Some employers' statements and progressive workplace policies

In 2005, Indian employers issued a statement on HIV/AIDS, committing to non-discrimination, gender equality, a healthy work environment, confidentiality, and prevention, care and support services. They have also committed not to screen for HIV, or to terminate employment because of HIV infection.
http://www.nacoonline.org/upload/Publication/IEC%20&%20Mainstreaming/ILO%20Indian%20Employers%20Statement%20of%20Commitment%20on%20HIV-AIDS.pdf
And:
http://www.indianbusinesstrust.org/policy_for_industry.htm

In 2004, the Mumbai police issued a policy statement on HIV/AIDS in the workplace: it would not test employees for HIV, it would maintain confidentiality of people with HIV, it would try to provide suitable jobs for those who were in a position to work. It would provide treatment for AIDS-related illnesses according to government regulations.
http://www-ilo-mirror.cornell.edu/public/english/region/asro/newdelhi/aids/download/policies/mumpol.pdf

In July 2005, the Reserve Bank of India issued a statement committing to non-discrimination, confidentiality and voluntary counselling and testing. It also promised to carry out awareness programmes and set up plans for treatment of people with HIV/AIDS.
http://www-ilo-mirror.cornell.edu/public/english/region/asro/newdelhi/aids/download/policies/rbipol.pdf

In April 2007, the Karnataka state police developed an extensive workplace policy on HIV/AIDS. Employees living with HIV/AIDS have the same rights and obligations as all other staff members and will be protected against all forms of discrimination based on their HIV status. This also applies with regard to recruitment, employment benefits, welfare schemes, promotions, transfers and demotions, disciplinary measures short of dismissal, and termination of services.
http://karnatakastatepolice.org/karnatakastatepolice/Main%20right/HIVworkplacepolice_english.pdf

In 1999, Tata Tea Ltd was among the first in the corporate sector to develop a policy on HIV/AIDS in the workplace. Its commitments included: a ban on screening for HIV, protection of HIV-positive employees from discrimination, confidentiality, protection of all social security and occupation-related benefits and continuation of employment. It also committed to run prevention education programmes and condom distribution, and to care for STDs and opportunistic infections.
http://www.weforum.org/pdf/Initiatives/GHI_HIV_TataTea_AppendixA.pdf

The beer company SAB Miller India has a policy statement on HIV/AIDS that bans screening for HIV, maintains confidentiality of medical information, and bans discrimination based on HIV status. Http://www.sabmiller.in/hiv_work_policy.html

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Occupational exposure to HIV: A personal story

A surgeon who contracted HIV in the course of his work 14 years ago describes his journey from despair to positive action: he now treats people with HIV and has founded an organisation for positive people

I graduated as a general surgeon from Sion Hospital, Mumbai, in January 1991 and worked there as registrar in the Trauma Care Unit in the early-1990s, a time when HIV was literally unheard of in India except for a case that was diagnosed in Chennai.

I had heard about HIV for the first time in 1983-84 during my second year MBBS exam. Actually I had prepared a short note on HIV, which at the time was known as Gay Related Immune Deficiency (GRID) syndrome. About the only thing I knew for sure about HIV was that it destroys the human immune system and the person eventually dies of multiple infections. There was hardly any more information to be got from our medical books.

Working in the trauma ward, where the workload was pretty high, put us at risk of exposure to HIV without us ever realising it. HIV testing was not available in Mumbai then, and the disease was spreading without anyone noticing it. As we know now, that was the asymptomatic phase of the disease.

I do not recollect any risky blood exposure during this period of my residency.

On October 17, 1994, I had a bout of high-grade fever for just one day. It disappeared with a simple antibiotic course but after this episode I started feeling weak. I had to cut down on my daily exercise and running as I began feeling increasingly weak. From January 1995 onwards, I started having low-grade evening fever, poor appetite and recurrent tummy disturbances.

