“HIV/AIDS and the Law” is a semester course, consisting of 13 double lectures that will run from February to May 2008. There will be one double lecture a week, on Friday mornings from 8-10am in the Senate House basement G101. The “HIV/AIDS and the Law” course was originally conceptualised by Zarina Prasadh and taught by her in 2002 and 2003. The AIDS Law Project (ALP) took over the teaching of the course in 2004.

Lecturers
The course co-ordinator is Dan Pretorius. Her contact details are: (011) 356 4100/09 and pretoriusd@alp.org.za. As she is frequently out of the office doing training, please allow some time for her to respond to any queries, or contact her in good time.

The lecturers will most likely include:
- Jonathan Berger (ALP) senior researcher and head of policy, research and communications, bergerj@alp.org.za
- Fatima Hassan (ALP) senior attorney, hassanjalp.org.za
- Adila Hassim (ALP) advocate, head of litigation, hassima@alp.org.za
- Mark Heywood (ALP/Treatment Action Campaign) executive director, heywoodm@alp.org.za
- Nonkosi Khumalo (ALP) researcher and head of public education, teaching and training, khumalon@alp.org.za
- Johanna Ncala (TAC) national treatment literacy co-ordinator, Johanna@tac.org.za
- Dan Pretorius (ALP) attorney/trainer, pretoriusd@alp.org.za
- S’hkumbuzo Maphumulo (ALP) attorney, maphumulos@alp.org.za
- Amelia Vukeya (ALP) attorney, vukeyaa@alp.org.za
- Brian Honermann (ALP) intern and Tolan Fellow in International Human Rights, honermannb@alp.org.za

Guest lecturers might include:
- The Honourable Mr Justice Edwin Cameron, judge of the Supreme Court of Appeal
- Faranaaz Veriava, human rights advocate

Course Texts
Available in the course pack, on the ALP website (www.alp.org.za) and a number of copies are available at the Wits Law Library. (NB: An updated version will become available later in the year.)

Copies are available at the ALP offices 6th Floor Braamfontein Centre, 23 Jorissen St, at R170 (only if you bring your student card, otherwise it costs R230) or on the ALP
website (www.alp.org.za). Selected chapters are included in the course pack.

3. **Course Reading Pack**

   Please note that lecturers will probably hand out supplementary materials during the lectures which are not included in the initial course pack. Please be on hand to collect these or liaise with your elected class representative. Please note that it is your responsibility to make sure that you obtain copies of any supplementary materials timeously.

**Mark Allocation and Exam**

Students’ performance will be assessed as follows:

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<thead>
<tr>
<th>Component</th>
<th>Percentage</th>
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<tr>
<td>Assignment</td>
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<td>Exam</td>
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**Exam**

The exam will be probably be written some time after 21 May 2008 (no timetable available yet). The exam will cover all the work taught in the semester, including the lectures covered by the guest lecturers. The exam will be of 1½ hours’ duration. This will be an open-book exam which means a high standard will be expected, and answers must relate specifically to the questions asked.

**Assignment**

A research essay of 2000 words is required, on one of the topics to be provided. Essays should to be handed in by 18 April 2008.

**Syllabus**

Over the 15-week period, the course will incorporate the following:

**Week 1**

*An overview of the course*  
Dan Pretorius

- Draft course overview
- Additional materials

**Week 2**

**Basic science & epidemiology**  
Nonkosi Khumalo and Johanna Ncala (TAC)

*Required reading material:*

• Treatment Action Campaign, *ARV’s in Our Lives*, 2006, pp1-114

**Recommended reading material:**
• Reproductive Health Research Unit, *HIV and Sexual Behaviour among Young South Africans: a National Survey of 15-24 year-olds*, 2004
• Nelson Mandela Foundation, *The HIV epidemic may have entered a phase of levelling off*, article based on 2005 SA National Household Survey conducted by the Human Sciences Research Council, 2006
• Treatment Action Campaign, *HIV in Our Lives*, 2003, pp1-72
• Treatment Action Campaign, *TB in Our Lives*, 2007, pp1-70

**Week 3**

**The History, Politics & Context of HIV/AIDS**

**Required reading material:**
• Extract from *Thabo Mbeki: The Dream Deferred*, by Mark Gevisser, November 2007
• Special Lecture, Faculty of Law, Stellenbosch University, *Legal and Human Rights Responses to the Epidemic*, by Edwin Cameron, 12 October 2005

