HIV/AIDS
An ICEM Training Manual for Collective Bargaining

Unite and Organize Against HIV/AIDS
Unions have adopted a rights based approach in order to protect their members. The fight against HIV/AIDS is another aspect of this. This means applying human rights principles to the problems of HIV and AIDS. Fundamental rights include the right to information, the right to no discrimination and the right to care and treatment.

This manual provides a basis for national co-ordinators and educators to conduct training aimed at enhancing our capacity in negotiating issues arising from the HIV/AIDS pandemic. Specifically it addresses issues that trade unions must take up on behalf of the members to protect and extend their rights.

A fundamental trade union principle is that our unity is our strength and that we can achieve better rights and conditions for our members by negotiating collective agreements or including HIV/AIDS clauses in existing agreements. The manual also looks at the different levels of collective bargaining where negotiations can take place. The manual provides example exercises which show how situations at the workplace can affect our members’ rights as workers and citizens. It assists participants in drawing out key issues which negotiators must address either at the workplace or more broadly in development of national or sectoral policy. While these exercises are aimed at a workshop situation unionists can work through the exercises individually.

The manual has been produced as part of the ICEM’s programmes on HIV/AIDS. Please look at the ICEM’s website www.icem.org to see what unions across the world are doing in response to HIV/AIDS.

Information in this manual has been drawn from several sources including:

- ILO Code of Practice on HIV/AIDS and the world of work
- ILO: Implementing the ILO Code of Practice on HIV/AIDS and the world of work
- DITSELA Training Modules
- National Union of Mineworkers (SA) HIV/AIDS Training Manual for Peer Educators
- UNISATU HIV/AIDS Training guidelines
- Chemical Industries Education and Training Authority: CHIETA HIV/AIDS STRATEGIC Management Programme
- Department of Labour South Africa: HIV/AIDS Technical Assistance Guidelines
- COSATU: A Workers Handbook on HIV and AIDS
- ITF: HIV/AIDS Transport Workers Take Action
- ICEM AFRICA National Co-ordinators Workshop
The ILO code on HIV/AIDS is the overarching international standard for basic rights at the workplace.

1. **HIV/AIDS is a workplace issue:** because it affects workers, and the workplace can play a vital role in limiting the spread and effects of the epidemic.

2. **Non discrimination:** there should be no discrimination or stigmatisation against workers on the basis of their real or perceived HIV status. Discrimination and stigmatisation of people living with HIV/AIDS limits efforts aimed at promoting HIV/AIDS prevention.

3. **Gender equality:** the gender dimensions of HIV/AIDS should be recognised. Women are more likely to become infected and are often worse affected by the epidemic than men because of biological, socio-cultural and economic reasons. Equal gender relations and the empowerment of women are vital to preventing the spread of HIV infection and enabling women to cope with HIV/AIDS.

4. **Healthy work environment:** the work environment should be safe and healthy and adapted to the state of health and capabilities of workers.

5. **Screening for purposes of employment:** compulsory HIV screening should not be required of job applicants or persons in employment and testing for HIV should not be required.

6. **Social dialogue:** successful HIV/AIDS policies and programmes require co-operation, trust and dialogue between employers, workers and governments.

7. **Confidentiality:** access to personal data relating to a worker’s HIV status should be bound by the rules of confidentiality consistent with existing ILO codes of practice.

8. **Continuing the employment relationship:** HIV infection is not just cause for termination of employment. People with HIV related illnesses should be encouraged to work for as long as medically fit in appropriate conditions.

9. **HIV infection is preventable:** through the creation of a climate for prevention which includes information and education and supports changes in attitudes and behaviour.

10. **Care and Support:** solidarity, care and support should guide the response to HIV/AIDS at the workplace. Prevention, care and treatment should be seen as a continuum rather than separate elements of an HIV/AIDS programme. Access to treatment promotes participation in voluntary testing. All workers are entitled to affordable health services and to benefits from statutory and occupational schemes.
The ILO has produced a full guide on how to implement the Code which can be sent to you by the ILO.

PREVENTION STRATEGIES

There is no cure for HIV/AIDS at present. Prevention is the only way to stop the spread of the HIV infection.

AWARENESS PROGRAMMES, BEHAVIOUR CHANGE, COUNSELING, MONITORING AND EVALUATION

Activity one:
A shop steward in the company is approached by Janice a new member of the Union. She is young and recently married. Her husband is young, good looking and has always been popular with women. He also works at your factory. His job takes him out of town several times a month. He has been feeling ill and tired recently and his doctor has suggested that he have an HIV test. He says that this is unnecessary because he had one last year and it was negative. He admits that he has had relationships with other women but feels that because his test was negative he is not going to be infected. He is not willing to use condoms. He also promises that he will be faithful from now on. Janice now feels reassured but asks your advice. Your company has been running awareness and prevention programmes for some years as part of their induction program for new workers. You suggest that it is always useful to check up on one’s HIV status and remind her that an HIV test only tells you your status at the time of the test. You are concerned however that the awareness program does not seem to be working too well. You call a meeting of the shop stewards committee to discuss what needs to be done.

In a group discuss what you think the shop stewards should address

Prevention, care and support are inseparable components of the fight against HIV/AIDS.

Successful prevention strategies include awareness, voluntary counseling and testing and provide appropriate treatment. Behaviour change is encouraged in environments where workers feel safe and secure. Stigmatisation and discrimination discourages workers from finding out their HIV status.

Key tools to behaviour and attitude change are knowledge and understanding. All levels
of employees from workers through supervisors to management need to receive training in order to support the development and implementation of HIV/AIDS policies and programmes at the workplace.

In designing awareness campaigns we must consider the attitudes, beliefs, values and cultural backgrounds of our target audience.