By May 1995 I had lost about five to six kilos of weight. I used to fall asleep in my clinic but continued working since I did not know what was wrong. On July 16 the same year, I was admitted to a hospital in Ratnagiri, where I was working at the time. I forced the doctor to start an intravenous line to counter the dehydration. When my fever did not respond to routine treatment, a physician was called in. After examining me he advised an Elisa test.

Nobody told me the result of the test but the next day I was shifted to KEM Hospital in Pune for treatment under Dr V R Pai. I knew him to be an HIV medicine consultant because we had arranged a lecture on HIV in Ratnagiri in June 1995. This gave me some inkling about what was the matter with me and what lay ahead. A Western Blot test confirmed that I was HIV-positive.

When I asked my physician about my diagnosis, he told me curtly that it was HIV and I had AIDS.

It is very difficult to explain my feelings when I heard this. Overall, I experienced a feeling of horrible loss; I was unable to take on any family responsibilities, my career was lost and so were 30 years of education. I felt ashamed and was unable to face my wife and my parents. I thought it was better to die than to live with this disease.

Though I suffered innumerable opportunistic illnesses, that included cerebral atrophy, I still did not die. One day, lying in bed in the afternoon, a thought struck me: maybe I was not destined to die with HIV.

This was sometime in July 1997. The thought made me decide to fight back. The first thing I decided to do was to take my health in my own hands and be aware of every little thing that goes right or wrong in my body. This was the first step towards achieving mind-body co-ordination. I listened to no one who gave me advice, including doctors and the medical books. I started living by my own intuition and by trial and error.

By the grace of God I have improved over the years and I am still working after undergoing 14 years of ART and seven regimen changes. Nobody ever thought that a person with cerebral atrophy would ever be able to work. I am very proud to say that despite being HIV-positive I have been working as a clinician for positive people.

In May 2002, after seven years of struggling with my health, I started a clinic only for positive people. In August 2003, I started an NGO called Guruprasad. It's a group of positive people ready to help others. In April 2004 we got the Drop in Centre project from Avert Society, Mumbai, for the whole of Ratnagiri district. In October 2005, we established a sub-centre at Chiplun under the same project. We implemented the Avahan project of the Bill and Melinda Gates Foundation from January 2006 to October 2007 in Ratnagiri district. We were also given the Access to Care project by the Global Fund for AIDS, TB and Malaria in March 2005.

Guruprasad has been honoured with the Motilal Joshi Award 2005 of the Rotary Club of Western Maharashtra, the Exemplary Service Award 2006 of the Parkar Medical Foundation, Ratnagiri, Special Recognition Award by the local MLA in December 2006, Pulotsav Samaj Ratna Award, July 2008, and the Lokmanya Tilak Award of the Konkan Marathi Sahithya Parishad in August 2008.

Working in the field of HIV has given me a different kind of satisfaction and sense of achievement though I still miss my first love, surgery. An HIV-positive surgeon has lots of difficulties practising his profession: big hospitals will not employ him and he will be barred from operating. Even if he is allowed to continue working, he will have to reveal his status to the client, which becomes a breach of confidentiality for the doctors apart from the fact that no patient will agree to be operated on by an HIV-positive surgeon. A truncated career is a stark reality for any healthcare worker who tests positive.

Currently there are no guidelines or fixed policies for the rehabilitation of doctors who test positive. Recent studies done in Spain and elsewhere in the Western world have shown that when positive surgeons and positive dentists operated on negative individuals the risk of transmission was absolutely minimal. Only one case has been reported in France among thousands where HIV was transmitted from the surgeon to the patient. But in our country, it is unlikely that positive doctors will realise the dream of a professional career in my lifetime.

Our country has a complex healthcare system. We have luxurious private clinics and hospitals run by trusts that offer quality healthcare. And we also have government-run hospitals, public health centres and rural healthcare centres frequented by a large chunk of the population that are poorly managed due to lack of manpower and funds.