**Recommended reading material:**
Week 4

Testing, informed consent and confidentiality  Faranaaz Veriava

Required Reading Material

- NM and Others v Smith and Others 2007 (CC)
- World Health Organisation (WHO) and UN Programme on HIV/AIDS (UNAIDS), Guidance on Provider-Initiated Testing and Counselling in Health Facilities, 2007
- UNAIDS Reference Group on HIV and Human Rights, Statement and recommendations on scaling up HIV testing and counselling, 2007

Recommended Reading Material:


Week 5

Employment  Dan Pretorius

Required Reading Material

- Your Victory is Our Victory: The Case Study of "A" v SAA, ALP publication, October 2000.
- Hoffmann v SAA (Pty) Ltd 2001 (1) (CC); (2000) 21 ILJ 2357 (CC)

Recommended reading material:
• Irvin & Johnson Ltd v Trawler & Line Fishing Union and others (2003) 24 ILJ 565 (LC)
• M Heywood & J Joni, Judgment on section 7(2) of the Employment Equity Act creates uncertainty regarding HIV testing in the Workplace, (2002) 23 ILJ 670
• J Joni, “Irvin & Johnson Ltd v Trawler & Line Fishing Union and others” (2003) 24 ILJ 771
• IMATU and Another v City of Cape Town (2005) 26 ILJ 1404 (LC)

Week 6

Children xxxxxxxxxxxxxxxxxxx

Required Reading Material
• UN Committee on Human Rights, General Comment no 3 (2003) HIV/AIDS and the rights of the child, (at www2.unchr.org and search)

Recommended reading material:

Week 7

HIV/AIDS and the Constitution Adila Hassim

Required Reading Material
• [see earlier SM and Others v Smith, de Lille and New Africa Books, 2007 (CC)]
• Government of RSA v Grootboom 2001 (1) SA 46 (CC).
• [see earlier Hoffmann v South African Airways 2001 (1) SA 1 (CC)]
• Khosa and Others v Minister of Social Development and Others; Mahlaule and Another v Minister of Social Development and Others 2004 (6) BCLR 569 (CC)
• Minister of Health v Treatment Action Campaign (No 2) 2002 (5) SA 721 (CC)
• Rail Commuters Action Group v Transnet Ltd t/a Metrorail 2005 (2) SA 359 (CC)

Recommended reading material:


Week 8

Criminal Law

Edwin Cameron

Required Reading Material

• Extracts from Criminal Law (Sexual Offences and Related Matters) Amendment Act, 32 of 2007

Recommended reading material:


Week 9
Social security: Insurance and HIV/AIDS Fatima Hassan

**Required Reading Material**

- B Goldblatt, paper on social grants, seminar by Centre for Applied Legal Studies, 2007
- Promotion of Equality and Prevention of Unfair Discrimination Act, No. 4, 2000, as amended

- **Recommended reading material:**
  Joint ALP/Life Offices Associated press release, 27 March 2007

**Week 10**

Access to health care services Jonathan Berger

**Required Reading Material:**

- Soobramoney v Minister of Health, KwaZulu-Natal 1998(1) SA 765 CC
- [see earlier reading: Government of the Republic of South Africa v Grootboom and Others 2001(1) SA 46 CC; Minister of Health and Others v Treatment Action Campaign and Others (No 2) 2002 (5) SA 721 (CC); Khosa and Others v Minister of Social Development and Others; Mahlaule and Another v Minister of Social Development and Others 2004 (6) BCLR 569 (CC)]
- Treatment Action Campaign and Others v MEC of Health, Western Cape and Others, 26 June 2007, case no 7991/07 (CPD)

**Recommended Reading Material:**

- [see earlier reading: The right to the highest attainable standard of health: CESCR General Comment 14]

**Week 11**

Access to treatment and prevention services Jonathan Berger

**Required Reading Material:**

**Recommended Reading Material:**

**Week 12**

**Health Research**

**Mark Heywood**

**Required Reading Material:**

**Recommended Reading Material:**
- National Health Act 61 of 2003, chapter 9, pp69-76.
- Stoffberg V Elliot 1923, CPD.
- Castel v De Greef 1994 SA 408(C).
- C v Minister of Correctional Services 1996 (4) SA 292

**Week 13**

**Gender & Customary Law**

**Marlise Richter**

**Required Reading Material**
Recommended reading material:


Week 14

Case Study in Public Impact Litigation  Fatima Hassan

Required Reading Material:

- Gilbert Marcus SC and Steven Budlender, “Strategic Evaluation of Public Interest Litigation in South Africa” for Atlantic Philanthropies, November 2007

Recommended reading material:

- E Cameron “Law in the Struggle for Truth” SALJ Vol.120 (1), 2003 pp 118-123.