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## **Social Movements: Challenging the State**

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I'd like to thank the organisers for the chance to make this presentation this evening – I thought for a minute I might have Trevor's time as well because he was late coming in but he's here now.

I want to start just by saying that I think the Treatment Action Campaign (TAC) is a strange animal at least in terms of the responses it elicits from different sectors of our society. It's been described by the ANC Weekly as a pharmaceutical company front that is intent on treating African people as guinea pigs and poisoning African people. The ANC Weekly has made an alliance with this strange creature called Dr Mathias Rath who's been taking out full-page advertisements in newspapers all over the country asking people who want to march with TAC, think again because it's anti-democratic and it's paid to undermine democracy in South Africa. And yet on the other hand, it's been a winner of the Nelson Mandela Award for health and human rights and today's front page of the Cape Times carries the following leader: Kadar Asmal tells AIDS dissident Rath to voet-sak with his campaign against TAC.

So, it's clear that perhaps we need to clarify a little bit about what we're trying to achieve with the Treatment Action Campaign, whether we consider it to be a social movement and what really social movements are all about.

I want to also state at the outset that I'm not really presenting a TAC position today. The nature of TAC is that we are a democratic organisation with an executive committee; we debate; we discuss; we take positions; but we don't hold people strictly to firm political positions. So what I'm presenting is my views and experience, which I've had some discussion with Zackie Achmat and a few other people about. I also want to say that apart from the first five minutes of my introduction, I'm not going to speak too much about TAC directly, but rather I want to try and draw some of the lessons from six or seven years of the Treatment Action Campaign which are topical in relation to this discussion about how do we regard the state in South Africa at the moment, how do we relate to the state, how do we relate to the ANC – and when I say we, I mean people who

consider themselves pro-poor, people who consider themselves progressive, people who consider themselves socialist, whatever that may mean in this particular day and age.

But what I want to say as an introduction, first of all, is that, when TAC was set up, in December 1998, there was never an intention to create it as a social movement and there was never at the outset an intention to use the Treatment Action Campaign to challenge the state or the government. Now that may seem a strange thing to say after several constitutional court cases and civil disobedience campaigns and so on. But the reality is we decided to set up TAC because of the growing impact of the AIDS epidemic on South African society; and because of the silence of poor people, and the most affected people by HIV, in response to HIV. We saw TAC at the outset as a campaign that was going to tackle capitalism, if you like. It was going to tackle the pharmaceutical companies and it was going to tackle issues around the excessive pricing of medicines rather than as a campaign that was going to have to tackle the state.

We knew that the state and the government would have to be pushed – from HIV prevention, which it had embraced although not very successfully up to that point, to treatment – and we also knew that the state would have to be pushed to use its powers to control pharmaceutical companies and to regulate profiteering from the sale of medicines. But we didn't understand to begin with, that we would enter on an all-out confrontation both with the ANC government and to a lesser extent the state – and I separate the two out deliberately. The rationale was to mobilise poor people for treatment, against pharmaceutical companies and to try to fill in for some of the shortcomings of the state.

That was the first point. Six years later, I think we can say that what TAC has proved is that it is possible to extract lasting concessions and reforms from both the state and from business, which do alter the social, political and the economic and legal environments. So, what I'm saying is that social movements have the potential to alter the balance of forces in favour of the poor when those social movements are successful with their campaigns. And some of the examples of that, that can be cited, is the campaign around preventing mother-to-child HIV transmission where in a few years we moved from a government that was wanting to limit that service to 18 sites country-wide to a government which today has 435 sites country-wide which provide Nevirapine to prevent mother-to-child transmission. Campaigns to reduce drug prices: you have to remember that in 2001, triple combination anti-retroviral therapy cost R4500 a month. At that point, the pharmaceutical companies were saying that that was their excess price and the price that they couldn't go lower than. Today, the Western Cape, my comrades can correct me on this, sells anti-retroviral medicines for, buys anti-retroviral medicines triple combination for about R100 a month. So that is the depth of the price decreases that the pharmaceutical companies have been pressured into.

On the international scene, we have things like the DOHA declaration of 2001, which have recognised that governments and states have the right to license the production of generic pharmaceutical products in public health emergencies. In this country now, despite immense opposition over a number of years from the government, we have a national treatment plan. This is still far from sufficient – to be treating 40 000 people when there's a need probably for about 650 000 people to be receiving treatment, is a fraction, obviously, of what is necessary.

But there's no doubt, that there's been movement, and from our perspective, we feel, that TAC has been partially successful in achieving one of its driving objectives and that has been the objective to save the lives of people with HIV and to prevent, where possible, new HIV infections. 40 000 people are on treatment: last year we, as TAC, distributed 100 000 Fluconazole tables – Fluconazole is a generic anti-fungal medicine that treats oesophageal candidosis, cryptococcal meningitis and HIV related infections of the brain and sometimes the throat, and so on – to poor clinics outside of the country which again is something that stems from our defiance campaign in 2000 against the company Pfizer. There's a greater affordability of medicines in the private sector.