In the latter environment, Universal Barrier Protection (UBP) is unaffordable and this exposes doctors as well as patients to HIV. Sometimes doctors themselves are not keen on UBP for every client as that increases the cost of treatment. Though sex is the main mode of transmission of HIV infection, we must work harder to plug the gaps in our healthcare facilities to reduce the risk to healthcare personnel. Doctors who test reactive due to occupational exposure to HIV should have a fallback scheme in place so that their careers are not destroyed. Doctors who know that they are reactive should have enough courage to accept their status, be open about it, and try and find alternative careers such as working for positive patients. After all, being HIV-positive gave me an insight into this disease and has certainly helped me in management of HIV patients who attend my out-patient's department.

I appeal to the Indian Medical Association and other professional medical bodies to formulate a scheme as suggested above. I also appeal to healthcare workers who test positive to come together and work for the benefit of the needy and suffering. After all, what you give is more important than what you earn.

How safe are healthcare workers?

A senior ART medical officer in Ratnagiri district explains the practices in force in the district for the protection of healthcare workers

Is the Universal Barrier Protection (UBP) procedure practised?
UBP has become standard practice in the government health setup. ART (antiretroviral therapy) departments get a special grant of Rs 100,000 per year for UBP. The government also has a separate grant for UBP in civil hospitals. The practice of using double gloves, plastic gown and foot covers has become standard when giving care to all patients.

All staff nurses working in indoor care have undergone special training in UBP. Class IV employees and people who conduct post-mortems are also trained in UBP.

What is being done to prevent needlestick injury?
All wards are provided with needle burners and destroyers. When giving injections, staff nurses carry a trolley that contains bleach solutions. Disposable syringes and injections are used for all in- and out-patients. For in-patients, once the injections have been administered, the syringe and needle are put in the solution of bleach without recapping the needle and then destroyed in the burner. Needle burners are also available in the Laboratory, Casualty, and ART departments. While administering injections, the sister uses latex gloves.

What about Post Exposure Prophylaxis (PEP)?
PEP is available round-the-clock at ART centres. It is available for government employees as well as private sector employees. The standard two-drug regimen is always at hand and if triple-drug regimen is required, then the third drug has to be bought by the client. PEP monitoring is done free of cost in government-run institutions. Testing of HIV, Hepatitis B, Anti Hbsag is also done free of cost at ART centres.

Is ART available for employees who test positive?
Healthcare workers who test reactive are given free ART when required through the government-sponsored ART programme. All tests required to monitor the ART drugs are offered free of cost to employees.

I am not aware of any government scheme or rule that makes provision for doctors who test reactive, particularly doctors who need to give invasive care such as gynaecologists, dentists, and also laboratory technicians. I am of the opinion that such a policy should be put in place as early as possible. If a surgeon or gynaecologist tests reactive, he/she stands to lose out on a career as they are usually barred from giving invasive care. This would be one of the reasons for discrimination in a place where it should never happen.

What about policies regarding disclosure of the healthcare worker's HIV status?
This is a debatable issue. If we reveal the status of the healthcare worker to the client, it will be a breach of confidentiality of the healthcare worker. At the same time, the client has the right to know the status of the healthcare worker.

The international AIDS charity Avert provides information on occupational exposure to HIV in the healthcare setting http://www.avert.org/needlestick.htm

The US Centers for Disease Control have guidelines for prevention and control of HIV in healthcare settings. This includes universal infection control practices, guidelines for the management of occupational exposure to HIV, and recommendations for post-exposure prophylaxis (preventive drug therapy). http://www.cdc.gov/ncidod/dhqp/bp_hiv_prevent.html

The young workforce

Of the over 40 million people living with HIV/AIDS (PLWHA) in the world, 26 million are aged 15 to 49, and thus in the prime of their working lives. According to official figures, in India, 2-3 million adults in the age-group 15-40 years are infected with HIV. If they are prevented from working because of stigmatisation and discrimination, the loss will be felt not only by them and their families, but ultimately by society as well.