Gender inequalities still dominate our societies and lead to the HIV/AIDS epidemic placing additional burdens on women:

- Women have less access to better paid jobs and opportunities and are often dependent on men for their livelihood.
- The greater economic power of men allows them to pay sex workers or pressurise their partners to submit.
- Social beliefs and customs often demand that wives should obey their husbands. Women may know how the virus is transmitted, but cannot make their partners use condoms.
- Our societies are more accepting of men not being faithful and having more than one partner.
- The living patterns of migrant workers and men in certain occupations (long distance drivers) encourage risky behaviour.
- Women and young girls are responsible for the care and support of family and community members who fall ill. This often reduces their earning capacity and access to education.
- Women often have unequal protection under the law e.g. property, custody and support laws.
- Women are often blamed when their husbands are ill or die of AIDS even when they have been completely faithful.
- Women often have less access to education and thus lower levels of literacy. This limits their access to information.
- Many women do not have access to appropriate healthcare.

Awareness programmes need to target misconceptions about HIV which lead to stigmatisation and discrimination. Information about the virus alone will not protect us; we need to address the issues that prevent women and men from acting on this knowledge.
Notes for facilitators

Objective of exercise:
• To show the need to re-evaluate and monitor the effectiveness of workplace awareness campaigns.
• To highlight the gender dynamic of the HIV/AIDS epidemic.

Responses could include the following:
• Need to review content of awareness programmes.
• Need to ensure that awareness initiatives take place frequently and not only at induction.
• Counseling for those who are non positive is as important as for those that are HIV positive.
• That an HIV test is a snap shot picture and only reflects one’s HIV status at that time.
• That practicing safe sex is important whatever one’s HIV status.

Negotiating issue:
• Agreements should provide for monitoring and evaluation of all elements.
• Programmes must be repeated and updated.
• Ensure that counselors meet standards and criteria.
• Ongoing counseling.

AWARENESS, STIGMATISATION, CONFIDENTIALITY, DISCRIMINATION

People living with HIV/AIDS face discrimination at the workplace and in their communities. Key to any collective bargaining agreement must be the protection of workers against any form of discrimination because of their positive or negative HIV status.

To reduce stigmatisation and discrimination and to provide the appropriate support for all those infected and affected during the different stages of HIV/AIDS, we all need to know more about HIV/AIDS. Discrimination discourages people from seeking help and encourages the spread of the virus. We should not tolerate stigmatisation and discrimination of our members.

Activity two:
Zama has worked in the canteen for over five years. She likes her job and has many friends. One day she learns that her husband has HIV/AIDS. She is devastated and confides in her best friend. Soon everybody in the canteen starts saying that Zama has AIDS. They start grumbling that she could infect them because she handles their food.
The supervisor wants her to have a test. She does not receive any counseling and although the test comes back negative, her fellow workers still treat her differently. The boss decides that she has to be moved from the canteen. She is put on cleaning duty at a lower wage. Soon after the company outsources the cleaning operation and Zama is retrenched.

In a group review the case, identify the key issues and develop a response to the company’s actions.

**Stigmatisation and Discrimination**

The way we treat fellow workers is often determined by our attitudes and prejudices. These are our personal feelings which are shaped by our knowledge, culture, religion, education, and the media. Sometimes our opinions are prejudiced because they are biased and unfair and formed with insufficient thought and knowledge. This can lead to stigmatisation and discrimination of our fellow comrades.

**Stigmatisation and rejection**

- Refusing to work alongside someone living with HIV/AIDS.
- Refusing to share plates, soap, with people living with HIV/AIDS.
- Refusing to be served food or drink by people living with HIV/AIDS.
- Blaming HIV positive person for having the virus.
- Ostracising and isolating people suspected of being or are HIV positive.

**Dealing with discrimination and stigmatisation.**

Workplace policies must be based on principles of non-discrimination and equality:

- Create awareness of the rights of workers living with HIV/AIDS, through education, training and medical activities.
- Develop mechanisms to promote acceptance and openness around HIV/AIDS.
- Determine and address the fears, prejudices and misconceptions around HIV/AIDS in the working environment so as to build understanding and support for employees living with HIV/AIDS. Workers should be made aware of Universal Precautions which govern the way in which bodily fluids are dealt with at the workplace.
- Develop grievance procedures and disciplinary measures to deal with HIV-related discrimination in the workplace.

**Discrimination**

HIV positive workers and those who are suspected of being HIV positive face both direct and indirect forms of discrimination.

- Recruitment and selection procedures that require applicants to be HIV negative.
- Screening/testing people for HIV infection in order to exclude from work, promotion
or social protection and benefits.

- Breaching confidentiality by revealing the HIV status of any worker.
- Using information from benefit schemes on the medical status of a worker to affect any other aspect of the employment contract or relationship.
- Job classification and grading systems should not unfairly discriminate against those with HIV/AIDS.
- Employment policies that provide lower remuneration, differential terms and conditions of work to workers on the basis of their HIV status.
- Restricting or denying access to training and development opportunities.
- Using performance evaluation systems to evaluate workers with HIV/AIDS in an unfair and discriminatory way.
- Determining promotion and transfer opportunities on the basis of HIV status.
- Restricting job assignments and denying workers opportunities to take jobs abroad.
- Denying the same access to facilities e.g. canteen and toilets.
- Demoting workers or moving workers for no sound medical reason on the basis of HIV status.
- Refusing to explore alternate workplace arrangements e.g. part-time work.
- Being dismissed from employment while still fit to work on the basis of HIV status.
- Using HIV status as a determinant for certain jobs. It is the level of physical fitness, which determines the requirement of the job.
- Being treated less fairly than other workers with other serious health problems.
- Denied access to benefits:
  - Medical aid and other health related benefits.
  - Group life insurance.
  - Pensions and provident funds.
  - Housing benefits.
  - Unemployment insurance.
  - Bursaries, training and study subsidies.
  - Disability and accident benefits.
  - Benefits relating to spouses, children and/or partners and dependents.

