

NATIONAL POLICY ON HIV/AIDS AND THE WORLD OF WORK

National Policy on HIV/AIDS and the World of Work

Ministry of Labour and Employment

Government of India

NATIONAL POLICY ON HIV/AIDS AND THE WORLD OF WORK

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ABBREVIATIONS

AIDS	Acquired Immune Deficiency Syndrome
ART	Anti Retroviral Therapy
CSOs	Civil Society Organizations
CSR	Corporate Social Responsibility
GOI	Government of India
ICTC	Integrated Counseling and Testing Centres
IEC HIV	Information, Education and Communication
HIV	Human Immunodeficiency Virus
ILO	International Labour Organisation
MOL&E	Ministry of Labour and Employment
NACO	National AIDS Control Organisation
NACP III	National AIDS Control Programme Phase III
NGOs	Non Governmental Organizations
OHS	Occupational Health Services
PPP	Public Private Partnership
PLHIV	People Living With HIV/AIDS
SACS	State AIDS Control Societies
STIs	Sexually Transmitted Infections
UNAIDS	Joint United Nations Programme on AIDS

1. INTRODUCTION

1.1 Background

The HIV/AIDS epidemic constitutes one of the most formidable challenges to development and social progress. The epidemic exacerbates poverty and inequality, and increases the burden on the most vulnerable people in society i.e. the elderly, the women, children and the poor.

Countries and organizations that do not respond in time have to bear huge costs on public and private sector enterprises through declining productivity, loss of skilled and experienced labour and increased expenditures on employee treatment and associated costs as the demand for public services increases. National economies, as seen in the severely affected regions like the sub-Saharan Africa, have experienced the impact on virtually every sector.

1.2 Situation in India

According to NACO an estimated 2.31 million people in India were living with HIV/AIDS in the year 2007 (88.7% adults in 15-49 years, 7.5% aged 50 and above and 3.5% children below 15 years). The prevalence rate of HIV/AIDS in the country is 0.34%. Women account for 39% of HIV burden in the country. 8 states have HIV prevalence greater than the national average. India has been successful in containing the overall prevalence of the epidemic. However, there is no room for complacency as the epidemic spreads from high risk groups to general populations, from men to women and from urban to rural areas.

1.3 HIV/AIDS in the world of work

HIV/AIDS is a major threat to the world of work. It has shown maximum impact on the most productive segment of the labour force. In countries with high HIV prevalence rates, it has cut the supply of labour and slashed income of workers, adversely affected enterprise performance and national economies.

HIV/AIDS affects fundamental rights at work, particularly with respect to discrimination and stigmatization of workers and people living with and affected by HIV/AIDS. Stigma and discrimination at the workplace gets reflected in the form of loss of employment and livelihood opportunities in addition to ostracism and seclusion faced by workers either due to known or presumed HIV status.

The threat of HIV to the Indian working population is evident from the fact that nearly 90% of the reported HIV infections are from the most productive age group of 15-49 years.

India has a working population of over 400 million, 93% of whom are in the informal economy. The informal/unorganized sector labour is hard to reach and is characterized by low literacy, negligible social protection benefits,

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difficult working conditions, poor health seeking 5orporat and limited access to health care services.

A large number of people migrate, both internally as well as overseas in search of better employment/livelihood opportunities. Though not all migrant workers are at equal risk, the process of migration enhances vulnerability to infections such as HIV, particularly to those who are single, stay away from families for long durations, and work under difficult conditions.

1.4 Focus Area within the National AIDS Control Programme

Expanding HIV/AIDS policy and programmes in the world of work is a key component under the mainstreaming strategy in the National AIDS Control Programme phase-III (2007-2012). The National AIDS Control Organization, realizing the need for focused efforts to mainstream HIV/AIDS in a sustained manner has established a dedicated mainstreaming cell which would be responsible for initiating and facilitating mainstreaming efforts with government, civil society organizations and businesses/industries.

It was observed that a national policy guideline on HIV/AIDS interventions in the world of work would be of immense value. The Ministry of Labour and Employment and the National AIDS Control Organizations, under the Ministry of Health and Family Welfare, have jointly developed this policy document. These guidelines have come out of consultation with the employers' and workers' organizations, people living with HIV/AIDS, the International Labour Organization (ILO) and UNAIDS.

1.5 Foundations of the proposed national policy

The Policy is based on, and builds upon, the following:

- a) The broad framework and ideology of the HIV/AIDS Policy of the Government of India. The national policy stresses that the organized and unorganized sector of industry needs to be mobilized for taking care of the health of the productive sections of their workforce
- b) The ILO Code of Practice on HIV/AIDS and the World of Work that has been endorsed by the National AIDS Control Organization, MOL&E, employers' and workers' organizations in India.
- c) The Indian Employers' Statement of Commitment on HIV/AIDS (**Annexure1**) signed by seven national level employers' organizations.
- d) The Joint Statement of Commitment on HIV/AIDS of the Central Trade Unions in India (**Annexure II**), signed by five central trade unions.

