoints and practices from within the organisation in relation to rights-based advocacy. Second, an analysis of the interaction between domestic contextual factors and the methods of advocacy selected. Third, an examination of the interaction of these two factors will be undertaken in the form of a brief analysis of campaigns undertaken by each group – demonstrating an interface between organisational and contextual factors.

Key Concepts

Diverging from the public health and development-based frames traditionally dominant in health advocacy, HIV activists globally have predominantly favoured human rights. This frame has been seen in intense and conflictual ways, on the one hand inspiring, empowering (Yamin 2008), universal (*Universal Declaration of Human Rights* (UDHR)), enforceable (Forman 2008, Gloppen 2008), process-oriented (Gruskin & Daniels 2008: 1577) and unifying (Yamin 2008), on the other, divisive, politicizing (Pessoa Camara as cited in: Yamin 2008), ineffective (Hathaway 2002, 1940, Palmer et al. 2009, 1987, Hafner-Burton & Ron 2009: 360) and foreign (see: Wiessala 2006 39, Cobbah 1987).

The concept of frames, defined by Snow as “conscious strategic efforts by groups to fashion shared understandings of the world and of themselves that legitimate and motivate collective action” (as cited in: McAdam et al 1995 6) has gained increasing prominence in social movement theory, with Zald contending that this shift is “a substantial break with past conceptions of ideas in movements which tended to emphasize their embeddedness in community” and a move which “has served to reemphasize the central importance of ideas and cultural elements” (Zald 1995 261). Factors influencing frame selection include: “construction of cultural contradictions and historical events,” competition, media,

strategy, and the interaction between political opportunity and mobilization and their impact on frames' effectiveness (Zald 1995 261) with successful mobilization hinging on, "congruence with the master frames dominant in a given political phase" (Diani 1996 1057).

Organisational Factors¹

Organisational factors have played an important role in the approach and emphasis chosen and maintained by TAC and by BONELA. History, leadership, and personnel have shaped the structure and function of each group as well as the advocacy approach employed. While both were shaped by their origins, in TAC's case these were domestic, while in BONELA's specific international factors led to its form and formation. Key differences are also apparent in the use of human rights language from the perspective of current employees in each group, with TAC respondents tending to communicate a view of rights as fact, and BONELA respondents articulating rights as belief.

Organisational Factors – TAC

Founded in 1998, TAC has 72 employees in six district offices and a head office, and 267 branches and 16,000 members (TAC 2011) throughout South Africa. The organization has received significant recognition, including a 2004 nomination for the Nobel Peace Prize (TAC 2003), due in part to its successful use of the courts with regards to treatment access and other topics (see for example: Fitzpatrick & Slye 2003; Friedman & Mottiar 2004). Heralded as, "probably the world's most effective AIDS group" (Rosenberg 2006), the group lists its vision as "a unified quality health care system which provides equal access to HIV prevention and treatment services for all people" (TAC 2011) with its website banner stating "campaigning for the rights of people with HIV/AIDS."

TAC's organisational history provides a traceable genealogy of individuals with a rights-oriented activist past. Within the organisation TAC has built on contextual factors and collective experience to construct a culture where knowledge facilitates rights claims at individual and collective levels. Founded on International Human Rights Day 1998, shortly after the death of AIDS and gay rights activist Simon Nkoli, TAC grew out of a Cape Town demonstration demanding medical treatment of those living with HIV/AIDS (TAC - An Overview, 2-3) and was initially a project of the National Association of People Living with HIV/AIDS. Nkoli's death and Founding leader Zackie Achmat's own difficulties in accessing and affording his own HIV treatment propelled Achmat to action (TAC - An Overview, 2). Activism was not new to Achmat, nor was a human rights approach. He had been an anti-apartheid activist, founded the National Coalition for Gay and Lesbian Equality, and was a director of the AIDS Law Project, both groups which use human rights language.

Like Achmat, current members and employees largely came to the group out of their own immediate personal, family or neighbourhood circumstances. Respondents consulted in the group's Ekurhuleni office had universally begun as members, and generally moved up through volunteer and staff positions, with the vast majority interacting with membership directly in communities as part of their day to day work. Their perceptions of the rights approach, were matter-of-fact and present-oriented, drawing on contemporary concrete examples with no mention of the group's historical genealogy. Using human

¹ This paper is based on fieldwork data consisting of semi-structured qualitative interviews, naturalistic observation of events, analysis of posters and promotional materials, documents, websites, and newspapers. Fieldwork was carried out in November 2009, and June – August 2010. Six interviews were carried out with TAC employees based in the Ekurhuleni District Office and observation was undertaken of the TAC Gauteng Provincial Congress as well as a training workshop for new leadership in Daveyton, Gauteng. Nine interviews with current and former BONELA staff were undertaken and observation was conducted of the group's presence, presentations and interaction with government at the 2010 World AIDS Conference, as well as of a staff meeting. In addition interviews were carried out with other HIV NGOs, UN agencies, government officials, and international NGOs. This paper is part of a larger thesis project involving more than 100 interviews primarily in Ghana, Uganda, Botswana, and South Africa (with selected interviews in Namibia, Kenya, Switzerland and the United Kingdom). In the interests of full disclosure, I was employed as BONELA's Human Rights Research Officer from 2004 – 2006.