Discrimination may not be obvious for example when a certain practice or policy has a greater negative impact on people living with HIV/AIDS. A training policy that gives preference to workers who have not used sick leaving during a given period may be discriminatory against workers living with HIV/AIDS and who are more likely to have utilised their sick leave.

Notes for facilitators

**Objective of the exercise:**

- To identify that many misconceptions about HIV exist among members and management.
• To identify interventions that are needed among membership and management.

**Responses could include the following:**

• No policy in place.
• No confidentiality.
• Discrimination with respect to job on basis of perceived or real HIV status with respect to job status, wages and retrenchment.
• Lack of awareness by members of how HIV is transmitted leads to stigmatisation of fellow worker.
• Need for peer educators to legitimise information.
• Need to include information about universal precautions in health and safety training.
• No counseling.

**Negotiating issue:**

• Proper ongoing awareness programmes.
• Testing must be voluntary and accompanied by counseling. Informed consent is crucial.
• Role of peer educators to make workers aware and sensitive to HIV/AIDS issues.

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**SOLIDARITY BEYOND OUR FACTORY GATES**

**Looking After Contract Workers**

Our workplaces often have a number of relationships with suppliers, customers and contractors many of which are smaller or informal enterprises.

**Activity three:**

Looking at your workplaces, identify:

• The links your company has with other enterprises, small businesses, and informal traders.
• Services and traders engaged in activities close to your workplace.
• What HIV/AIDS programmes do these workers need?
• Are these workers employed at workplaces organised by the union?
• Are there special needs e.g. literacy?

**Contracting Out**

More companies are concentrating on their ‘core business’ on the basis that it reduces cost and increases competitiveness. This has resulted in the reduction of permanent workers who are covered by negotiated agreements with defined wages, working conditions and benefits. Companies now use contract and causal workers to perform various non core
functions. Many of these workers perform in a wide range of different workplaces and locations. Contract and agency workers often earn lower wages and have fewer benefits than those workers who previously were employed by the company to perform the same tasks. This has seen a shift of responsibility for the well being of these workers from the main company although many of these workers operate for long or short periods at the main company.

Many retrenched workers are forced into the informal sector to survive. Examples of these self employed workers are those selling food at the factory gates, on the road and at taxi and bus ranks.

Many workers still move from rural to urban areas to find work. These workers may not understand the language or be sufficiently literate to understand the material provided in awareness campaigns.

**Contract workers are vulnerable because they:**
- often have little or no access to health services and social protection.
- are not unionised and have no collective power to confront their employers.
- fear that their contracts will not be renewed if they insist on their legal rights.
- have limited access to HIV/AIDS awareness and prevention programmes because they move between workplaces or their employers are unable or unwilling to provide these programmes.

Small businesses also have fewer resources to cope with absenteeism and loss of skilled workers and find it difficult to accommodate the needs of HIV positive workers.

**Notes for facilitators**
Small groups should be used for this exercise. Where participants come from the same company or area group them together. This exercise could be adapted to use with contract workers who could list the various workplaces they service.

**Objective of exercise:**
- To show that contract, agency and informal sector workers face great challenges from the HIV/AIDS epidemic because of the insecurity and uncertainty associated with their employment status.
- To identify key issues which need to be addressed within negotiation whereby the Union can extend the protection it has at the workplace to a range of workers and community members.
- To identify workers who do not work directly for an enterprise but are closely connected to the company through supplying or receiving goods or services to this workplace.
• To flag the key negotiating issue to take forward into collective bargaining with the employer.

**Response could include the following:**

• Security companies.
• Cleaning and gardening services.
• Maintenance workers.
• Catering services.
• Transport workers.
• Companies providing components.
• Companies purchasing finished articles.
• Informal workers at the factory gates, taxi ranks, bus stations etc.

**Negotiating issue:**

• How can your company’s prevention and treatment programmes be made available to these groups?
• Consider these groups of workers when negotiating the scope of any collective bargaining agreement or clause.
• Investigate co-operative action between other companies employing these workers, particularly if the Union organises these companies.
• Collective agreements covering sectors can be useful in these cases and a small company will be bound by industry decisions.
• Union’s strategy should be to involve as many stakeholders as possible so that the burden of running an HIV/AIDS programme does not fall on the small company alone.
• Promoting prevention and treatment facilities within the surrounding community protects workers in company’s core business.
• Special needs such as literacy may apply to the company’s permanent workers as well.

### HELPING OTHER MEMBERS OF THE COMMUNITY

**Activity four:**

A group of sex workers has approached the shop stewards committee. Many of the workers at the factory are coming to them. The sex workers are concerned that some of the workers refuse to use condoms. They are concerned for their health but because they rely on this work to support their families. They are unable to force their clients to use condoms. They are asking for the union’s help.

As a group discuss the key interventions that the union can make to prevent HIV infections.
Commercial Sex Workers

Poverty and coercion drive many commercial sex workers into the industry. They lack legal recognition and have few rights. While sex workers do include some men, women make up the majority of this sector.

Authorities in many countries support campaigns to provide condoms to these workers. This has little effect if the worker cannot insist on the use of condoms or to refuse unsafe sex.

Several initiatives to empower sex workers have been successful. For example peer education in Cote d’Ivoire built unity among sex workers so that they were more able to insist on condom use. In South Africa the mining union recognised the important role that sex workers could play as peer educators and ensured that they were trained.

Where public resources are not available or inadequate, union/company programmes should also address the importance of testing and treatment for this group of workers.

Prevention programmes directed at workers should address the role of sex workers and stress the importance of practicing safe sex and promoting the use of condoms.