Young people face a higher level of insecurity than other workers. They are often the last to be hired and the first to be fired. They may be subject to unacceptable working conditions and very low pay. Young people are almost three times more likely to be unemployed as adults and make up the majority of those who are in informal work. The informal sector is characterised by low productivity and income levels, and poor social protection, and is particularly vulnerable to HIV.

In many societies there is little respect for the rights of young people. Young workers are themselves often unaware of their rights, or don't know how to redress grievances, as for example, discrimination on the basis of HIV status. They are therefore at a disadvantage when it comes to identifying and confronting bullying or sexual harassment in the workplace.

HIV/AIDS at work

AIDS has always been a workplace issue: positive employees have faced harassment when their HIV status becomes known; prospective employees have been tested for HIV and denied jobs if they test positive.

Though the Indian courts have passed a number of progressive judgments on HIV and the workplace, positive employees have faced the threat of being fired when their HIV status becomes known. There are also reports of probationers being made to take HIV tests and getting confirmed in their job only if they test negative. The picture has been changing in recent years, with the growing activism of positive groups, as well as the advent of powerful new drugs that have made it possible for people to return to work after being diagnosed HIV-positive. People with HIV/AIDS are living longer and healthier lives and going back to work is now not only an option, but one that should be encouraged.

Employers are also realising that it's in their best interests to put HIV policies in place and encourage practices that prevent the spread of the disease as well as enable those affected by it to function at their optimum best.

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For more information on HIV/AIDS log on to www.hivaidsonline.in/ and www.infochangeindia.org
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Discrimination at the workplace

The principal issue regarding HIV/AIDS in the workplace has to do with discrimination and stigmatisation, which threaten fundamental principles and rights at work and undermine efforts for prevention and care.

A study by the International Labour Organisation (India) found that 70% of HIV/AIDS patients in India said they had faced discrimination, within families, in healthcare settings and in the workplace.

This study, titled 'Socio-economic Impact of HIV/AIDS on People Living with HIV/AIDS and their Families' was conducted in 2003 with the support of positive networks in Tamil Nadu, Maharashtra, Delhi and Manipur. The researchers found instances of blackmailing by the employer who threatened to disclose the HIV status of their employees. They were also told of neglect by the family, denial of treatment by the medical fraternity, physical and verbal abuse, and other discriminatory practices.

Many people living with HIV/AIDS (PLWHA) do not disclose their status fearing loss of their jobs. Positive people are often compelled to leave their job on account of harassment such as denial of promotion, being forced to take voluntary retirement or ostracism by co-workers.

The ILO Code of Practice on HIV/AIDS recommends that HIV/AIDS should be treated like any other illness at the workplace and employers should support their employees and their families with the available treatment. It recommends that employers' organisations and trade unions have a crucial role to play in the fight against HIV/AIDS and need to work closely on issues related to welfare and rights of workers affected by HIV/AIDS.

Compulsory testing

Many companies resort to HIV testing of potential and existing employees, including annual testing as part of a routine physical check-up. The National AIDS Control Organisation's policy for testing states that "no mandatory HIV testing should be imposed as a precondition for employment or for providing healthcare services..." in private firms. Testing should be voluntary after obtaining informed consent, with pre- and post-test counselling.

Companies are beginning to find that workplace prevention programmes actually work better in the absence of compulsory testing. They are also beginning to understand that prevention is much more cost-effective than HIV screening in the long run, and that respect for the rights of workers is a powerful tool in its own right.

In fact, an employee is not obliged to inform his employer about his HIV-positive status, if his status is not relevant to determine his fitness or capacity to perform his job functions. A person's health is personal information and there is no need for the employer to obtain such information unless it is relevant to the person's work performance. Lawyers have pointed out that any plans for mandatory HIV testing at the workplace (whether pre- or post-employment) may be unconstitutional and illegal.

Health insurance

The ILO study also found that the average monthly income of a person living with HIV /AIDS was a little over Rs 1,100 though their monthly expenditure was more than Rs 3,000. This gap between income and expenditure was often met by taking loans or selling assets. In such a scenario, medical insurance becomes essential.