rights language was not referred to as a choice, or perspective, but as a given, and as a direct reflection of both reality and need. Rights were articulated as a concrete objects, usually grounded in the South African Constitution. One respondent explained the use of human rights language in the following manner:

It's important because one, in our history in South Africa people were discriminated because of their HIV status. People were stigmatized. Still today there is discrimination. So that's coming in their place, even in the clinics. Professionals themselves will discriminate; stigmatize people who are HIV positive. They mistreat them. They treat them as if they cannot think. They treat them as lesser humans than those without, or assume to not be HIV positive. So that's how it comes. The fact that they're supposed to access treatment that is going to give them life for a long time and it's not being given at that time. It's a violation of human rights. Because of it that person does not access their treatment then, when they need it. They are supposed to go back. Then their right for life has been violated. That's why I'm busy mentioning it like a human rights.²

Several respondents made direct links between human rights language and discrimination, with one respondent giving the reason for the use of this terminology as “because people are discriminated. That's point number 1.”³ Most referred pragmatically to circumstances of discrimination as a justification for rights-based campaigning. While at a higher level of abstraction, similar concepts of deaths, inequity, affordability and access to medications are consistently highlighted in organisational documents and discourse. Inequity on national (between rich and poor) and international levels (between countries with accessible drugs, and those without) have been key features of the organisation throughout its history, using these comparisons, and their impacts on both lifespan and quality of life to highlight their discriminatory nature.

Organisational Factors - BONELA

Formally established in 2001, the Botswana Network on Ethics, Law and HIV/AIDS (BONELA) was created through a Project Support Document initiative funded by the United Nations Development Program (UNDP) and the Government of Botswana. The organisation initially operated as a program of Ditshwanelo, the country's mainstream human rights organisation, with one employee. Based in Gaborone, BONELA had more than 20 employees by 2010 and upwards of 400 members throughout Botswana. BONELA presents itself as an organisation with a primary focus on human rights, listing its mission as “to create an enabling and just environment for those infected and affected by HIV/AIDS,” (BONELA website). The group won the AIDS and Rights Alliance of Southern Africa (ARASA) Human Rights and HIV Award in 2008.

Organisational and personal factors featured significantly in responses regarding the use of a human rights approach, with the selection and continued use of the frame influenced by BONELA's organisational history, and continued use supported by an organisational culture of rights with a high level of personal connection to and belief in the language of human rights among employees.

BONELA's organisational history has clearly articulated linkages to human rights, through its initial mandate and early association with Ditshwanelo. Influenced in part by outside forces, the group was explicitly founded to be a human rights oriented group, and created at a time when rights discourse was in favour internationally, and where funding was available to conduct work in this area. Founding director,

² Author's interview, Employee 3, Treatment Action Campaign – Ekurhuleni Office, 25 August 2010, Daveyton, Gauteng, South Africa.

³ Author's interview, Employee 2, Treatment Action Campaign – Ekurhuleni Office, 25 August 2010, Daveyton, Gauteng, South Africa.

Christine Stegling, a locally-resident German citizen and former sociology lecturer commented on BONELA's approach:

Obviously BONELA chose that [human rights] language because it was kind of set up like that from the start. There was this very strong – this is ten years [ago] 2001 was UNGASS. United Nations General Assembly Special Session on HIV/AIDS. The international policy framework started using a lot more human rights language....

But it's also in BONELA's case it was very much dependent on the leadership. I came from a human rights background. I believed in the human rights based approach. As you know, for the longest time I was the only employee of BONELA so I pushed that agenda very much.⁴

While many organisations are borne of specific funding priorities, and personalities, BONELA has weathered changes in global funding priorities, a change in leadership, and significant organisational growth, while maintaining a consistent focus on human rights over the years. Current employees did mention organisational history or leadership as factors in the organisation's human rights emphasis.

While BONELA's professional secretariat includes some personnel who began as interns or volunteers, it does not generally draw directly from its actual or potential beneficiaries. Often attracted by and recruited due to congruent values, respondents reflected the existence of an organisational culture valuing human rights, with more than 70% of respondents 'true believers' who appeared to advocate for a human rights approach based on personal belief. Passionate and effusive commentary was common. One respondent commented:

[W]ith this respect with human rights really you can never go wrong. Human rights are the reason why we exist right? ... You have those rights, no matter how silent they are, that need to be respected. People should not trample you like a doormat. Your dignity is what will make the world. Dream.... Because dignity is human rights. It's inherent to existence as a human being. Without it imagine being treated like mud.⁵

Respondents made frequent mention of the impact of rights language on those involved with BONELA through training, as members, or as clients of the group's legal clinic, usually highlighting individual empowerment, with one respondent stating, "[k]nowledge of rights and entitlements it's very, very empowering....[yo]u claim the rights wherever you go."⁶ Empowerment was seen as having a number of desirable outcomes including claiming of services, responsible behaviour, and enabling people, particularly women to protect themselves from infection. These positive associations tied into the rights-empowerment link were listed as primary reasons for the group's reliance on rights language.