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2. RATIONALE

- I. The National Council on AIDS, chaired by the Prime Minister of India, accords top priority to protection of workforce with regard to HIV/AIDS.
- II. The workplace, where a large number of people come together, is an ideal structure and setting to facilitate access to prevention, treatment, care and support for people living with and affected by HIV/AIDS and to help mitigate the impact of the virus.
- III. Stigma and discrimination associated with HIV/AIDS is a key challenge in the fight against HIV/AIDS.
- IV. Government of India has ratified the ILO Convention No. 111 on Discrimination (Employment and Occupation). Therefore, a policy statement creating a framework for non-discrimination with workers on the basis of their real or perceived HIV status is essential. It is also necessary because in India a legislative framework on HIV/AIDS has not yet developed though the process has been initiated. However, there have been a number of landmark court judgments on HIV/AIDS related discrimination in employment that provide relevant background for this policy statement.
- V. Prevention efforts through the workplace are a globally recognized cost effective strategy
- VI. Although efforts are being made, policy measures for unorganized sector workers are yet to be developed to provide guidelines for non-discrimination and social protection, including HIV in health insurance.
- VII. Many employers in the public and private sectors have not taken up “work place interventions” due to low risk perception and lack of understanding. Partnership between State AIDS Control Societies (SACS), spearheading HIV/AIDS response at the state levels with trade unions, employers’ organizations (whether publicly or privately owned) have been limited.
- VIII. India’s growth will generate about 14 million jobs per year in the next 10-12 years. Most entrants will be young people and uncontrolled spread of HIV and its impact among them will affect economic growth. Workplace Policy will ensure that they are provided appropriate services and information for prevention.

A National policy on HIV/AIDS and the World of Work is therefore, essential to provide guidelines to all the key actors and suggest mechanism for

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effective collaboration and implementation to protect the Indian working population from HIV infection and mitigate its social and economic impact.

3. POLICY FRAMEWORK

3.1 The Policy framework is based on following facts about HIV/AIDS:-

- 1) The known routes of transmission of the Human Immuno-deficiency Virus (HIV) are through:
 - Unprotected sexual contact with an infected person;
 - Transfusion of infected blood or blood products;
 - Sharing of infected needles/syringes; and
 - From infected mother-to-child during pregnancy, childbirth or breast feeding
- 2) There is no scientific or epidemiological evidence to suggest that HIV can be transmitted through ordinary workplace contact (talking to or touching the person, using the same office equipment, tools, utensils or bathroom as a person infected with HIV). In special situations where there may be the potential risk of exposure, for example healthcare workers who may be exposed to blood or blood products, there are specific and appropriate infection-control procedures known as Universal Precautions that ought to be followed. Transmission is therefore not likely in the regular workplace setting.
- 3) People with HIV may remain healthy and fit to work for several years despite their infection.
- 4) With the availability of Anti Retroviral Treatment, the life of people living with HIV can be prolonged substantially and they can lead a normal productive life.

3.2 Aim

This policy, based on principles of human rights, aims to guide the national response to HIV/AIDS in reducing and managing the impact of the epidemic in the world of work. Specifically the policy aims to:-

- i. Prevent transmission of HIV infection amongst workers and their families;
- ii. Protect rights of those who are infected and provide access to available care, support and treatment.
- iii. Protect workers from stigma and discrimination related to HIV/AIDS by assuring them equity and dignity at the workplace;
- iv. Ensure safe migration and mobility with access to information services on HIV/AIDS.

3.3 Scope

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This policy applies to all employers and workers (including applicants for work) in the public and private sectors, all workplaces and contracts of employment, and all aspects of work – formal and informal and the self-employed worker including the spouse and children or other dependant family members of a worker.

The employers' and workers' organizations, government ministries / departments at the national and state levels, public/ private sector companies, multi-national companies operating in India, and other social partners are advised to use this policy framework in formulating and implementing the workplace policy in their individual workplaces.

3.4 Guiding Principles

The policy adopts the key principles of the ILO Code of Practice on HIV/AIDS and the World of Work that is in line with the Government of India's National HIV/AIDS policy. The ten principles are:

I HIV/AIDS, a workplace issue

HIV/AIDS is a workplace issue because it affects workers and enterprises, increases labour costs and reduces productivity. The workplace can play a vital role in limiting the spread and effects of the epidemic.

II Non-discrimination

There should be no discrimination or stigmatization of workers on the basis of real or perceived HIV status. Discrimination and stigmatization of people living with HIV/AIDS inhibits efforts aimed at promoting HIV/AIDS prevention.

III Gender equality

Women are more likely to become infected and adversely affected by the HIV/AIDS epidemic than men due to biological, socio-cultural and economic reasons. Equal gender relations and the empowerment of women are vital to successfully preventing the spread of HIV infection and enabling women to cope with HIV/AIDS.

IV Healthy work environment

The work environment should be healthy and safe, and adapted to the physical and mental state of health and capability of workers.

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V Social dialogue

A successful development and implementation of HIV/AIDS policy and programme requires full cooperation and trust between employers, workers and governments.

VI No Screening for purpose of Employment

HIV/AIDS screening should not be required of job applicants or persons in employment or for purposes of exclusion from employment or worker benefits. In order to assess the impact of HIV, employers may wish to do anonymous, unlinked HIV prevalence studies in their workplace. These studies may occur provided it is undertaken in accordance with the ethical principles of scientific research, professional ethics and the protection of individual and confidentiality. Where such research is done, workers should be consulted and informed that it is occurring. Testing will not be considered anonymous if there is a reasonable possibility that a person's HIV status can be deduced from the result.