Notes for facilitators

This is a sensitive issue and discussion needs to focus on prevention and treatment rather than whether sex work should be condoned or condemned. The issue of this group being workers who are struggling to make a living and as such are entitled to all the rights of workers should be stressed.

Objective of exercise:

• To identify key groups that can participate in prevention strategies.
• To see how the union can co-operate with other groups.
• To acknowledge gender issues.

Responses could include the following:

• Ensuring that sex workers have access to Voluntary Counseling and Treatment (VCT).
• Seeing where company healthcare facilities can be opened to this group.
• Ensuring that sex workers have adequate supplies of condoms.
• Training sex workers as peer educators.
• Including this issue in awareness programmes.
• Acknowledging the problems that workers living away from their families experience.
• Acknowledge problems of gender power relations.
Targeting the companies’ workers is important, as persuading sex workers to use condoms is of little use if the client determines whether or not they are used.

**Negotiating issue:**
- How can your company’s prevention and treatment programmes be made available to these groups?
- Consider these groups of workers when negotiating the scope of any collective bargaining agreement or clause.
- Ensuring that the company works towards providing family accommodation.
- Emphasising that extending awareness and prevention campaigns to the community contributes to protecting workers in company’s core business.

**DISCRIMINATION:**
**SICK LEAVE / MEDICAL BENEFITS / AWARENESS**

**Activity five:**

Emma works in the dispatch department of a large pharmaceutical company. Her job is to lift and pack boxes onto pallets which are then taken by forklift and placed on trucks. She is HIV positive and finds that she is getting tired very quickly and cannot keep up with the production pace. Her fellow workers do not know of her condition although her supervisor is aware. She is increasingly away from work. She is fast using up all her sick leave. The company has indicated that once her sick leave is finished, she will have to use up her annual leave and then take unpaid leave. Her fellow workers are also getting irritated because her slowness and absenteeism is affecting their production bonuses.

The added stress and fear about losing her job makes her more anxious and affects her health. The company does have a medical aid scheme, but HIV/AIDS is only treated symptomatically and no anti-retrovirals are provided at this particular plant. The fund is only available to workers and not ex-workers. The company says that they are prepared to continue employing her but because of her HIV status, they cannot continue contributing to the medical and pension schemes. Emma is the sole provider for two small children and her elderly mother.

Identify the key issues where this company does not comply with the ILO code of practice and your national laws. Identify how this stance can damage the campaign to prevent the spread of HIV.

**Employee benefits**

The ILO code stresses that workers with HIV or AIDS may not be unfairly discriminated against with respect to employee benefits.
The social security systems in different countries may provide basic or comprehensive cover for workers retirement and medical care. In some cases workers have no or limited cover and have negotiated additional benefits at the workplace.

Two types of benefits schemes are commonly negotiated at the workplace - risk benefits for death, disability or sickness and retirement benefits for workers when they retire from employment. The contributions of both employers and workers are combined and allocated to the above schemes usually as part of negotiated agreements.

The impact of HIV/AIDS on benefits schemes is a key negotiating issue and requires considerable skills from the negotiators who must protect the rights of those who are HIV positive and those who are not. Members must be aware that though they and their families might not yet have been affected by HIV, we are all vulnerable.

HIV/AIDS impacts on employee benefits schemes because workers retire or die earlier. Normally the fund relies on workers living longer and thus contributing to the funds for longer. The funds thus have less money in them and either benefits must be reduced or workers and employers must pay more into the funds.

Negotiators should avoid clauses in disabilities provisions which could discriminate against HIV positive workers. The length of the waiting period for receiving disability benefits can impact negatively on workers. The longer the period, the more likely the worker may die before they are eligible to receive the benefit.

Risk benefit implications for workers and funds because of HIV/AIDS include:
- Increased costs because of workers dying earlier.
- Increased cost for salaries during sick leave, disabilities and death.
- Increased costs for spouses pensions.
- Increased costs for funeral benefits.

Medical benefits
Medical costs will be determined by the treatment program provided. If access to ARTS is improved, the lives of people infected with the HIV will be extended through reducing the onset of AIDS and reducing the occurrence of opportunistic infections. If appropriate medical treatment becomes available timeously for infected persons, they should be able to remain productive members of society with a normal or a greatly extended life span. This could have significant and positive implications for employee benefits schemes.

Discrimination against future or present workers accessing benefits can lead to workers being unwilling to take tests and therefore delaying early diagnosis and treatment and will result in more disability and deaths.
**Dismissals and incapacity**

Your labour laws may have specific provisions to protect workers from unfair dismissals. Check your labour laws for specific details. Labour laws may require that for a dismissal to be fair it must be for a fair reason relating to:
- Conduct;
- Capacity;
- Employer’s operational requirements;
- and done in accordance with a fair procedure.

In order to avoid dismissal on the grounds of incapacity the recommendations of the ILO should be used.
- Re-arrangement of working hours and opportunities for additional rest breaks.
- Access to special equipment.
- Time off for medical appointments.
- Flexible sick leave.
- Part time work.
- Return to work arrangements.

Larger companies are more able to introduce team and pool systems which provide cover for workers who are sick.

While an employer should not dismiss a worker on the grounds of his/her HIV status, many countries laws provide for termination of employment based on the workers incapacity to perform his work which usually consider:
- Nature of the incapacity.
- Extent to which workers can perform the work.
- Extent to which his duties can be adapted.
- Availability of alternative work.
- Likelihood of recovery or improvement.
- Effect of workers absence on employers operations.
- Size of the business.
- Effect of disability on the welfare and safety of others.
- Length of service.
- Cause of the incapacity.