Comparison

A human rights approach is notably dominant in both TAC and BONELA, however there are some distinct and differing features. While the impetus for a rights approach was entirely domestically-based at TAC, with BONELA there were several initial international influences. With both groups, however, over time the human rights approach became understood as an organisational culture. Within TAC the approach was perceived as dominant, and its use concretely explained in the context of the existence of discrimination and with reference to rights enshrined in the South African Constitution and to lived or

⁴ Author's interview, Christine Stegling, Former Director, BONELA, 24 January 2010, Brighton, United Kingdom.

⁵ Author's interview, Dikeledi Dingake, BONELA Employee, 6 July 2010, Gaborone, Botswana.

⁶ Author's interview, Anna Mmolai-Chalmers, BONELA Employee, 29 July 2010, Gaborone, Botswana.

witnessed experience. At BONELA, personal belief in human rights, and particularly in its impact on people's lives, through empowerment were frequent and impassioned.

Domestic Contextual Factors

TAC and BONELA are situated in strongly contrasting environments, and both have weathered change in their own leadership and that of the countries in which they are situated. TAC, in the midst of a vibrant activist culture, has experienced a shift from a strongly oppositional government which actively refuted TAC's advocacy for access to medication, to one which views TAC as a partner. BONELA, situated in a consensus-oriented culture wary of overt critiques and confrontation, has witnessed a more minor shift in national leadership from a President who in many ways made his mark through HIV work, to one who has given the condition less of a profile. While TAC has clearly used the tools of its country's activist past, BONELA, in many ways a lone human rights voice, has become known for its niche but also worked to situate its approach within local conceptions and approaches.

South Africa and TAC

With a history of resistance and a post-apartheid constitution that is "a living document"⁷ and a high level of comfort with overt protests, South Africa has a global reputation for activism. In the post-apartheid period, crises relating to service provision "have necessitated a stronger civil society that has found its feet and begun to use the progressive tools of democracy such as the Constitution, to its advantage (Fleming et al, 2003, 24)." One of these crises, in which TAC was actively involved, was the period of government denialism in which South African leaders questioned the link between HIV and AIDS as well as the safety and effectiveness of treatment, attitudes which slowed the roll-out of medication, and whose impact can be counted in deaths. Although some feel that the level of activism is currently in a lull, by global and African standards it is still a place of frequent demonstrations and loud voices, where "there's a strike or a threatened strike every month ... because people have the impulse to go to the streets."⁸ Overt activism is almost a first port of call as a response to disputes or disappointments, and is viewed as both legitimate and effective. Civil society in South Africa is widely described as "vibrant" (see: Fleming et al 2003, Kearsley 2007).

Situated within such an activist setting, it is unsurprising that domestic contextual factors have played an important role in TAC's selection of advocacy strategies. Country-level influences were dominant in shaping the content and form of campaigns, which responded to local and national issues and called on common historical experiences and contemporary realities. TAC drew on language, techniques and experiences of the anti-apartheid struggle and operationalized the Constitution as a tool of education, engagement and enforcement. While TAC was unique in weaving together human rights and HIV at its outset, this new fabric was clearly created from South African materials – both issues were clearly present within South African society at the time of its formation. While TAC respondents viewed the group as unique, they did so due to its ability to mobilize at the grassroots, and to get results, rather than its use of human rights language in its campaigns.

The legacies of the anti-apartheid struggles are clear, critical, and ongoing influences on TAC, including on its adoption of human rights language. Protest songs have been modified to target pharmaceutical companies and government on HIV-related matters, or to encourage adherence (TAC, Organising in Our Lives). Posters compare the 2001 AIDS-related death of 12 year old Nkosi Johnson to that of 13 year old

⁷ Author's interview, international non-governmental organisation employee, 2 July 2010, Gaborone, Botswana.

⁸ Author's interview, international non-governmental organisation employee, 2 July 2010, Gaborone, Botswana.

Hector Pieterse who was shot by police during the 1976 Soweto uprising.⁹ A series of posters shows names, and photos of individuals involved with TAC who had died of AIDS-related conditions with the tagline “why civil disobedience is necessary,” and several made parallels to apartheid (ie “stop race discrimination”). These TAC leaders have become cited heroes, with their names referenced in song, and recalled as reasons for TAC’s ongoing campaigns.