VII Confidentiality

There is no justification for asking job applicants or workers to disclose HIV-related personal information. Nor should co-workers be obliged to reveal personal information about fellow workers.

Personal data covered by medical confidentiality should be stored only by personnel bound by rules on medical secrecy and should be maintained apart from all other personal data.

In case of medical examination, the employer should be informed only of the conclusion relevant to the particular employment decision. The conclusions should contain no information of a medical nature. They might as appropriate, indicate fitness for the proposed assignment or specify the kinds of jobs and the conditions of work which are medically contra-indicated, either temporarily or permanently.

VIII Continuation of Employment relationship

HIV infection is not a cause for termination of employment. Persons with HIV-related illnesses should be able to work for as long as medically fit in appropriate conditions.

IX Prevention

HIV infection is preventable. The social partners are in a unique position to promote prevention efforts through information and education, and support changes in attitudes and behaviour

X Care and support

Solidarity, care and support should guide the response to HIV/AIDS at the workplace. Care and support includes the provision of voluntary testing and counselling, workplace accommodation, employee and family assistance programmes, and access to benefits from health insurance and occupational schemes.

All employees are entitled to affordable health services including access to counseling and testing, ART and treatment for STI and opportunistic infections and to benefits from statutory and occupational schemes. The availability of treatment encourages confidential voluntary HIV testing, making it easier to provide care and support and encourages prevention

3.5 Key Strategies

- a) Prevention of HIV transmission
- b) Provide education and training at all levels in workplaces, set up interventions for behaviour change through peer educators, integrate HIV in the existing / to be initiated programmes at workplaces like the training of the Human Resource Department, Welfare and OHS programmes, Corporate Social Responsibility initiatives etc;
- c) Set up interventions for unorganized/informal sector workers and migrant workers, based on vulnerability studies and risk assessment.
- d) Enhance access to condoms, treatment of STIs, universal precaution and Post Exposure Prophylaxis (PEP).
- e) Widen scope of social security coverage to include HIV in employee and family assistance programmes, health insurance etc.
- f) Undertake vulnerable studies/epidemiological surveillance at the workplace to gather data/information for taking informed policy and programmatic decisions.

3.5.1 Creating and ensuring an enabling environment to discourage stigma and discrimination towards people infected and affected by HIV/AIDS through following:-

- i) Develop and implement non-discriminatory workplace policies;
- ii) Integrate HIV/AIDS services in other health related services;
- iii) Adapt flexibility and reasonable accommodation (make adjustments in assigned work, as practically possible) for PLHIV;
- iv) Involve PLHIV in planning and implementation; and
- v) Ensure continued employment and benefits to PLHIV.

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3.5.2 Provision of counselling facilities and care and support services

- A) Provide counselling to infected workers/families/co-workers, either at workplaces or by setting up partnerships with other government/civil society services.
- B) Ensure provision of ART treatment services and establish adequate referrals and/or linkages.

3.5.3 Strengthening Public-Private Partnerships in HIV/AIDS Prevention and care

3.5.4 Strengthen partnership of private sector with the SACS/ILO/other expert agencies to offer technical assistance for setting up workplace policy and programmes;

- 1) Expand coverage of Corporate Social Responsibility efforts to include HIV/AIDS;
- 2) Set up integrated counselling and testing facilities/ART centres for workers and nearby communities;
- 3) Develop insurance policies/products that are inclusive of PLHIV;
- 4) Develop partnership with pharmaceutical companies to offer ART at affordable costs; and
- 5) Mobilize resources from the private sector to complement the National AIDS Control Programme.

3.6 Specific Provisions

HIV/AIDS policy and programmes should be established in all constituents – Ministries and their key institutions, employers' and workers' organisations, public and private sector enterprises / multi-national companies and civil society organisations, based on the principles and implementation guidelines. However, specific provisions in these constituents allow broadening of the opportunity to address the HIV vulnerability and its impact within its own context.

3.6.1 Ministries, Departments and their key Institutions

- 1) Each ministry/government institution is encouraged to develop its workplace policy based on the framework of this national policy. For this Ministries should nominate a focal person and set up an internal committee on HIV/AIDS, seeking appropriate partnerships for technical support to develop their policy and programmes for covering their workers/families.

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- 2) Ministries are advised to issue guidelines to the public and private sector undertakings under their administrative control to develop their workplace policy and response based on this policy.
- 3) Ministries/institutions should allocate budgetary and personnel resources to implement the HIV/AIDS programmes.
- 4) Ministries should review and monitor progress in implementation of workplace policy and programme through internal committees and by mainstreaming HIV into departmental meeting agendas.
- 5) The Central Ministries should share this policy framework with their state counterpart departments, encouraging them to respond to develop their own workplace policy and programmes on HIV/AIDS in collaboration with the established State AIDS Control Societies.
- 6) The Ministry of Overseas Indian Affairs (MOIA), in addition, should integrate HIV/AIDS education and training in pre-departure training courses for outgoing migrant workers from India, and include HIV in the bilateral agreements with receiving countries to create an enabling environment for migrants and protection of their rights in the host countries.