**Unions should ensure that:**
- procedures for dismissals especially relating to incapacity are clear and in place.
- dismissals are monitored.
- employers do not refuse to adapt, accommodate or find alternatives for incapacitated workers.
• they negotiate with employers to develop alternatives to dismissal when workers become too ill to continue in their current jobs.
• confidentiality is maintained during incapacity hearings.
• workers are represented at incapacity hearings.
• disputes between supervisors and workers on sick leave allocation or how to accommodate an HIV related disability are monitored.
• co-workers on becoming aware of worker’s HIV status do not make their environment unpleasant or even intolerable.
• co-workers do not refuse to work with an worker who has disclosed their HIV status.
• migrant workers who are dismissed for incapacity and who return to rural areas with few or no community based medical services are assisted in accessing home-based care and other social services.
• there is an effective grievance procedure.

The classification of workers as incapacitated because of their HIV status and their subsequent dismissal implies incorrectly that workers with HIV are not productive and that they can be a threat to workplace safety.

Notes for facilitators

Objectives of exercise:
• To illustrate that there should be no discrimination with respect to benefits on the basis of HIV status.
• To ensure that unions follow up on dismissals to ensure that they are not because of the HIV status of a worker.
• To promote the principle that HIV positive workers can still be productive.

Responses could include the following:
• Discrimination will lead to workers not finding out what their HIV status is as they fear loss of benefits.
• Workers who are HIV positive can be productive.
• Testing needs to be linked to treatment programmes.
• Dismissals cannot be on grounds of HIV status.
• Job accommodation must be provided for affected workers.

Negotiating issue:
• Incapacity clauses under the law or in your existing agreements are reviewed and used.
• Companies must look to relocate workers who may be temporarily unable to work in the usual jobs.
• Ensure that there is a dispute procedure within your existing agreements that covers these cases or incorporate them in your HIV/AIDS Collective bargaining agreement.

VOLUNTARY COUNSELLING, TESTING, CONFIDENTIALITY

Activity six:

Your company introduced voluntary counseling and testing a year ago. They have come to the Union because they are concerned that very few workers have come forward for testing. The service is provided by an outside provider which visits the workplace once a week. Workers may use the service during working hours but have to get permission from their supervisor. The company also has a resident nurse and doctor. Though counseling is provided the company does not have a comprehensive healthcare programme to address HIV/AIDS. Workers who test positive are referred to public health providers.

As shop stewards identify what problems workers may have with the current services provided so that you can respond to management with proposals to improve the system.

Confidentiality

Many countries provide for the right to privacy of one’s medical conditions and treatment. This includes the right not to be tested without informed consent. Mandatory testing is testing that is forced on someone, whether they consent or not (sometimes without their knowledge). Legal provisions may vary and certain laws may have criteria where disclosure can be justified. It is important to establish what the law is in your country.

This duty of confidentiality is particularly strong for medical professionals who usually have legal and ethical duties to uphold confidentiality.

HIV testing, confidentiality and disclosure are closely linked. HIV testing is the basic link between prevention and care programmes. It helps workers determine their status; obtain support, information and the skills and means to prevent infecting others. Disclosure of HIV status can have serious personal and social consequences. Stigmatisation, isolation and rejection may increase the level of anxiety, stress and depression and undermine the health status of the person.

Some countries also consider questions about possible risk behaviour, HIV status, and sexual orientation as testing.
**Workers are more likely to participate in VCT or disclosure campaigns if:**

- They are certain that they will not be discriminated against on the basis of their HIV status.
- There are guarantees of confidentiality and the medical staff are seen to be independent from management.
- The testing facilities are integrated into other services so that workers using them cannot be identified by others.
- There is a clear benefit for example they will be able to enroll in a treatment programme.
- Positive images of HIV positive workers are created in HIV/AIDS awareness and prevention programmes.
- Steps are taken against person who unfairly discriminate against HIV positive workers.
- Management openly support HIV workplace initiatives.

**Notes for facilitators**

**Objectives of exercise:**

- To show the need for a VCT programme that is linked to a treatment programme for workers.
- To show that confidentiality is crucial.

**Responses could include the following:**

- Is there an awareness campaign so that workers are aware of the importance of knowing their status?
- Can the VCT not be part of the in house service so that workers are not identified as going for testing?
- Testing and treatment promote workers coming forward.
- Is the service available to their families?
- Is there on going counseling?

**Negotiating issue:**

- Confidentiality clauses within the agreement.
- Access for family members.
- Treatment as well as testing.
TREATMENT, CARE AND SUPPORT AT THE WORKPLACE

In many countries, the public health system cannot cope with the demands of treating HIV/AIDS. Thus unions and employers need to develop programmes at the workplace which provide both care and support for the workers.

Activity seven:

Read through the brief description of HIV/AIDS and its treatment.
Look at your workplace and identify the target groups that must be considered when developing a comprehensive health care delivery service. Identify the needs of these different groups you have selected.
Consider what these will require to be effective. Some examples are:
- Workers: Delivery of healthcare to contract workers, family and ex workers
- Treatment: Side effects of anti-retrovirals may make a workers feel ill, he/she may need time off or somewhere to lie down.

Using the Table provided, add and expand on the information that is already provided.

How HIV attacks the Human Body and what treatments are available
People living with HIV/AIDS get the same illnesses as other people, e.g. colds, flu, pneumonia, malaria. They get sick faster than those without HIV because their immune systems are weaker and they are not able to fight off the illnesses.

HIV is the Human Immunodeficiency Virus. It attacks the immune system of the body which maintains our health by fighting off disease. AIDS is the Acquired Immune Deficiency Syndrome which develops when HIV has weakened the immune system so badly that it can not fight off other diseases. We will get ill more often and more seriously.

The human defence against germs, bacteria and viruses – fighter cells
Special cells CD4 cells or T cells fight harmful germs, bacteria and viruses. A healthy person has many CD4 cells (between 750 and 1500 in a small amount of blood) HIV/AIDS kills because it destroys this system that fights off diseases.