Statements on the groups’ website contextualize current battles as the latest link in an ongoing struggle against injustice (see for example TAC 2006). TAC member Mark Heywood admitted, “[m]any of us with activist backgrounds are doing old things in a new environments” (cited in: Friedman & Mottiar, 2004, 13). As with earlier activism, TAC focuses strongly on inequity, highlighting unequal access and distribution, naming these as discriminatory and connecting the dots between untimely death and government policy. In a TAC film for example, the Ministry of Health is referred to as having “killed” TAC members (Community Health Media Trust) during the denialist period when government policy prevented timely anti-retroviral roll-out. The anti-apartheid movement entailed broad-spectrum coalitions uniting diverse aspects of both society and civil society, with umbrella movements bringing together unions and other civil society groups moving towards a common cause. TAC activated some of these same connections, alliances and allegiances, drawing on familiar rhetoric to mobilise broad support from groups such including trade unions, and other NGOs working in areas including children and women’s rights (TAC - An Overview, 3). These connections and allegiances are also apparent at events such as provincial and national TAC congresses, where it is common for groups such as the Congress of South African Trade Unions (COSATU) and other organisations expressed support and observed proceedings.

South Africa’s post-apartheid Constitution also continues to play an integral role in the language and methods of activism TAC employs. The group has fought several successful court battles, primarily challenging the government over access to medication, in which they have utilised Constitutional provisions, both in court, and in rhetoric used to mobilise grassroots support. Photo-collage posters depicting these court campaigns were displayed prominently in the TAC Ekurhuleni office. One included the following quotation:

We are marching today to affirm the rights enshrined in the South African Constitution. Our Constitution guarantees all people in South Africa access to housing, health, clean water, food, basic education, social security and a protected and healthy environment. Our march affirms all of these rights but today we are particularly concerned with the rights to life, dignity and access to health care. The HIV/AIDS epidemic is causing immense suffering to all of us by affirming these rights and ensuring their implementation we can mitigate its effects in a humane and just way (Achmat et al. 2002).

Beyond avenues of concrete legal recourse, the constitution was also widely cited as a document with day to day meaning in the lives of TAC members which influenced their activism and access to care. Respondents made frequent and specific reference to the nation’s constitution.¹⁰ Constitutional provisions, particularly Section 27 which provides for the right of access to health care,¹¹ were cited as almost

⁹ TAC posters are available at: <http://www.tac.org.za/community/node/1966> , <http://www.tac.org.za/Documents/Literacy/OIPosters.htm> , <http://www.corbisimages.com/Enlargement/AAKA002226.html> , <http://www.cairn.info/revue-societes-et-representations-2006-2-page-93.htm>

¹⁰ Five out of six respondents made reference to the constitution with 3 listing specific sections by number.

¹¹ Section 27 reads: “27. Health care, food, water and social security. 1. Everyone has the right to have access to: a. Health care services, including reproductive health care; b. Sufficient food and water; and c. Social security, including, if they are unable to support themselves and their dependants, appropriate social assistance. 2. The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights. 3. No one may be refused emergency medical treatment.”

providing an organisational mandate for the group. Three respondents reflected the opinion that TAC's role was intimately connected to defending, enforcing or monitoring constitutional provisions, noting "TAC is an organization that needs to make sure that people's Constitutional rights are not violated"¹² and commenting that "[i]ts job is to oversee that the government is implementing what it has promised in terms of the Constitution, Section 27."¹³ One respondent elaborated:

We are normally informed by the Constitution of this country. That's our starting point. Most of our advocacy strategies emanated from what the Constitution says in terms of government obligations to provide services, basic services.¹⁴

Both TAC and the South African Constitution are, in different ways offspring of the anti-apartheid struggle, with both emerging from a society attempting to define itself in opposition to a culture of state-sanctioned violations. TAC grounds itself in the Constitutional codification of these ideals, playing a role in both creating and defending these concepts through their combination of treatment literacy, citizenship education and advocacy.

At a national level, TAC was not described by members as standing out due to its rights focus. While at the time of TAC's formation "there were very few organisations with the political skill and inclination to advocate for the rights of people living with HIV," (TAC, *Organising in Our Lives*, 4) there are currently at least 25 other advocacy organisations in South Africa listing HIV and human rights as their area of work.¹⁵ The organization above all was recognized for having membership well versed in their medications and their rights to access it, and in their ability to mobilize large numbers of people and employ the law where necessary to get results.

Botswana and BONELA

Although they share a common border, one respondent described the advocacy cultures in South Africa and Botswana as being "like night and day."¹⁶ A peaceful, democratic country, with the same party in government since independence in 1966, Botswana is often described as having a "weak" (Holm et al as cited in Somolekae 1998) civil society, with some attributing this characteristic to "political and social stability" (Shale 2009) and "a culture of non-questioning" (Mogalakwe & Sebudubudi as cited in Shale 2009)."