3.6.2 Employers' organizations/ Business Chambers/ Industrial Associations

- A.** The Indian Employers' Statement of Commitment on HIV/AIDS, signed by the leading national level employers' organizations in India, demonstrates their commitment to forge partnerships and renew commitment in the fight against HIV/AIDS (**Annexure I**). All Industry associations are encouraged to implement this statement, which mentions several steps that can be taken by these organizations.
- B.** Employers' organizations/Chambers/industry associations should undertake advocacy efforts to mobilize their member companies to set in place workplace policies and programmes.
- C.** Employers organizations/chambers, both at the national and state levels, should partner with NACO/SACS for enhancing coverage of workplace policy and programmes and setting in place public private partnerships for HIV prevention and care.
- D.** Employers' organizations/chambers should strengthen their capacity, in partnership with NACO/SACS and relevant agencies, to be able to offer technical assistance to their members for starting HIV/AIDS workplace programmes.

3.6.3 Enterprises

All enterprises, in public/private and formal/informal sectors, are encouraged to establish workplace policy and programmes at their workplaces based on the principles of this policy. They should do the following:-

- a) Nominate a senior employee as the HIV/AIDS Nodal Person;
- b) Set up an internal committee on HIV/AIDS, drawing officers from different departments, to develop the company policy and programme;
- c) Set up Workplace interventions covering their regular as well as contractual workers, and their families.
- d) Facilitate access to voluntary counseling and testing for HIV, either directly if they have a medical set up or by setting up referral linkages with ICTCs set up by the SACs.
- e) Strengthen capacity of their health personnel/department, and engage them in providing treatment of opportunistic infections, STI and ART. Enterprises can set up ICTCs and ART centers and open it to communities around their plants/units to enhance access to services. If the enterprise does not have its own medical/health department, they should set up referral linkages with nearby government/NGO/private facilities for these health services.
- f) Include treatment for HIV/AIDS related illness in their employee medical/welfare package. For their contractual employees, who are not covered in their employees benefit package, enterprises are encouraged to set up referral linkages with the government ART centres.
- g) Support HIV interventions amongst their supply chains and communities around their plants/ units under their CSR initiatives.
- h) Allocate funds for the programme and seek technical partnership with expert agencies.

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Further

1. HIV/AIDS need not be a stand alone programme. It is cost effective and sustainable when integrated in the existing/to be initiated welfare/CSR/HR/OHS initiatives of the company.
2. Workplace programmes can be initiated with a small funding, which can easily be provided by the enterprises. However, enterprises will need technical support for development of policy, work plans/systems for monitoring and evaluation, training of their employees as peer educators, communication materials etc. for which they should seek technical support from NACO/SACS, ILO, UNAIDS, business chambers/associations, NGOs and PLHIV networks etc.
3. Enterprises can significantly contribute in enhancing the coverage of HIV prevention and care programmes by establishing partnership with NACO/SACS and other agencies under Public Private Partnership, which is a key component of the national programme.
4. The enterprises should support PLHIV to develop their livelihood and/or employment skills.
5. People living with HIV are excluded from the various insurance schemes proposed by both public and private companies. All policies being offered to the disadvantaged groups of the population under the social obligations issued by the Insurance Regulatory and Development Authority (IRDA) continued to exclude quite specifically all cases related to AIDS. Moreover, while the low-income organized sector workers do benefit from a comprehensive health protection system under the Employee's Social Insurance Scheme (ESIS), most of informal economy workers do not.

Given this situation, insurance companies are encouraged to develop and offer all-inclusive health insurance policies/products to cover people living with HIV.

6. Enterprises that engage workers who come in regular contact with human blood and body fluids at the workplace must be trained in Universal Precautions. Hospital staff, in both public and private sector should have access to the Post Prophylaxis Treatment.

3.6.4 Workers' Organizations/trade unions

- 1) As representatives of workers, trade unions are in a special position of trust and leadership and should take the lead in protecting workers from HIV/AIDS and reducing stigma and discrimination. The Joint Statement of Commitment on HIV/AIDS of the Central Trade Unions of India is a reflection of the trade unions' commitment to join the fight against HIV/AIDS (**Annexure II**). All unions are encouraged to

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implement this statement, which mentions several steps that can be taken by the trade unions.

2) Trade unions are the key actors and advocates at workplaces and should play a crucial role to:

- a) Promote and protect the rights and dignity of workers,
- b) Ensure safe and healthy working conditions,
- c) Combat stigma and discrimination,
- d) Promote access to fair income,
- e) Provide social protection,
- f) Participate in social dialogue on national issues that affect employment and human resources, and
- g) Collaborate with Government and enterprises for workplace interventions.

3.6.5 Civil Society Organizations / NGOs

- I. Civil society organizations are encouraged to develop their own workplace policy to cover their staff, based on the principles of this policy.
- II. Civil society organizations are encouraged to develop their capacity to offer technical assistance to enterprises/ chambers/ unions/ ministries for setting up workplace policy and programmes.
- III. Civil society organizations are encouraged to undertake interventions targeting workers in the informal/unorganized sector and Small and Medium Enterprises through appropriate partnerships.
- IV. Civil society Organizations are encouraged to mainstream HIV in their existing development programmes, particularly those implemented amongst vulnerable groups such as women, youth, indigenous communities, in the context of natural disasters, conflict situations and informal sector workplaces like construction, agriculture etc. This would help in minimizing vulnerabilities of these groups and the negative consequences of HIV.
- VI. Civil society organizations are encouraged to work on economic empowerment of PLHIV and their families. They can include PLHIV in their programmes like skill development/livelihood and other social security schemes. This would go a long way in

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improving quality of life for PLHIV/families, reduce stigma and discrimination and prevent HIV/AIDS affected persons and families from falling into poverty.