Now, I don't want to exaggerate those successes, I don't think any of us want to exaggerate it because to have saved a few tens, or to have contributed to saving a few tens of thousands of lives in a context where 500 or 600 people die a day of AIDS related illnesses, is really not a huge amount to boast about. And we can say 500 or 600 people a day now because the Statistics SA report, which was commissioned by the President, and which examined 2,8 million death certificates between the years 1997 and 2002, found that in those years, the daily death rate increased from 800 total deaths all conditions a day, to 1300 deaths a day by the end of 2002. So, the successes have been limited. But what I want to suggest, and this is perhaps where I move onto the broader topic of social movements, is that what has been achieved so far, has been based upon six propositions that have guided the conduct of TAC's campaign. I would say in relation to my comrades in the Anti-Privatisation Forum, that what I'm about to say might be better described as six heresies. I'm going to present those heresies for discussion – they won't be heresies to all of us, by any means, some people will find them very welcoming theses. I do want to present them because I think that they influence the way that we conduct this campaign and the way we'll conduct it in future.

I'm just going to mention all six and then in the limited time that I've got, I'm going to return to each one very briefly:

Proposition 1: The ANC government is fundamentally a progressive government that is not selling out the poor in this country.

Proposition 2: The state in South Africa is not inherently antagonistic towards the poor

Proposition 3: Extensive and lasting reform is possible within the boundaries of capitalism and the current state. And that doesn't make me pro-capitalist, anybody who thinks that – I would still describe myself as a socialist although I'm not sure where the science is around socialism anymore, that's something that we have to rediscover.

Proposition 4: The Constitution of 1996 can, and has been, used to benefit the poor and can continue to be used to benefit the poor and to realise the vision of the Freedom Charter, the constitutional negotiations and so on.

Given those four propositions, I would make two other points about the way we have approached our campaigns.

The first is that whilst social movements clearly have to mobilise the most marginalised, the most vulnerable, the most poor, they shouldn't seek only to mobilise the poor. Social movements have a duty to speak to the middle classes and they also have a duty to speak to the ruling classes. Not just to speak, but to define the critical issues of our day as moral issues and to force people to take positions on those moral issues.

And the second point about how we conduct our campaigns is on the basis of the recognition that globalisation must be controlled but it cannot be reversed. And the challenge that faces progressive movements, is how to manage globalisation in the interests of poor people rather than simply denounce it but not have strategies to control it. That applies very much to how we work in relation to the pharmaceutical companies.

Going back to number 1: I think the important thing to understand about the ANC government from our perspective, is that the negotiated settlement that was reached and which importantly was entrenched in the Constitution, and the entrenching of the key principles of that settlement in the supreme legal document of this country is very important, was a reflection of the fact that in 1994 class, racial and gender antagonisms could not be permanently resolved one way or another because there was not a permanent resolution to those antagonisms in 1994. Again, that may sound terrible reformist but today something made me go back to something which I denounced as a total sell-out back in 1992, which was Joe Slovo's document on "Negotiations: how much room for compromise?" There was a big debate about that, about the sunset clauses and so on, but I think that there was recognition at the time, that vile as apartheid's civil service and bureaucracy might be, you couldn't just kick it out; that vile as the oppression might be, you couldn't just transform it overnight. I'm going to come on to argue that we can speed up transformation greatly and that's where the ANC is failing, but I think there was a reality that was recognised then, and one of the things that Slovo said in that document was that "the key test for acceptability of a compromise is that it does not permanently block a future advance to non-racial democratic rule in its full connotation." And I don't believe that the Constitution blocks

permanently or blocks at all the movement towards “non-racial democratic rule in its full connotation.”

And, therefore the challenge for social movements, is how do we, as representatives for the poor, determine the pace. How do we make sure that we influence the policy-making; that we influence how the power of the state is used, rather than the IMF, the World Bank, the United States government and a range of other things? Those are the questions that we have to ask.

The second thing is the point about the state. We would argue that you have to use the state, to get the state to use its powers on behalf of poor people and to use its powers to realise the Constitutional promises, that there are many pressures on the state not to use its powers, that the state in many of its aspects remains anti-poor, it imprisons people for disconnecting electricity meters, it imprisons people for robbing because they are starving and so on. But in the context of modern globalisation, the state is one of the best instruments that we've got to regulate that globalisation and we've repeatedly made the argument that, for example, why has this state in this country not used powers which are given to it by, for example, the WTO-TRIPS agreement, to take measures against intellectual property, against profiteering by pharmaceutical companies in order to ensure that the poorest of this country are able to access medicines at a price that is affordable because those measures have not been taken to this particular day.