In a place that is small enough for actors in government and civil society to know each other personally, direct confrontation is occasional and generally discouraged. The country's political culture is described as being a force which "compels/constrains contestants to meet and exchange views rather than to disengage and resort to the trading of unpleasant remarks in the media and to industrial action on the street (Maundani 2004, 619)." Extensive and inclusive dialogue is the dominant course of action, with efforts made to invite all related parties. One employee of an international NGO based in Botswana elaborated:

¹² Author's interview, Employee 3, Treatment Action Campaign – Ekurhuleni Office, 25 August 2010, Daveyton, Gauteng, South Africa.

¹³ Author's interview, Employee 2, Treatment Action Campaign – Ekurhuleni Office, 25 August 2010, Daveyton, Gauteng, South Africa.

¹⁴ Author's interview, Employee, Treatment Action Campaign – Ekurhuleni Office, 10 August 2010, Germiston, Gauteng, South Africa.

¹⁵ Out of a total of 311 advocacy organisations online at <http://www.prodder.org.za/> (which bills itself as "South Africa's most comprehensive directory of NGOs and development organisations"), 25 were found to be local and non-profit and include reference to both human rights (the terms of phrases "right to" "rights" or "human rights") and HIV/AIDS in their description of activities, objectives, areas of work, or target groups.

¹⁶ Author's interview, international non-governmental organisation employee, 2 July 2010, Gaborone, Botswana.

this is a very consensus-oriented society, very small society, and that both means that it's relatively easy to have a seat at the policy tables and to have sort of rational discussions about it, and it also means that at times people react very badly to the more overt forms of activism.¹⁷

He added that while South Africa is “a society that's used to tension and that's used to conflict,” in contrast, Botswana “is used to agreement and concordance, a much more gentle and amenable and consensus-based decision-making process” adding “it's harder to do advocacy in Botswana.”¹⁸ While government does not generally exert strong control over civil society groups forceful criticism is uncommon and often regarded as rude or ungrateful. In a few cases, where strong critiques have been made on nationally-sensitive topics, there have been unfavourable responses on the part of both government and the public.¹⁹ Strikes are unusual, and the government is the nation's largest employer. The majority of civil society groups are engaged in service provision rather than advocacy. In contrast with South Africa, the country's constitution is not well known or circulated, and dates from the country's time as a British protectorate.

If TAC comes across in some ways a logical outgrowth of the society from whence it came, BONELA's contextual situation is less straightforward. While BONELA respondents appeared to strongly believe in and favour human rights discourse, unlike South African respondents they did not indicate that these beliefs were nested in a broader human rights advocacy culture within Botswana. In the midst of a calm nation favouring consensus, BONELA is one of the few groups that directly calls government and other actors to account and has, on occasion coordinated marches, while on a much smaller scale, similar in form to those organised by TAC. In fact, respondents widely believed BONELA to be unique, holding a specific niche within the country due to its human rights emphasis. While many respondents saw this is a benefit, they also noted a variation in discourse particularly around sensitive topics, and attempts to emphasise collective, rather than conflictual aspects of the rights message.

In-line with employee viewpoints, organisational media and documents indicated a clear human rights focus. A radio jingle campaign ended each add with the line “as a person living with HIV you too have rights – know your status, know your rights,” and most print materials and poster campaigns featured a rights message.²⁰ An analysis of newsletters showed a clear dominance of rights language, with the word rights appearing an average of 42 times per issue.²¹ The organisation demonstrated consistency, drawing on rights language in discourse, documents, local media, and international conferences. It was also widely perceived as a rights-based organisation by other organisations, funders, regional partners, and national government. Rights messages tended to be overt and relatively universal, often citing documents such as the *Universal Declaration of Human Rights*, the International Covenants on Civil and Political and Economic, Social and Cultural Rights on rights such as health, founding a family, education and work.

Respondents saw BONELA as a unique organisation within Botswana, identifying it as filling a gap left by both government interventions and activities by other non-governmental organisations. Rather than

¹⁷ Ibid.

¹⁸ Author's interview, international non-governmental organisation employee, 2 July 2010, Gaborone, Botswana.

¹⁹ Examples include academic Kenneth Good's deportation allegedly over comments made related to the relocation of Kalahari San indigenous people and diamond mining, international petitions coordinated by international NGO Survival International on the same topics have resulted in unfavourable front page news coverage.

²⁰ Jingles and posters are available at: http://www.bonela.org/programmes/media_campaign.html.

²¹ Newsletters available at: http://www.bonela.org/publication/bonela_guardian.html

seeing themselves as a competitor, they viewed their organisation as a lone voice addressing a particular angle of the pandemic.