3.6.6 Workers in the informal/unorganized sector

As 93% of Indian working population is in the informal economy, a multi-pronged strategy will be adopted in the national programme to strengthen the policy and programmatic interventions.

- 1) Inclusion of HIV/AIDS in labour legislations like the informal sector bill, social security schemes like ESIC/ labour welfare funds/schemes of the Central as well as state labour departments.
- 2) Enhancing coverage of mobile and migrant workers is a key strategy in the national programmes, which will be implemented with engagement of private sector and trade unions.
- 3) Mainstreaming HIV/AIDS in the existing programmes of different ministries is another way to expand the coverage of workers in the informal economy. For example, the Central Board for Workers Education, an institution of the MOL&E, is reaching out to nearly 300,000 workers every year, about 70% of whom are in the informal economy. The reach can be phenomenal when HIV/AIDS is integrated in the programmes /schemes of the ministries, and civil society organizations associated with them like Agriculture (including cooperatives), rural and urban development, tourism, Panchayati Raj, Women and Child etc.
- 4) SACS are encouraged to partner with local industrial associations and NGOs to develop programmes for workers engaged in small and micro enterprises.
- 5) Corporate sector is encouraged to expand their workplace programmes to their contractual workers, vendors/ supply chains as part of their CSR initiatives.
- 6) SACS are encouraged to partner with local sectoral trade unions, like plantations, mines, agriculture, construction, taxi/auto drivers etc and other organizations connected with these sectors to develop interventions to cover workers in the informal economy.

4. IMPLEMENTATION AND MONITORING

4.1 At the national and state levels

- a) National AIDS Control Organisation proposes to form a Steering Committee on HIV/AIDS and the World of Work comprising of employers' and workers' organizations, development agencies, NACO, MOL&E and PLHIV to oversee/facilitate implementation of broad policy guidelines and take strategic decisions related to HIV/AIDS programmes in the world of work in India. Members of Parliaments' Forum on HIV/AIDS (PFA) and representatives of international organizations dealing with labour and HIV/AIDS shall be associated with the Committee.
- b) MOL&E and NACO will also take up issues necessary for action at the level of National Council on AIDS, chaired by the Prime Minister.
- c) State Council on AIDS are proposed to be set up at the state levels by SACS under the NACP-III. They will have adequate representation of the state labour departments, employers' and workers' organizations, Members of Legislators Forum on HIV/AIDS (LFA) and will plan and review implementation of the policy at the state levels.
- d) MOLE and NACO as part of their steering role will also facilitate implementation of regular surveys and risks assessments, especially in labour intensive areas to map the vulnerable populations, migrants, working conditions and other related issues. These studies undertaken on a regular basis will facilitate identification of gaps in the policy and implementation, inform appropriate changes in the policy, facilitate identification of work areas requiring focus from the MOLE and NACO and also facilitate the monitoring of implementation of the policy guidelines and impact on the HIV vulnerabilities of the work force.

4.2 At the workplace

- i. Every workplace – organization, institution, businesses, company etc. – should establish an HIV/AIDS Committee to coordinate and implement the HIV/AIDS workplace policy and programme. For multinational companies, an HIV/AIDS Committee at corporate level should be responsible in collaboration with a small team at each plant/location. Alternatively, a team with representation from concerned departments and led by a senior executive should be formed to perform this function.

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- II. The scope and content of the policy and programme will depend on the organization's/company's size, needs and resources.
- III. A checklist for planning and implementing a workplace policy on HIV/AIDS is given at **Annexure III**.
- IV. Periodic reviewing and monitoring of the policy will allow the organization or the company to keep up with and adjust to a constantly changing internal and external situation.
- V. Regular review of the workplace programme will ensure that it is managed efficiently, producing the expected results and meeting the needs of the employees.

4.3 Budgetary and Financial Provisions

All the stakeholders viz. Central/State Governments Ministries/Departments, employers/workers organizations, public and private sector enterprises, key national organizations and civil societies etc. who are responsible for implementing the workplace policy on HIV/AIDS shall make suitable allocation in their budgets to ensure regular flow of finances for the various HIV prevention, care and support programmes to be undertaken by them.

Referral Web Links

Ministry of Labour and Employment:	http://labour.nic.in
National AIDS Control Organisation:	www.nacoonline.org
International Labour Organisation:	www.ilo.org/aids www.ilo.org/hivaidsindia
Joint United Nations Programme on HIV/AIDS	www.unaids.org
Parliamentarians' Forum on HIV/AIDS (PFA)	www.pfaindia.in

INDIAN EMPLOYERS' STATEMENT OF COMMITMENT ON HIV/AIDS

We, the employers' 19orporate19d19s of India, recognize that:

1. HIV/AIDS has emerged as a major threat to the world of work. More than 90 percent HIV infections in India have been reported from the most productive age group of 15-49 years.
2. HIV/AIDS can adversely affect employees and pose a serious threat to enterprise performance due to increased absenteeism, disruption of operations and increased expenditure due to employee treatment, replacement and associated costs.
3. Development of workplace policy and programmes dealing with HIV/AIDS is an ongoing human resource strategy that protects not only the business interests, but also fulfils better management practices, affecting the overall performance of a company in the long term.
4. Businesses are key institutions in contributing to the development of the national social fabric. Businesses cannot separate their own interest from those of the societies in which they function. Businesses are directly exposed to societal dynamics and need to contribute in addressing the need of people who are directly or indirectly affected by HIV/AIDS.
5. There is a need for an urgent proactive response from business and enterprises against HIV/AIDS in India in which business leadership can play a key role.