HIV targets and breaks into these fighter cells and merges with parts of the CD4 cells to recreate itself. These re-enter the blood stream and attack new CD4 cells to create more HIV. The body tries to make more CD4 cells but instead it actually makes more HIV.
How do we know if we are infected with HIV.
The body produces antibodies to fight off the virus. Tests detect antibodies to the virus and thus our HIV status. It can take between four and six weeks after infection for enough of these antibodies to be produced so that they show up in a test. This is called the ‘window period’. A positive test indicates the presence of antibodies and that person is HIV positive and infected with the virus. A negative test means that no antibodies were detected and that the person is not infected or may be infected and in the window period. That is why tests are repeated after about 4 – 6 weeks. An HIV positive test indicates that the virus is present but it does not indicate the stage of the HIV infection.

HIV positive and Asymptomatic
A person can be HIV positive for many years before becoming ill. However the virus continues to attack and damage the immune system. The CD4 count is usually above 500.

HIV positive and Symptomatic
Initial symptoms are fairly mild. The immune system becomes more compromised. The CD4 count falls between 350-500. Any diseases should be treated as early as possible with conventional medicine as they weaken the body and lead to earlier development of AIDS. Complementary medicine and traditional medicine can also play a part in this treatment.

AIDS
When the CD4 count falls below 250 the person is extremely vulnerable to serious opportunistic infections. These include skin rashes and infections, pneumonia, TB, thrush, herpes, shingles, chronic diarrhea, nausea and vomiting, memory loss, low concentration, weakness, tiredness, skin cancer, enlarged lymph glands.

What is the right treatment?
Anti retroviral drugs are the key treatment for HIV/AIDS. HIV is a ‘retrovirus’ which tricks the DNA of the cells of bodies into making copies of itself. Anti-retrovirals retard this process. While it cannot cure HIV/AIDS, it slows down the speed with which HIV reproduces itself within the body. It can keep people alive for many years. There are now several different types of anti-retrovirals:

- NTRIs (Nucleoside Reverse Transcriptase Inhibitors). This was one of the first drugs used.
- NNRTIs (Non-nucleoside Reverse Transcriptase Inhibitors).
- PIs (Protease Inhibitors).
- FIs (Fusion or Entry Inhibitors) are more recently developed drugs.

These drugs attack the virus at different stages of its reproductive cycle. They are more effective used in combinations of more than three. This is known as Highly Active Anti-
Retroviral Therapy (HAART). When only one type is used HIV can become resistant to this drug. The combination reduces that rate at which HIV develops a resistance to the drugs.

**When should these drugs be administered?**
When the immune system is too weak to defend the body, anti retrovirals are needed. Doctors look at the CD4 count and the amount of HIV in the blood – the viral load. Usually when the CD4 count falls below 250 anti-retrovirals are prescribed.

**How are the drugs taken?**
Anti-retrovirals directly attack HIV. They must be taken under the supervision of a medical practitioner who can monitor how the drug is working. As with all drugs some people have side effects. They must be taken regularly and according to instructions.

**What is important to know about anti-retroviral treatment?**
- It is a treatment and not a cure.
- It prolongs life.
- It decreases the rate at which the immune system is destroyed (measured by the CD4 count) and thus reduces the risk of opportunistic infections.
- Anti-retroviral treatment is a life long commitment and should not be stopped even if the viral load decreases or workers start feeling better.
- People using anti-retrovirals are still infectious and can infect others.
- Combination treatments are more effective.
- Anti-retrovirals can stabilise or decrease the amount of virus in the body (viral load) even sometimes to non detectable levels. This does NOT mean that the person is no longer HIV positive.

**Health management programmes**
Comprehensive care and support includes a range of services both providing treatment, social, emotional and material support. Where there are no workplace facilities companies should investigate and support workers in accessing outside services. Workers and their families also need to have access to home based care as the need arises.

**Role of traditional medicine**
Traditional healers are consulted by many workers. They are often more accessible and may have more understanding of the patient’s cultural background. Traditional medicine can strengthen the body and its immune system. However both traditional healers and conventional doctors need to work together in order that workers can receive appropriate treatment at different stages of the disease. All people who provide treatment, whether conventional or complementary must be trained to deal with the HIV virus in a supportive and appropriate manner.
Key aspects of treatment of HIV/AIDS

- Treatment of HIV/AIDS is linked with issues of job security and poverty. In some countries disability grants are given to people who are incapacitated through HIV/AIDS. Access is determined by the level of the CD4 count. Where communities have no other social security, cases occur where people stop using the ARTs in order that their CD4 count stays low to ensure continuation of the grant. In many countries the success of HIV/AIDS programmes are closely linked with poverty alleviation.
- Sometimes workers share their medicine with their families. It is important that provision of ARTS is extended to workers families

Notes for facilitators

Objectives of exercise:
- To identify the target groups at the workplace.
- To identify other target groups (e.g. contract workers, family and community).
- To identify where they are located.
- Identifying the support services and practitioners that workers consult.
- To understand the progression of the disease and therefore the appropriate interventions.