If you look around in Botswana we are the only NGO that speaks the language of human rights in matters of HIV and AIDS. So if we were not there then most of the issues that have been dealt with you know would still remain a gap, a lacuna, in the response. So we have tried to block that gap.²²

This impression, while articulated in different language, was reflected by responses from other non-governmental organizations, donors, and government who all recognized BONELA as the go-to organization for human rights and HIV, with one government-based respondent commenting “oh call BONELA”²³ had become the default response for assistance with any initiatives in this area. A directory of HIV/AIDS included 33 non-governmental organizations of which only one other made any reference to human rights in their organizational profiles (NACA 2008).

Although BONELA has a busy legal aid clinic and has had a number of successful cases, legal recourse was not mentioned as a reason for rights language, nor was rights language mentioned as useful in persuading government. Most BONELA employees noted that government preferred a public health approach, and approximately one-third of respondents explicitly listed government-related factors when asked about disadvantages of a human rights approach.

A human rights approach was described as being too overt in addressing culturally sensitive issues, and as being associated with confrontation and advocating for things that were against the law. One respondent noted:

I think people tend to think that human rights - it's ... for people who are anti the status quo, anti-establishment, anti-government...to be advocating for human rights work ... would be seen to be an adversary of the system. So I think as a result most people would rather be seen to be clean in their dealings with government ... and shy away from being seen to be combative in challenging their status quo.²⁴

While some respondents noted that reference to human rights around mainstream issues such as HIV and employment was not particularly controversial, around more locally sensitive topics such as same-sex sexual activity, one activist noted that direct reference to human rights was avoided as “the moment you say that somebody's temperature goes up.”²⁵ She argued, “you have to tweak your language a little bit” emphasizing respect for religious and cultural beliefs as well as the nation's laws, and make an argument highlighting sexual interaction between different parts of society and a public health rationale for involving all parties in HIV prevention.²⁶

One respondent highlighted was he saw a key difference between the founding director who he described as “militant,” and the current director. He noted:

²² Author's interview, Uyapo Ndadi, BONELA, Gaborone, Botswana, 27 June 2010.

²³ Author's interview, Diana Meswele, Human Rights Activist, Gaborone, Botswana, 13 July 2010.

²⁴ Author's interview, Uyapo Ndadi, BONELA, Gaborone, Botswana, 27 June 2010.

²⁵ Author's interview, Diana Meswele, Human Rights Activist, Gaborone, Botswana, 13 July 2010.

²⁶ Ibid.

He didn't sacrifice the principle. He represented everything that [the founding director] represented. But what he did he knew how to talk to the elders, okay? He knew how to persuade people. Outside of that conference room he was big friends with everybody, all these government people that you see here. But the minute you put him inside the board room he changed and was true to himself and his constituents. He was honest and frank without offending the authorities.²⁷

While in South Africa being anti-establishment has historically-based legitimacy, in Botswana, being agreeable is heavily valued. Particularly when negotiating more sensitive topics, BONELA, although understanding their own approach as rights-based, may nest this argument within a public health rationale – which many saw as a subset of human rights. The manner in which the topic is addressed, is based on an attempt to situate the argument within the beliefs of the target audience or decision maker, calling upon their existing belief system, or concerns about HIV – one of the few topics which can trump some culturally taboo subjects and practices. The organisation, for example, has increasingly in training and internal documents made links between human rights and the local concept of “*botho*” translated roughly as “I am because we are, and because we are therefore I am” (Mbiti as cited in: Cobbah 1987 320).²⁸ This understanding was also reflected in the manner in which people spoke about human rights – as a collective, a point of commonality and of union, of human need and experience, as opposed to an individual claim against an actor. *Botho* was also used as way of grounding the concept locally, and arguing against claims that rights are a foreign concept or imposition.

Comparison

Although both groups rely extensively on rights language, they grounded this approach in different ways. TAC draws on a history of struggle and a “living”²⁹ constitution as well as a historically legitimated culture of confrontation and rights claiming. BONELA, in a context where consensus and commonality are highlighted rights are used to emphasise shared characteristics and values, and conciliatory techniques of dialogue were exhaustively explored as first avenues.

Campaigns

At the intersection of organisational beliefs and contextual factors, campaigns are where organisations attempt to situate their arguments in a way that resonates with local opinion in order to persuade government to take a specific course of action. This section will examine two campaigns undertaken by each group, in each case including one that is challenging for the respective organisations due to the way in which it sits with local and advocacy cultures: TAC's campaign for resources for health, and BONELA's campaign for the provision of condoms in prisons.³⁰ The two groups, when faced with these two challenging campaigns, respond in differing directions, both reflecting and affirming the contexts from which they arise. TAC tries to ground a campaign that is ultimately collaborative and about government support in more conflictual and activist language including reference to constitutional rights. BONELA, softens the edges around its campaign, using a mixed approach of human rights and public health, often emphasising the latter in order to respond to government and public sensitivities.

²⁷ Author's interview, National AIDS Coordinating Agency Employee, Gaborone, Botswana, 15 July 2010.

²⁸ See, for example annual reports: http://www.bonela.org/publication/annual_reports.html.