Therefore, we commit to provide leadership and practical means as far as possible to address this issue and collectively advocate for greater response to HIV/AIDS from the world of work in partnership with the Indian government at Central and State level, trade unions, ILO, UNAIDS, key national and international agencies and other relevant stakeholders, including informal economy actors.

We endorse the guidelines provided by the ILO Code of Practice on HIV/AIDS and the World of Work, and encourage our member companies to effectively use these guidelines in developing policy and programmes on HIV/AIDS at their workplaces.

We pledge to undertake sincere efforts to develop our response following the key principles of the ILO Code of Practice, which are:

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Recognition of HIV/AIDS as a workplace issue

- HIV/AIDS is a workplace issue, not only because it affects the workforce, but also because the workplace can play a vital role in limiting the spread and effects of the epidemic.

Non-discrimination

- There should be no discrimination or stigmatization of employees – on the basis of real or perceived HIV status.

Gender equality

- More equal gender relations and the empowerment of women are vital to successfully preventing the spread of HIV infection and enabling women to cope with HIV/AIDS.

Healthy work environment

- The work environment should be healthy and safe, and adapted to the state of health and capabilities of employees.

Social dialogue

- A successful HIV/AIDS policy and programme requires cooperation and trust between employers, employees, and governments.

Screening for purposes of employment

- HIV/AIDS screening should not be required of job applicants or persons in employment and testing for HIV should not be carried out at the workplace except as specified in the ILO Code.

Confidentiality

- Access to personal data relating to a worker's HIV status should be bound by the rules of confidentiality consistent with existing ILO Code of Practice.

Continuing the employment relationship

- HIV infection is not a cause for termination of employment. Persons with HIV-related illnesses should be able to work for as long as medically fit in appropriate conditions.

Prevention

- The social partners are in a unique position to promote prevention efforts through information and education, and support changes in attitudes and 20orporat.

Care and support

- Solidarity, care and support should guide the response to AIDS at the workplace. All employees are entitled to affordable health services and to benefits from statutory and occupational schemes.

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On our part, we commit ourselves to the following:

- i. We shall network as far as possible with Indian Business Trust for HIV/AIDS, NACO, State AIDS Control Societies, Trade Unions, ILO, UNAIDS, WHO, Non Governmental Organizations, Civil Society Organizations, other Indian apex/state bodies of trade and industry associations, networks of People Living with HIV/AIDS and other relevant partners to 21orporat special advocacy sessions for our member companies.
- ii. In the best possible way, we shall facilitate provision of technical support for our members from relevant agencies should they wish to integrate HIV/AIDS in their welfare and/or Corporate Social Responsibility initiatives.
- iii. We shall disseminate best practices on HIV/AIDS workplace programmes in collaboration with the ILO, UNAIDS, WHO, NACO, the International Organization of Employers (IOE), Indian Business Trust for HIV/AIDS, and the Global Business Coalition on AIDS.
- iv. We will support setting up of an annual award to recognize the enterprises that provide exemplary leadership and implement result-oriented HIV/AIDS programmes. We shall seek partnership with technical agencies to develop a sound criterion for such an award, which will form the basis for selection of enterprises for the award.
- v. We shall participate in key national/state level committees on HIV/AIDS in India and at international level to present our views and generate support for expanding the workplace interventions in India.
- vi. We shall undertake collaborative efforts in preparing and submitting comprehensive workplace initiatives to national and international funding agencies, including the Global Fund on HIV/AIDS, Tuberculosis and Malaria. We will seek technical help from ILO, UNAIDS, NACO and other relevant agencies in this regard.
- vii. We shall pledge to undertake a regular advocacy effort with our member companies. Wherever possible, HIV/AIDS will be included in the agenda of our meetings.
- viii. We shall create an internal focal point in our organizations for HIV/AIDS and develop a mechanism to plan and review our yearly activities on HIV/AIDS as best as possible.

Signed by

Mr. O.P. Lohia
President

_____ All India Organisation of Employers (AIOE)

NATIONAL POLICY ON HIV/AIDS AND THE WORLD OF WORK

Mr. M.K. Sanghi
President
The Associated Chambers of Commerce and
Industry of India (ASSOCHAM)

Mr. N. Srinivasan
Director General
Confederation of Indian Industry (CII)

Mr. R.K. Somany
President
Employers' Federation of India (EFI)

Mr. Onkar S. Kanwar
President
Federation of Indian Chambers of
Commerce & Industry (FICCI)

Mr. Balwant Rai Gupta
National President
Laghu Udyog Bharati (LUB)

Mr. S. Behuria
Chairman
Standing Conference of Public Enterprises
(SCOPE)

**JOINT STATEMENT OF COMMITMENT ON HIV/AIDS OF THE
CENTRAL TRADE UNIONS IN INDIA**

The Central Trade Unions in India recognize that HIV/AIDS has become a serious threat to the world of work as it affects the most productive segment of the labour force. Nearly 90% of the reported HIV infections in India are from the 15-49 years of age group. This is the age group to which most workers belong, in both the formal and informal economy.