In general, however, medical insurance policies in India do not cover HIV/AIDS-related expenses. The first such insurance policy exclusively for people with HIV was recently launched by a Chennai-based private insurance company, Star Health and Allied Insurance. Patients can buy a policy covering up to Rs 60,000 for annual premiums up to Rs 2,545 every year and can claim reimbursement for all ailments, excluding tuberculosis, gastroenteritis and diseases they already had at the time of buying the policy. The waiting period for claims is 30 days.

WORKPLACE ISSUES IF YOU ARE HIV-POSITIVE

Standard occupational health issues that are concerns of all working people may be more acutely felt by people with HIV/AIDS because their immune systems are weak. They are at greater risk of getting hit by all sorts of bugs from colds and pneumonias to stomach infections and they can be worse-affected than those with healthy immune systems. They therefore need to protect themselves against this. They need clean water and sanitary facilities, proper working hours, healthy meals at regular times, and a safe and low-stress working environment.

Your rights as an employee with HIV

- You cannot be fired just because you are HIV-positive. If you are qualified to do the job, if you are able to do it, and if you do not pose a risk to fellow workers, you cannot be deprived of your job.
- You have the same right to pension and other benefits as other employees.
- A child or spouse of an HIV-positive person who died of AIDS has the same rights to employment as a person who has died of any other condition.
- You cannot be denied employment because you are HIV-positive, but otherwise fit. This would be discriminatory and violates the principles laid down in Articles 14, 16 and 21 of the Constitution.

(Source: Lawyers' Collective)

Rate your office for HIV awareness and support

- Does it hold discussions and education on HIV/AIDS prevention, treatment and human rights issues for all staff?
- Does it have an equitable set of policies that are communicated to all staff and properly implemented including protection of rights at work and protection against any discrimination at work?
- Does it conduct prevention and rehabilitation programmes on drugs and alcohol?
- Does it provide diagnosis, treatment and management of sexually transmitted diseases for employees and their sex partners?
- Does it provide voluntary HIV/AIDS testing, counselling, care and support services for employees and their families?

Recommendations on HIV/AIDS policies at the workplace

The *ILO Code of Practice on HIV/AIDS and the World of Work* recommends that employment policies and practices be reviewed to address gender inequality in the context of HIV/AIDS by:

- **Opposing discrimination at work and promoting equal opportunities.**
- **Providing workplace education for men and women on sexual and reproductive health, men and women's social and economic roles, family responsibilities, working time, etc.**
- **Avoiding work patterns that separate workers from their families for prolonged periods, and providing facilities for rest and recreation, or family accommodation whenever necessary.**
- **Ensuring that business practices do not encourage risky behaviour. For example, encouraging alcohol abuse, entertaining clients through sex services, etc.**
- **Zero tolerance for violence and harassment against women at work, making it a disciplinary offence.**
- **Extending workplace medical facilities to workers' families.**

FAQS

Is it safe to work with someone infected with HIV?

Yes, it is safe. Industrial and corporate workers face no risk of getting the virus while doing their work. This is because the virus is mainly transmitted through the transfer of blood or sexual fluids. Since contact with blood or sexual fluids is not part of most people's work, most workers are safe. HIV is not transmitted through normal social contact like shaking hands, sharing food or working together. Nor does HIV spread through mosquito bites, etc.

What about working in close physical contact with an infected person?

There are no risks involved. As the virus has a very short life outside the body and is transmitted through body fluids and not through air or water, you may share the same telephone or work side by side in a crowded factory with HIV-infected persons, even share the same cup of tea, without exposing yourself to the risk of contracting the infection. Being in contact with dirt and sweat will also not give you the infection.

Who is at risk while at work?

