

Privacy, Surveillance and HIV/AIDS in the Workplace. A South African Case Study“
Z. Muskat-Gorska

**Interview with Ms. Jacqueline BODIBE, COSATU HIV/AIDS Coordinator,
12.11.2007**

Place: COSATU Head Office
1-5 Leyds Street
COSATU House
Braamfontein 2017
PO Box 1019
Johannesburg 2000
Tel: +27 11 339 49 11
Cell: +27 82 452 08 04
e-mail: jacqueline@cosatu.org.za
Date: 12.11.2007
Time: 8.00 - 9.30

Questions:

COSATU and HIV/AIDS

1. What are the priorities of the recent COSATU actions on HIV/AIDS?
2. COSATU has addressed HIV/AIDS very early (1st resolution in 1989, then participation in NACOSA 1992-1994). What were the reasons that COSATU remained rather inactive during the 1990s?
3. COSATU and TAC. COSATU formed an alliance with TAC joining the campaign for treatment access in 2000. Were there problems with contacting TAC by trade unions before (e.g. ban for the ANC members – for political reasons?)

Confidentiality

1. In the view of trade unions, are employers interested in workers identifiable HIV/AIDS data?
2. How unions define unauthorised disclosure of HIV/AIDS data?
3. Does fear of weak confidentiality safeguards may play role in weak uptake of VCT in the workplace or there are other important factors?
4. Is there a ground for trade unions concern for HIV/AIDS individual data treatment in the workplace?

Stigma/discriminations

1. In the view of trade unions, what is more important, the rights of HIV-positive workers (confidentiality as protection against discrimination) or HIV-negative workers (disclosure as protection against occupational infection)
2. In the view of trade unions, are HIV-positive workers more afraid of deiscrimination from the part of the employer or co-workers?

Tackling discrimination in the workplace remain a priority of the COSATU action on HIV/AIDS. Also, encouraging people to get tested. As the Government finally decided to make ARV treatment accessible through public clinics, there is no reason why workers should not use it.

COSATU currently focus on training trade unionists to become peer educators. There is a plan that by 2009 a significant number of trade unionists will be trained in order to be able to provide with information and counselling in the workplace. COSATU also sees the need to address specific problems of different sectors like agriculture, where the problem of the significant epidemic takes place together with serious capacity problems. COSATU recently decided to draft a separate program for farmworkers.

The main reason why COSATU joined TAC only in 2000 were not of political matter. It was rather the problem of long time needed to agree on the issue and address it with appropriate resolutions which have to be approved by the constitutional meeting.

Trade unions see confidentiality of HIV/AIDS status as an unnegotiable conditions of introducing any testing program in the workplace. One of the examples is such program introduced in de Beers company where trade unions succesfully demanded that testing be done by an external medical unit in order to prevent the employer from knowing workers' individual data on HIV/AIDS status.

There are some examples of the employers who are interested in identifying HIV positive workers and in making them to leave the company. For instance, last year I was involved in a TAC case in which an occupational doctor in the company-owned medical clinic not only did not inform the patient whom he had tested and found HIV positive about his rights to non-discrimination in the workplace, but specifically advised him to quit job and go home. The company did have a ARV treatment available and the fact of being instructed by the employer not to inform about treatment possibilities and to discourage from performing work was obvious in this case. As people still treat information about being HIV positive as a death sentence, they are frequently too terrified to take an active position and look for treatment and many workers, especially migrants who cannot be supported emotionally by their families and communities, leave the job and „go wait to die“.

Privacy and confidentiality are not the same issues. Confidentiality means the right not to disclose one's HIV/AIDS status. However, as far as this particular disease is concerned, there is no need to push it too far. It is true that people depend on support from others and they should be encouraged to disclose and look for support.

The fear of weak confidentiality definitely plays a crucial role in a weak uptake of VCT in the workplace. The context is that employers do not accept their responsibilities to create a non-discriminatory, inclusive workplace. On the earlier stage they were more interested in investigating the disease and identifying the HIV-positive workers while at the same time they wanted to escape the responsibility of implementing a company HIV/AIDS policy. That is why they argued that before knowing the exact number of HIV-positive workers they cannot implement such policy. Nowadays, the situation has

changed. Many big employers did adopt HIV/AIDS policies and created possibilities of ARV treatment. Now they argue – the treatment is available, but workers do not use it and the uptake is very low. The problem is that these programs lack structural safeguards that would allow workers to take advantage of them, as provisions for confidentiality are not created. Saying that it is the workers' fault not to use opportunities of treatment in the workplace is, to some extent, a run away from the responsibility.

There is definitely the need for trade union action in the workplace as far as HIV/AIDS is concerned. The first and most important thing is to create non-discriminatory workplace. There is a need to push employers to implement HIV/AIDS policies that are closely negotiated with trade unions and these policies have to address, apart from ARV treatment, confidentiality of HIV/AIDS status and discrimination, as well as education. One of the current problems that needs to be addressed is provisions for HIV positive people to start ARV treatment. In case they decide to do so, they usually need more sick leave than they are entitled to – the first phase of treatment requires that they stay at home and take drugs. This is usually a difficult moment for them at work, where they face threat of dismissal from the part of the employer. This is also one of the most important factors why people are afraid to disclose their HIV status to the employer.

COSATU does not differentiate the rights and interests of HIV-positive against HIV-negative workers. The main principle of the COSATU actions is „an injury to one is an injury to all“. On the one side, we are of the opinion that the risk of occupational disease can be successfully limited by using simple, generalized precautions. There is no need to identify individual workers in order to prevent occupational HIV infections because it is easy to implement standardized precautions in contact with every worker, in the way that will prevent both identification and discrimination of HIV-positive workers (like, for instance, gloves and masks used by medical staff in the occupational clinics in case of every patient). On the other side, a significant part of the COSATU policy is information directed at co-workers of the infected persons. We try to address the HIV-negative workers with the question – how you support HIV-positive persons? In this way, we try to work on building solidarity among workers and build an inclusive labour response to HIV/AIDS in the workplace.

Discrimination from the part of workers is still taking place. The main reason is lack of education and lack of trust. I think that there is a great need and space for employers to take action on educating workers to fight stigma from the part of co-workers. Sometimes it is not lack of information about HIV/AIDS (e.g. ways of transmission) but lack of trust in information (e.g. workers do not trust that they will not get infected by the everyday contact with HIV positive co-workers and refuse to eat with them, sit next to them etc.). The employers have means and a position to intensify education programs, to encourage and enable peer education, to promote an inclusive attitude towards HIV-positive workers.

However, fear of losing a job unquestionably plays the major role in whether workers decide to take a HIV test. This fear is real and so are cases of severe discrimination of HIV positive workers that take place in the workplace from the part of employers.

Therefore, it has to be underlined that workers are rather more afraid of discrimination from the part of employers.

In relation to the policy of big South African employers like Anglo American, Eskom, BHP Billiton, they usually look better on paper than in practice, especially on the local level. For instance there were problems with policy of Anglo American, which was widely advertised as providing ARV treatment for every worker that needs it. Shortly after introducing it, in 2001 COSATU checked on this policy and found despite widely advertised Anglo American plan to provide workers with ARV treatment in many places occupational clinics of the company offered only treatment for opportunistic diseases (like TB). At the same time, the company developed highly discriminatory practices of offering treatment only to highly skilled workers in managerial positions, while excluding the low skilled workers among whom the disease is wide spread.