²⁹ Author's interview, international non-governmental organisation employee, 2 July 2010, Gaborone, Botswana.

³⁰ Condoms are not permitted in prison, with justification usually linking this policy to the law prohibiting sexual activity between members of the same sex, or to celibacy being a component of the punishment of imprisonment.

Campaigns: Treatment Action Campaign

TAC's signature campaign has been its work for access to medication through the denialist period, particularly its vocal, conflictual, litigious, and internationally-publicised campaign for access to Prevention of Mother-to-Child-Transmission (PMTCT) medication and care. In this clearly rights-based campaign, the group convened street protests, civil disobedience involving arrests, called for the resignation of the Minister of Health and eventually presented successful arguments before court based on the "Constitutional duty to take reasonable measures within available resources to achieve the progressive realisation of the right of access to health care service (Minister of Health v TAC 2002, see also Community Health Media Trust)." After the initial court victory, and as key government officials changed and the government reversed its denialist stance, emphasis shifted to monitoring the 2002 roll-out and advocacy messages have been primarily grounded in scientific data, showing evidence of effectiveness of particular drugs, and calculating savings in cost and lives.

Connecting infrastructure and activism is not easy, and some TAC respondents noted that community members questioned TAC's existence and activities now that the battle for medication had largely been won. In contrast with earlier clear confrontation and opposition to government, TAC's Resources for Health campaign launched in July 2009, supports investment in human, infrastructure and financial resources for health and aims at achieving the South African National Strategic Plan objectives relating to HIV and TB treatment and prevention (TAC 2009). TAC's campaign on this topic has been clearly activist, employing classic techniques, including holding a march, pickets, and placing the theme on the back of its emblematic "HIV positive" t-shirts. The campaign makes some but not dominant reference to rights, tending instead to highlight specific targets, of ARV roll-out, and funding deficits and death. The link between funding shortfall and a violation of the right to life is, however, emphasised, in substantive documents:

This is both a moral outrage and a waste of precious health resources. The Constitution guarantees the progressive realisation of access to comprehensive health care. Long ART waiting lists and stock-outs of ARVs and other essential medicines violate this right and sacrifice the lives and well-being of HIV positive South Africans (TAC 2009).

The impact of this campaign is difficult to assess, particularly as it is based on stated government objectives. TAC, and the press have reported both achievements and disappointments with reference to various benchmarks (see TAC 2010), with the press often citing TAC to provide an independent assessment of claims of implementation – indicating that it has achieved legitimacy as a source on this topic.

Campaigns: Botswana Network on Ethics, Law and HIV/AIDS

BONELA's work towards a bill prohibiting HIV-related discrimination in employment has not been viewed as particularly controversial. In interviews employment related issues and issues relating to discrimination based on HIV status were listed as "very easy to use the lens of human rights"³¹ and easy to get buy in from both government and non-governmental sectors. This relatively un-contentious campaign made frequent and dominant reference to human rights.³² Campaign media materials featured a rights messages, with posters entitled "Right to Work," and another titled "HIV Employment Law. Now!"

³¹ Author's interview, Uyapo Ndadi, BONELA, Gaborone, Botswana, 27 June 2010.

³² Six of eight press releases on the topic making a dominant reference to human rights. Of the remaining two one had a mixed human rights-legal approach, and one predominantly legal. Press releases are available at: http://www.bonela.org/press/press_room.html.

which argued “[c]urrently there is no law in Botswana protecting your HIV-related rights in the workplace. Just because your health is at risk doesn’t mean your job should be.”³³ Print news coverage of the topic emphasised BONELA’s involvement, with human rights directly referenced in 9 of 14 articles studied and related concepts and approaches featuring in all 14.³⁴ While the hoped for bill has not passed, significant changes have occurred suggesting the impact of this campaign, including a 2009 bill outlawing workplace discrimination due to health status, and the October 2010 announcement that an opposition MP intended to present a private member’s bill on the topic drafted by BONELA (Keoreng 2010).

In contrast with the above campaign, BONELA’s work to allow condoms in prisons is a locally sensitive topic due to linkages to homosexuality, in a context where same-sex sexual activity is illegal, and to the stigma of incarceration. Human-rights based messages appear only intermittently in BONELA’s activism on this topic. The campaign poster and pamphlet feature a public health message tying the health of the prisoner to that of the general population, though the poster version also contains a rights-based message.³⁵ This mixed approaches was one often articulated by respondents as a campaign justified and motivated by human rights, but articulated primarily through public health, responding to sensitivities by emphasising the risks posed to the general public.

While concrete policy changes have not occurred, the issue rose dramatically in prominence in July 2010, and the chair of the National AIDS Council and the Minister of Health recommended prison distribution. One newspaper noted BONELA’s role stating “[t]his development comes years after BONELA has consistently asked the government to provide condoms inside prisons” (Ngwanaamotho 2010). Despite these recommendations, in September 2010 the Vice-President chose not to review the policy. When asked to offer an explanation for the changing profile of the condoms in prisons issue in July 2010, Former President Festus Mogae, who is the current chair of the National AIDS Council, attributed the change to a shift away from an emphasis on human rights language.