In addition, HIV/AIDS affects fundamental rights at work, particularly with respect to discrimination and stigmatization of people living with and affected by HIV/AIDS. Instances of discrimination have been reported from the workplaces in India. There are instances of individuals living with HIV having been denied employment opportunities or losing jobs or employment benefits due to their HIV status. Discrimination by co-workers has also been reported.

Therefore, the representatives of the central trade unions lend voice to the issue of HIV/AIDS through this Statement of Commitment and urge all the affiliates and member comrades to give the issue priority and act upon its prevention, and care of the infected and affected.

We endorse the guidelines provided by the ILO Code of Practice on HIV/AIDS and the World of Work. We pledge to undertake sincere efforts to develop our response following the key principles of the ILO Code of Practice, which are:-

- **Recognition of HIV/AIDS as a workplace Issue**
HIV/AIDS is a workplace issue, not only because it affects the workforce, but also because the workplace can play a vital role in limiting the spread and effects of the epidemic.
- **Non-discrimination**
There should be no discrimination or stigmatization of employees on the basis of the real or perceived HIV status.
- **Gender equality**
More equal gender relations and the empowerment of women are vital to successfully preventing the spread of HIV infection and enabling women to cope with HIV/AIDSs.
- **Healthy work environment**

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The work environment should be healthy and safe, and adapted to the state of health and capabilities of employees.

- **Social dialogue**
A successful HIV/AIDS policy and programme requires cooperation and trust between employers, employees, and governments.
- **Screening for purpose of employment**
HIV/AIDS screening should not be required of job applicants or persons in employment and testing for HIV should not be carried out at the work place except as specified in this Code.
- **Confidentiality**
Access to personal data relating to a worker's HIV status should be bound by the rules of confidentiality consistent with the existing ILO Code of Practice
- **Continuing the employment relationship**
HIV infection is not a cause for termination of employment. Persons with HIV-related illnesses should be able to work for as long as medically fit in appropriate conditions.
- **Prevention**
The social partners are in a unique position to promote prevention efforts through information and education, and support changes in attitudes and 24orporat.
- **Care and support**
Solidarity, care and support should guide the response to HIV/AIDS at the workplace. All employees are entitled to affordable health services and to benefits from statutory and occupational schemes.

On our part, we commit ourselves to the following:

- We encourage workers and their representatives to consult and collaborate with the employers on the development and implementation of an appropriate policy for their workplace, designed to prevent the spread of the infection and protect all workers from discrimination related to HIV/AIDS.
- We will set up internal committees on HIV/AIDS at the Central and State levels to review/monitor the implementation of workplace HIV/AIDS policies and programmes;
- We will endeavor to negotiate with the employers for inclusion of HIV/AIDS policies in human resource development programmes at workplaces;

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- Using our existing union structures, we will provide information on HIV/AIDS in the workplace to workers; we will undertake training of the focal points and peer educators on HIV/AIDS from the unions wherever possible with the help of the ILO and other agencies.
- We will attempt as much as possible to initiate prevention interventions to cover workers in the informal/25orporate25d sector;
- We will seek and explore opportunities from various government and international agencies to initiate interventions and develop joint action programmes to cover working population all over the country. These will be done in the overall national framework on HIV/AIDS Control Programme coordinated by the National AIDS Control Organization (NACO); and
- We will build partnership with the national and international HIV-related agencies including NACO, State AIDS Control Societies (SACS) and their partner agencies, the Ministry of Labour and Employment (MOLE), the State Labour Departments, Employers, UN agencies, Networks of People living with HIV/AIDS and other fellow comrades to share resources and experiences in fighting HIV/AIDS.

Signed by

Mr. Gurudas Das Gupta, MP
General Secretary
_____ All India Trade Union Congress

Mr. Girish Awasthi
President,
_____ Bharatiya Mazdoor Sangh

Dr. M.K.Pandhe,
President
_____ Centre of Indian Trade Unions

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Mr. Umraomal Purohit
General Secretary,
Hind Mazdoor Sabha

Dr.G. Sanjeeva Reddy, MP.
President,
Indian National Trade Union
Congress

Annexure-III

Checklist for planning and implementing a workplace policy and programme on HIV/AIDS

In accordance with the principles of the policy, as outlined in section 3.4, the following steps may be used as checklist for developing a policy and programme;

- HIV/AIDS committee is set up with representatives of top management, supervisors, workers, trade unions, human resources department, training department, industrial relations unit, occupational health unit, and safety committee, and persons living with AIDS if they agree;
- Committee decides its terms of reference and decision-making powers and responsibilities;
- Review of national laws and their implications for the sector/enterprise/workplace;
- Committee assesses the impact of the HIV epidemic on the workplace and the needs of workers infected and affected by HIV/AIDS by carrying out a confidential baseline study;
- Committee establishes what health and information services are already available-both at the workplace and the local community.
- Committee formulates a draft policy; draft circulated for comment then revised and adopted;
- Committee draws up a budget, seeking funds from outside if necessary, particularly for interventions amongst unorganized workers and identifies existing resources in the local community;
- Committee establishes plan of action with timetable and lines of responsibility, to implement policy programmes;

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- Policy and plan of action are widely disseminated through, for example, notice board, mailing, pay slip insert, special meetings, introduction courses, training sessions;
- Committee monitors the impact of the policy;
- Committee regularly reviews the policy in the light of internal monitoring and of external information about the virus and its workplace implications.

