

# **Harsh realities of HIV/AIDS in the workplace: Exploring the role of labour in tackling the pandemic**

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In 1990 HIV prevalence in South Africa was less than 1 percent. However, the scale of HIV and AIDS skyrocketed to unprecedented levels in 1997. The Department of Health believes that over 200 000 people die each year as a result of AIDS related diseases. The UNAIDS estimated that at the end of 2003, there were 5.3. Million people in South Africa living with HIV and in 2006 there were about 6 million people infected with HIV/AIDS. Despite the high levels of HIV/AIDS in South Africa, unions' response to HIV and AIDS in South Africa has been minimal and ad hock. Whilst few unions have responded comprehensively to the HIV/AIDS pandemic, the majority of the union's programmes and policies are still at an embryonic stage. Few unions and employers in South Africa have been able to develop comprehensive work place policies addressing HIV/AIDS pandemic. The impact of HIV and AIDS on the economy and labour (workers) in South Africa is huge. Despite the huge impact felt from different levels (socio, conomic and political), government, business and labour have not adequately responded to the pandemic.

## **HIV/AIDS and unions**

Unions like the National Union of Mine Workers have achieved some major strides in tackling the pandemic within and beyond the workplace. In addition to this, the South African Teachers Union has been able to fundraise in order to assist its members and the sector experiencing skills shortage. However, few unions have taken the issue of HIV/AIDS to the collective bargaining councils. Conversely, unions operating within the public sector, for example nurses and teachers unions have been the hardest hit by the pandemic and are the most overlooked sectors. The South African Democratic Teachers Union has tried to negotiate with the public service bargaining council. Despite harsh realities facing the public sector unions the "response has been that HIV/AIDS affects all the citizens of South Africa and the public sector is no exception to the mainstream."

## **HIV/AIDS and bargaining councils**

The relegation of HIV/AIDS to the margins of bargaining councils bears testimony to the inadequate labour responses to the pandemic for both labour and business. It is worth noting that the majority of bargaining councils are still developing their HIV/AIDS policies. What exacerbates matters is that the few bargaining councils that have factored HIV/AIDS in their rounds of bargaining do not monitor the implementation of decisions, and this negates major achievements. However, response to HIV/AIDS within the bargaining council solely depends on each sector within the council. In most bargaining councils, the inclusion of HIV/AIDS is a result of the pressure of demand from labour.

This is the case with the National Bargaining Council, South African Cotton Textile Processing and Manufacturing.

In the sectors where casualization is rampant, for example Building Industry- the Building Industry Bargaining Council does not have a plan in place and enforcement from the side of labour appears to be weak or non-existent. Enforcing HIV/AIDS agreements on weaker sectors with high levels of casualization like building industry, agriculture and retail sectors remains a major challenge for labour.

The weakness in both labour and the bargaining councils in tackling HIV/AIDS suggest that the latter (HIV/AIDS) should not be treated in isolation or relegated to the margins during the wage negotiations but rather be prioritized. A need for a uniform approach within the bargaining councils at various levels should be developed in tandem with the need to strengthen the power of the bargaining councils not solely in factoring HIV/AIDS within their rounds of bargaining, but also to enforce the implementation of the agreements rather than to leave it to the employers and labour. This calls for a comprehensive approach within the bargaining councils to enforce compliance measures. This means that bargaining councils should lobby the government to pass a law to bind employers to give sufficient HIV/AIDS support. Conversely, government as an employer is unable to give necessary support to its workers and this dilemma remains a major stumbling block for both bargaining councils and unions.

### **Stigmatisation of workers in the workplace**

In instances where business and labour have HIV/AIDS programmes in the workplace it appears that there is poor coordination, lack of consultation and to a certain extent stigmatization of the infected workers. Cases of stigmatization, prejudice and exclusions have been endemic in the workplace. The recent case of Jabulani Ngwenya who was summarily dismissed by the locomotive manufacturing company in Nigel for disclosing his status bears testimony to the stigmatization and treatment of workers with HIV/AIDS in the workplace. Jabulani Ngwenya was forced to disclose his HIV status after he became sick for a week. A worst scenario was that Ngwenya was told to report for further medical check-up with the company medical physician or face permanent dismissal if he was found unfit to resume his duties. The labour law in South Africa protects workers living with HIV/AIDS, for example, an employee with HIV/AIDS cannot be dismissed on the ground of their HIV/AIDS status and when an employee has become too ill to perform his/her current work, statutory guidelines will be followed accordingly i.e. agreements and procedures regarding ill health retirement due to incapacity must be followed.

Despite the ILO and the Department of Labour's stance on discrimination, it has become a trend that infected workers who disclose their status face the axe or ill-treatment. In instances where some employers provide anti-retrovirals treatment, workers accessing treatment are badly treated. This tendency has the ability to limit workers potential in disclosing their status. Consequently, some unions have challenged employers not only to have wellness programmes, but to consult with labour when rolling-out the treatment. Cases of abuse and discrimination to HIV/AIDS workers have become rampant despite

the existence of policies prohibiting such behaviour. This depicts the weakness of labour in ensuring that employers comply with the regulations advocated by ILO and National Labour policies. Workers infected with HIV/AIDS face a double or a triple-edged sword. In the face of deteriorating work rate, workers face discrimination and to a greater extent dismissals. Labour and business need to strike a balance between the protection of worker's rights through providing necessary support and also creating an environment for openness, for example, respecting the rights of workers not to be forced to test for HIV/AIDS, while also encouraging workers to know their status in order to be assisted. This could assist in preventing the further spread of the pandemic and also contribute to higher productive levels.

Unions and civil society (NGOs) have not only exposed and forced the government to expedite anti-retrovirals treatment but to challenge the representation of all stakeholders in the South African National AIDS Council (SANAC) which previously consist of government officials. Unions and civil society have forced the government to revise its plans and strategy on HIV/AIDS. The question of representation has forced the government to set tangible milestones in the battle against HIV/AIDS.

### **Challenges for labour**

Given that the majority of unions and bargaining councils are still developing their policies on HIV/AIDS, it is imperative for unions to have joint partnership especially regarding information sharing. There is a need for a union-driven conference on HIV/AIDS to strive towards a common framework to overcome the hurdles and challenges facing labour. Some unions affiliated to one federation and similar sector are unable to share information-pushing into different directions to achieve a common goal. This not only exacerbates the current scenario but also weakens the defenseless workers. The major task facing unions is to implement HIV/AIDS policies in the workplace and give the pandemic an urgent attention.