Responses could include the following:
- The table below provides basic input. Participants should expand and insert the key negotiating issues e.g. Workers could cover ex workers, contract workers.
<table>
<thead>
<tr>
<th>Target</th>
<th>Healthcare and wellbeing</th>
<th>Key issues to consider</th>
<th>Negotiating Issue</th>
</tr>
</thead>
<tbody>
<tr>
<td>All workers</td>
<td>• Promotion of VCT</td>
<td>• Are workers assured of confidentiality</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Access to VCT</td>
<td>• Is there access for non permanent workers</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Access to treatment for sexually transmitted Infection (STI) and Tuberculosis (TB)</td>
<td>• Family members ex workers members of the community</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Family planning advice</td>
<td>• Job security</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Income to afford suitable nutrition and medication</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Target groups who do not live near the workplace</td>
<td></td>
</tr>
<tr>
<td>Infected and Affected workers</td>
<td>• Access to HIV testing</td>
<td>• Confidentiality</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Counseling</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>• Support groups and networks of People Living with HIV/AIDS (PLWHA)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Infected workers with early HIV disease</td>
<td>• Prophylaxis (Prevention) for opportunistic infections</td>
<td>• time off to seek treatment</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Treatment for STDs and TB</td>
<td>• workplace accommodation</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Treatment of opportunistic infections</td>
<td>• sick leave</td>
<td></td>
</tr>
<tr>
<td>Infected workers with late HIV disease</td>
<td>• Prophylaxis for opportunistic diseases</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Palliative care</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>• Effective pain relieve</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Anti retroviral therapy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Carers (health care workers</td>
<td>• Training in management of HIV disease</td>
<td>traditional healers should be targeted</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Training in counseling</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Support</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Affected families</td>
<td>• Assistance with material needs and support with household tasks</td>
<td>Provision and access for rurally based dependents</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Home based care</td>
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<td></td>
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<tr>
<td></td>
<td>• Spiritual and emotional support</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>• Financial planning</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>• Advice about will and inheritance</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Preparation, for death, funeral and after death</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Support for children orphaned by HIV/AIDS</td>
<td></td>
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</tbody>
</table>
COLLECTIVE BARGAINING AGREEMENTS

Collective bargaining supports the union campaign to prevent the spread of HIV/AIDS and to provide treatment and support for workers, their families and communities who become infected. The ILO Code provides the major international standard but several other ILO codes will also empower negotiators. These include codes on discrimination, termination and protection of workers personal data.

LEVELS OF NEGOTIATION

Activity eight:

Unions are involved in many forms of negotiation. These include the following:
- International negotiations e.g. the International Labour Organisation.
- Global Union negotiations.
- Regional negotiations e.g. SADC (Southern African Development Community) codes.
- National tripartite negotiations with respect to legislation and national codes.
- Sector negotiations e.g. mining sector.
- Company negotiations – covering all operations of a company within a country or region.
- Workplace negotiations.

Each level of bargaining and the forum in which it takes place has advantages and disadvantages. Participants should briefly discuss the appropriate levels for negotiation in terms of the target group to be protected, the union’s relative strength at various levels and the unions overall goal for HIV/AIDS.
<table>
<thead>
<tr>
<th>Level</th>
<th>Advantages</th>
<th>Possible Disadvantages</th>
</tr>
</thead>
</table>
| International Regional            | • Provides basic protection for all workers, from which countries and unions can negotiate upward.  
                                   | • Senior experienced leadership are the negotiators.                             | • Standards could tend towards the lowest common denominator in order to accommodate different countries and capacities. |
| Regional (conventions, codes, global company agreements) |                                                                             |                                                                                        |
| National (legislation, guidelines) | • Provides basic protection for all workers within a country.               | • Could involve more than one union or federation.                                      |
|                                   | • Senior experienced leadership are the negotiators.                        | • Sometimes difficult for workers in different workplaces to feel part of this process. |
|                                   | • Negotiators have more power as represent organised labour as a whole.     | • Makes demands on capacity of unions /federations.                                     |
|                                   |                                                                           | • Issues often more complicated .                                                     |
| Sectoral                          | • Addresses specific needs of sector.                                      |                                                                                        |
|                                   | • Provides equal conditions across the country within the sector and provides protection to unorganised workers as well. |                                                                                        |
|                                   | • Negotiators were familiar with the needs and constraints within the sector. |                                                                                        |
|                                   | • Increased power because more workers represented.                         |                                                                                        |
|                                   | • Often more resources provided by the union.                               |                                                                                        |
| Company                           | • Addresses specific needs of company.                                     |                                                                                        |
|                                   | • Negotiators were familiar with the needs and constraints within the sector. | • Could involve more than one union.                                                   |
|                                   | • Often more resources provided by the union.                               | • Negotiators may have to compromise because representing operations of the company.  |
| Workplace                         | • Addresses specific needs of and problems at that workplace.              | • Could involve more than one union.                                                   |
|                                   | • Negotiators had direct contact with their membership. Mandates and report backs were easy to obtain. | • Sometimes union not able to provide sufficient support to negotiators at individual workplaces. |

**Notes for facilitators**

**Objectives of exercise:**

- To identify appropriate levels for negotiation in the context of the Union’s overall goals, strengths and weakness.
- Where a union has a strong position within one workplace within a company group, it may be strategic to negotiate a strong agreement at that workplace and subsequently extend it to the whole company group.
- Where there are many contract and unorganised workers, sector wide agreements could provide basic protection.
CORE PRINCIPLES FOR NEGOTIATION

HIV/AIDS is a human rights issue and the way in which we manage it through legislation and policy is found in many different areas of our countries’ legislation. Many countries have broad protection for human rights within their constitutions.

Activity nine:
Looking at the core principles of the ILO code of Practice, identify as best you can what legislation, or code in your country provides this protection.

<table>
<thead>
<tr>
<th>ILO Code</th>
<th>Your National Law</th>
</tr>
</thead>
<tbody>
<tr>
<td>HIV/AIDS is a workplace issue</td>
<td></td>
</tr>
<tr>
<td>Non Discrimination</td>
<td></td>
</tr>
<tr>
<td>Gender Equality</td>
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<tr>
<td>Healthy work environment</td>
<td></td>
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<tr>
<td>Social Dialogue</td>
<td></td>
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<tr>
<td>No screening for purposes of exclusion from employment or work processes</td>
<td></td>
</tr>
<tr>
<td>Confidentiality</td>
<td></td>
</tr>
<tr>
<td>Continuation of the employment relationship. HIV infection is not a cause</td>
<td></td>
</tr>
<tr>
<td>for termination of employment</td>
<td></td>
</tr>
<tr>
<td>Prevention</td>
<td></td>
</tr>
<tr>
<td>Care and Support</td>
<td></td>
</tr>
</tbody>
</table>
DEVELOPING AND NEGOTIATING A COLLECTIVE BARGAINING AGREEMENT

Activity ten:
Role Play

This role play requires two groups. One who act as management and one who represent the Union.