Every step described above should be integrated into comprehensive policy that is planned, implemented and monitored in a sustained and ongoing manner.

1. TERMS AND MEANINGS

Human Immunodeficiency Virus (HIV): A virus that weakens the body's immune system i.e. the body's natural ability to fight diseases. HIV is transmitted when blood or body fluids from someone who is HIV-positive enters someone else's bloodstream. HIV is most commonly transmitted through four body fluids – blood, semen, vaginal secretions, and breast milk. Activities that are known to transmit HIV include having unprotected sex or sharing needles or syringes with someone infected with HIV, receiving HIV contaminated blood and blood products, from HIV infected-mother to her unborn baby. HIV is not spread through casual contact and is not transmitted through air, food, water or mosquito/insect bites.

As the immune system fails, a person infected with HIV may develop a variety of life-threatening illnesses. However, HIV-infected individuals may not show signs of illness for many years and continue to be productive members in the workplace.

HIV test: HIV often causes no symptoms and the infection can be diagnosed only by testing a person's blood. Based on National HIV/AIDS Policy, no individual should be made to undergo a mandatory testing for HIV. Individuals seeking voluntary HIV testing must have access to pre and post test counselling, made available through the Government of India's approved Integrated Counselling and Testing Centres (ICTC).

Acquired Immuno Deficiency Syndrome (AIDS): A condition when 'cluster of clinical signs and symptoms' appear at the most advanced stages of HIV infection when HIV progressively destroys the body's immune system and its ability to fight infections. People diagnosed with AIDS may get life-threatening diseases called 'opportunistic infections' that are caused by microbes, such as viruses or bacteria, which do not usually make healthy people sick. AIDS has no cure till date though with the availability of Anti Retroviral Treatment, the life span of infected persons can be prolonged substantially.

Affected persons: Persons whose lives have changed in any way by HIV and AIDS due to the broader impact of the epidemic.

Discrimination: is used in accordance with the definition given in Discrimination (Employment and Occupation) ILO Convention, 1958 (NO.111), to include HIV status. It also includes discrimination on the basis of a worker's perceived HIV status, including discrimination on the ground of sexual orientation.

Employer: A person or organization employing workers under a written or verbal contract of employment which establishes the rights and duties of

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both parties, in accordance with national law and practice. Governments, public authorities, private enterprises and individuals may be employers.

Occupational health services (OHS): Health services which have an essentially preventative function and which are responsible for advising the employer, as well as workers and their representatives, on the requirements for establishing and maintaining a safe and healthy working environment and working methods to facilitate optimal physical and mental health in relation to work. The OHS also provide advice on the adaptation of work to the capabilities of workers in the light of their physical and mental health.

Reasonable accommodation: Any modification or adjustment to a job or to the workplace that is reasonably practicable and will enable a person living with HIV or AIDS to have access to or participate or advance in employment.

Screening: Measures whether direct (HIV testing), indirect (assessment of risk-taking behaviour) or asking questions about tests already taken or about medication.

Sex and gender: There are both biological and social differences between men and women. The term “sex” refers to biologically determined differences, while the term “gender” refers to differences in social roles and relations between men and women. Gender roles are learned through socialization and vary widely within and between cultures. Gender roles are affected by age, class, race, ethnicity and religion, and by the geographical, economic and political environment.

Sexually Transmitted Infection: Infection/s that can be transferred from one person to another through sexual contact. The presence of STIs also increases susceptibility to HIV. Prompt and appropriate treatment for STIs reduces individual risk of HIV infection

Termination of employment: Dismissal at the initiative of the employer.

Universal Precautions: A simple standard of infection control practice to be used to minimize the risk of blood-borne infections.

Workers in informal/unorganised sector: Refers to very small-scale units producing and distributing goods and services, and consisting largely of independent, self-employed producers in urban areas, some of whom also employ family labour and/or a few hired workers or apprentices; which operate with very little capital, or none at all; which use a low level of technology and skills; which therefore operate at a low level of productivity; and which generally provide very low and irregular incomes and highly unstable employment to those who work in it. They are informal in the sense that they are, for the most part, unregistered and unrecorded in official statistics; they tend to have little or no access to organized markets, credit institutions, formal education and training institutions, or to many public services and amenities; they are not recognized, supported or regulated by the government; they are often compelled by circumstances to operate outside the framework of the law,

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and even where they are registered and respect certain aspects of the law they are almost invariably beyond the pale of social protection, labour legislation and protective measures at the workplace. Informal sector producers and workers are generally unorganized (although informal local associations of those engaged in specific activities may exist), and in most cases beyond the scope of action of trade unions and employers' organizations.

Workers' representatives: Persons recognized as such by national law or practice whether they are (a) trade union representatives, namely, representatives designated or elected by trade unions or by members of such unions; or (b) elected representatives, namely, representatives who are freely elected by the workers of the undertaking in accordance with provisions of national laws or regulations or of collective agreements and whose functions do not include activities which are recognized as the exclusive prerogative of trade unions in the country concerned.

Vulnerability: Refers to socio-economic disempowerment and cultural context, work situations that make workers more susceptible to the risk of infection.