Extensive and lasting reform is possible within the boundaries of capitalism and the current state. Of course you'll have to defend that reform at all points but I think just to denounce capitalism - which I think is an evil system, which is a system which can't provide jobs for people, can't provide security, can't provide equality for people - but we have to work to try to make sure that some of those vast surpluses which we know are out there are made available to poor people. I think that has been shown, for example, in some of the campaigns around the price of medicines where companies like GSK, one of the most powerful multi-national companies in the world, has been forced by campaigns to issue licences to Indian pharmaceutical companies like Cipla.

The 1996 Constitution can be used to benefit the poor. That's been demonstrated. Now it doesn't mean that we fetishise the law or that we fetishise the Constitution, but the MTCT case, the Grootboom case – if it had been taken advantage of by landless people's movements, by homeless people's movements – bear testimony to that. I was very pleased at the COSATU 10 years of democracy conference to hear Zwelinzima Vavi recognising that the judiciary is a terrain of the Constitution and we have to ask whether its been correct as COSATU to limit engagement with their Constitution to the extent that we have. The labour movement has been correct to conduct the struggles in the way that it has but there are parts of its armory that have not been used.

So, the two final points before I conclude. Social movements shouldn't seek only to mobilise the poor. It's necessary to patiently explain, to win over the middle classes to the rights, to the human rights, of people to have access to medicines. It's necessary to win over the middle classes to the human rights of people to have access to electricity, to the human rights of people to have access to clean water. It's necessary to use the media and to build up support within our society that creates a justification and a basis for the radical campaigns that we have to conduct as and when those campaigns become necessary. I think examples of that – I could give you bad examples but maybe I'll give those in the discussion of when it doesn't work – I think it's very interesting that when we smuggled Flucomazole into this country, openly flouted the law, broke the law, that all the radio stations that I listen to had all these old people and young people saying "ja, they're right to do it, access to health care is a human right, the patents are wrong" and so on. Similarly, when it was necessary to conduct the civil disobedience campaign, which was very mild-mannered and limited. But the civil disobedience campaign by TAC wasn't uniformly denounced or rejected or seen as the conduct of reckless people. I'll leave the point about globalisation because I know I'm out of time.

So, in conclusion, I'll make three points:

Pro-poor organisations must direct their campaigns at the state, they must engage the state, they must use the institutions of the state, they must try to avoid closing the doors of the state – we've closed one set of doors very firmly unfortunately and we're trying to get those doors open all the time although there are some people behind those doors in the Ministry of Health who don't like the doors being closed and they're pushing from the other side as well. It's necessary to force government and the state to make choices on issues that are vital to the progress of this country towards genuine racial, gender and so on, equality.

The state is contested – that's a truism. The state must be a primary organising and regulating mechanism of human societies. One of our strongest defences against global capitalism, one of our strongest defences against uncontrolled capitalism in a country like South Africa whether it's the mining industry, whether it's the local pharmaceutical industry, but the state is not doing what the Constitution and what the people of this country have required of it in order to advance. There is an accommodation with poverty, there is an accommodation going on with gender inequality, there is an accommodation going on despite the lip service of denunciation about racism with racism – I'm rambling now but I live past Diepsloot and to drive past Diepsloot everyday and to pass Dainfern on the way to Diepsloot is really quite an offence. And that those two communities can live together without any serious attempt to change that, is a condemnation.

So, in conclusion, where is TAC going? TAC's viewpoint is that the struggle around HIV is not finished in this country. There is a very powerful part of our government that is in denial about HIV. That powerful part includes the President, it includes the Minister of Health, and that

powerful part prevents the full power of the state being used to control the epidemic. Our response on HIV prevention is pathetic. Our response on treatment is pathetic. If we have the hard evidence, as we do, that the annual number of deaths has increased from 318 000 deaths per year to 499 000 by 2002, why are we not treating that as a crisis when we know that is predominantly poor people. Not predominantly – 99,9% poor people, 99,9% black people, and very significantly women as well. It's because of denial. So unfortunately that contest has to continue.

The second thing is that successful prevention and treatment depends upon forcing or persuading the state to take action to address other areas of social crisis and that's where alliances with the Anti-Privatisation Forum, with COSATU, with the churches and so on, become vitally necessary because you can't address HIV in the context of no-hope around joblessness. You can't address HIV in the context of deepening poverty and gender inequality – and gender inequality is getting deeper whether you like it or not, HIV is making it deeper.

Social movements can't do this outside of the state but they can't do it by compulsion on the state alone. There has to be persuasion. The social justice coalition is needed. One of the reasons why a social justice coalition is being needed, and this will be my last controversial point, is because the ANC is presently being controlled and used defensively by the party's anti-democracy wing rather than as the driver and the pace-setter of a deeper change in this country.

Thank you