It is important to enter negotiations with full knowledge of what legal rights workers have already. There is no need to negotiate these rights, though it may be useful to reinforce them by reference in your agreements. Where possible relevant legal provisions in your country should be available as resource material for the exercise.

Union Brief
In light of the examples we have dealt with above and the key issues that have been identified draw up a proposal to present to management of a large company operating in several countries around the world for an overall HIV/AIDS policy for the company.

The Union has membership throughout the country. It is newly organised in this company. It belongs to the national federation within the country and participates in national and international negotiations through this national centre. It is affiliated to the international workers organisation It has agreements on HIV/AIDS with other companies in the country. It has a history of militancy. It is currently campaigning against outsourcing, contracting, and casualisation.

The Union wants to negotiate a comprehensive agreement that covers all aspects of the management of HIV/AIDS at the workplace. It wants all the key principles of the ILO Code of Practice to be put into effect. Many comrades have been affected by the disease and they are pushing the union to conclude an agreement which provides access to treatment and job security.

The company has indicated that it is under pressure from its parent company to cut costs and they would rather concentrate on awareness campaigns and prevention strategies. This means that you must develop clear motivations for each clause.

Company brief
The company is a South African company which now operates throughout the world, North and South America, Europe, Asia and Africa. It belongs to the major employer organisation.
in South Africa and through them participates in tripartite and international negotiations. It has agreements with unions in many of these countries. It is very keen to promote an image of corporate social responsibility. It has been buying up companies, closing certain sections and shifting production between its various operations. Many of the workers are women.

The production facility in this country is in a rural area with limited public service facilities. The area has a high rate of unemployment. The company carries out pre-employment medicals on all new workers. The company employs a full time nurse and a doctor comes to the site twice a week.

The company is under increased pressure from its parent to increase its profit margin. You need to ensure that you do not increase expenditure either in terms of the wage bill, additional expenses. While you are sympathetic to the unions concern and believe that business has an important role to play in fighting HIV/AIDS, the union demands come at a bad time for the company. The company feels that it should concentrate on preventative and awareness issues. It also wants to promote VCT and is prepared to institute such facilities. While you are sympathetic to workers who are HIV positive, the nature of work is physical and you feel that it will be difficult to accommodate or reallocate workers.

**Country Background.**
The country has a high unemployment rate; it is trying hard to introduce good practices with respect to the rights of its citizens. It depends heavily on export of primary products and the mining industry is the major contributor to economy. The country is trying to attract foreign investors into the country.

**Rights at the workplace**
- Right to fair labour practices.
- Right not to be UNFAIRLY dismissed because you are HIV positive.
- Right not to be discriminated because you are HIV positive.
- Right to safe working environment.
- Right to compensation if infected with HIV at work.
- Right to basic conditions including six weeks of paid leave over a three year period.
- Right to no unfair discrimination in receiving employee benefits.
- Right to privacy about HIV status.

**Health care provisions**
- State hospitals provide testing and counseling for HIV/AIDS.
- Citizens can receive treatment for HIV/AIDS.
- There is no programme for free anti-retrovirals treatment.
**Check list for HIV/AIDS negotiations**

- What international, regional and national codes and legislation are in place?
- What is the union’s HIV/AIDS policy?
- What are the target groups that you wish to protect?
- What is the best level to protect these groups? (Sector, Company, workplace)?
- What other agreements if any, has your union signed on HIV/AIDS?
- Does the union have agreements with this company at other workplaces?
- Are there any other unions that have HIV/AIDS agreements with this company?
- What HIV/AIDS policies has this company implemented in other countries and workplaces?
- Is your draft proposal consistent with the union’s policy on incapacity, contract workers etc.?
- Bring to the meeting all the necessary information and documents to be used to support your arguments.
- Do the proposals include:
  - Scope: what workers, family members, communities does it cover?
  - Policy statement on the parties position on HIV/AIDS.
  - HIV testing, counseling confidentiality and disclosures.
  - Non discrimination policies including access to benefits, training, workplace accommodation and placement of HIV positive workers.
  - Procedures for creating a safe working environment.
  - Compensation for occupational exposure.
  - Prevention strategies linked to treatment opportunities and job security.
  - Awareness programmes and the role of peer educators.
  - Assistance to be provided to persons infected or affected by HIV/AIDS.
  - Wellness programme addressing overall health including sexually transmitted disease, promotion of good nutrition and psycho-social health.
  - Health management program that address the various stages of the infection and recognises alternative health providers.
  - Grievances procedures.
  - Dispute procedures.
  - Details of a workplace implementation programme.
  - Mechanisms for monitoring and evaluating the programmes.

**Notes for facilitators**

This exercise requires careful management in order to ensure that the parties engage on the specific issues of HIV/AIDS. The union should be given sufficient time to prepare its proposals in the form of an agreement. The key principles of the ILO code should be contained. It is
important that relevant national legislation is available as a basis for the agreement. This will include employment legislation as well as social security provisions, health cover and basic constitutional rights. If this is unavailable the brief examples of country legislation provided in the country profile can be used. The facilitator should remind participants of the issues that were identified in early exercises.

The facilitator should take notes during on the role play and together with the group evaluate the different arguments and responses of the participants.

The facilitator should conclude the session by summarising the main issues that have arisen during the workshop.