People were saying, “they have a human right or no?” But these people, it’s a human right to be free and they deserve not to be free because they have committed offences which society punishes by imprisonment. Therefore, the deprivation they are suffering – they deserve it. That was the counter-argument against the human rights of the prisoners being violated if they are not supplied with condoms or allowed sex. The new argument says, ah! The new argument cuts both. From the human rights point of view it says yes, these people have a human rights. But above all, it’s in our self-interest because these people they are married... They go to prison. They’re not going to stay there forever. Where people that go to prison HIV negative come out HIV positive and be a source of infection because they then go and infect their partners and any other person they partner with in the future when they are no longer in prison. Therefore, it makes sense that if

³³ Posters available at: http://www.bonela.org/doc/HIV_Employment_Law_Poster_eng.pdf and http://www.bonela.org/doc/work_poster_sets.pdf

³⁴ From 2006 to 2010, 14 articles appeared in *Mmegi* (a widely read independent newspaper published 3 times a week in Gaborone) addressing this topic each of which mentioned BONELA, and in 7 of which BONELA appeared in the headline. A human rights approach was dominant in BONELA quotations and comments, with rights or human rights directly referred to in 9 articles, but related concepts and approaches including: discrimination, abuses, equality, stigma, indignity, prejudice, unfavourable treatment, vulnerable people and protection featuring prominently in all articles. *Mmegi* is archived and available online at: <http://www.mmegi.bw/>.

³⁵ “In prisons these men shouldn’t be getting infected with HIV. But they are. Protecting public health includes protecting prisoners’ health” with the posters also carrying the line “When prisoners go to jail they lose their right to move freely not their right to health.” Poster available at: http://www.bonela.org/doc/poster_prisoners_eng.pdf.

we are looking for loopholes to plug, you are looking for new sources or sources of new infection, this is one of them. That's why it's being debated.³⁶

While statements such as the above are not conclusive, it appears that a rights approach has not been instrumental or prominent in the campaign for condoms in prisons, with some indication that it may have been counter-productive. However, many respondents highlighted that a human rights approach necessitated a focus on marginalised groups, and an investigation of whose needs were not being addressed by mainstream interventions. As such, many BONELA employees saw a connection between the organisation's human rights orientation and their uptake of the condoms in prisons issue, though not necessarily playing a key role in convincing others to take the issue on board.

Comparison and Conclusions

Campaigns illustrate an operationalization of organisational values in context. In the case of TAC, a matter-of-fact approach to rights, a grassroots base and a setting of conflictual activism, led to a desire to connect current activism to struggles in the immediate and more distant past, as well as to root claims in the Constitution and to link them to the lived experiences of the group's membership. This has led to the uptake of issues with a long and indirect chain of responsibility, such as connecting deaths inadequate wages for health care workers, and the imposition of activist and confrontational rights language in what would normally be infrastructure-oriented discourse.

In the case of BONELA, the group has encountered shorter chains of responsibility but mediated its rights language in relation to local sensitivities. Situated in a context valuing dialogue and consensus, BONELA is known for its domestically unique rights-emphasis and expertise and has worked to ground this approach in local concepts such as *botho* and also to highlight shared values and goals in relation to rights in lieu of oppositional claims. The strong beliefs BONELA employees have in rights as concepts and ideals has shaped the organisation's focus, including increasing work on vulnerable and marginalised groups. In relation to sensitive topics, however, these strong beliefs, at times play a larger role in driving the group's direction or influencing process than in the overt language of the campaign in dealing with authorities. The two more challenging cases demonstrate that, under stress, the two groups tend to highlight the advocacy norms in which they find themselves – with TAC favouring a more confrontational approach, even where it is a difficult match with the topic, and BONELA emphasising dialogue, but in neither case abandon the dominant rights frame.

The two groups, both overwhelmingly rights oriented, exist in strikingly different contexts, but are both grounded in their respective countries despite this apparent contradiction. TAC draws directly on experiences of leadership and membership as well as the country's apartheid and AIDS denialist history and a vocal and vibrant civil society. TAC gains legitimacy through these connections in a context where 'speaking truth to power' has a strong past which has a very real meaning to many of their constituents and targets. BONELA's rights base initially originated from external factors but the group found roots in its unique niche, creating an organisational culture which drew in people with similar views. BONELA has worked to locate rights locally, and to draw on common beliefs, sometimes strategically emphasising other messages, such as public health, on more sensitive topics. These two cases illustrate the power of ideas and of context, indicating that while the groups utilise a similar frame in diverging environments, both are responsive to their locations.

³⁶ Author's interview, Festus Mogae, National AIDS Council, 13 July 2010, Phakalane, Botswana.

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