Healthcare workers -- doctors, dentists, nurses, laboratory technicians -- and others who come into contact with blood during the course of their work may be at risk and must take special care against possible contact with infected blood, by using gloves, for example. These 'universal precautions' must be taken with all patients and by all healthcare personnel regardless of their known HIV status. All healthcare personnel should be taught procedures to minimise the risk of needlestick injuries, such as how to handle sharp objects such as scalpels and needles, and the proper procedure to destroy used sharps so that they do not injure themselves or others. It is the employer's responsibility to train healthcare staff in these practices, provide them with the necessary equipment, and also to provide post-exposure prophylaxis if they come in contact with blood or blood products through such an injury.

Does an HIV-positive employee have to tell the employer his/her status?

Whether you disclose your HIV status to your employer is entirely up to you, but you are under no legal obligation to do so. And because HIV is not transmitted by casual contact, you are no risk to your fellow employees.

Should an employer test a worker for HIV?

Testing for HIV should not be required of workers and confidentiality of HIV status is a right of all workers. This is because HIV-positive people can work as well as others.

Impact on businesses

Mariam Claeson, the World Bank's HIV/AIDS Coordinator for the South Asia Region, says that businesses have "much to offer and to gain from early decisive action to prevent HIV and reduce the cost and social impact of AIDS".

In a business, cost-effectiveness is a critical factor. AIDS-related illnesses and deaths of workers increase the costs to employers and reduce revenues. They have to spend more in areas such as healthcare, training and recruitment of replacement employees. High labour turnover, which means having to employ less experienced employees, could result in a less productive workforce. It is therefore in the interests of business to take measures early on to prevent the negative impact of HIV/AIDS.

HIV/AIDS leads to increased demands for spending on health and social welfare, but it is more cost-effective to provide treatment than to encourage positive employees to retire and accept termination packages. A study by ILO India in the Singareni Collieries Company Limited, Andhra Pradesh, in 2005 calculated that if the company's 311 employees living with HIV were terminated with compensation as per company rules, it would cost the company Rs 9.33 crore. But giving them antiretroviral treatment would cost the company Rs 5.59 crore for 10 years, and would enhance the working life of infected employees, reduce absenteeism, and also help them sustain their families.

Some sectors of business are more vulnerable than others. These are typically sectors which require workers to stay away from their homes for long periods of time, such as transport, mining and fishing.

Sectors which rely on seasonal and short-term workers, such as agriculture, construction and tourism, are also particularly vulnerable to the impact of HIV/AIDS. Those sectors that rely on highly trained personnel can be adversely affected by HIV/AIDS because the loss of even a small number of specialists can place entire systems and significant investments at risk.

The impact of HIV/AIDS on the informal sector which employs the majority of workers, at least in India, is poorly documented. It is essential to gather information about the situation of HIV/AIDS in these enterprises, identify best practices on how to address the problem and develop practical and innovative approaches and tools to prevent HIV/AIDS and mitigate its impact in these sectors.

One approach which needs more investigation is the development of prevention and care programmes in the context of mutual health funds, which are being established for small enterprises and informal sector operators in many countries.

Much more needs to be done in one of the most vulnerable sectors -- the healthcare industry. A paper presented at the International Conference on AIDS in 2004 in Bangkok pointed out that occupational HIV transmission, such as in hospitals, clinics and other healthcare settings is generally underreported in resource-poor countries. Employees have no incentive to report exposures when there is no worker's compensation, little job security and possibly greater discrimination against infected healthcare workers. Moreover, as few resource-poor countries have a culture of reporting occupational exposures, national standardised surveillance tools are not being used. Without data, it is impossible to estimate the impact of occupational exposures on national health systems. ('Occupational HIV transmission in healthcare settings in resource-poor countries' by Gold J, Tomkins M, Bates N, Melling P, Resnik S, Sheather J).

Sources

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http://www.youandaids.org/Themes/Aidsatworkplace.asp
http://aids.about.com/od/hivandtheworkplace/a/workhiv.htm
http://www.lawyerscollective.org/hiv-aids/judgements/indian-discrimination

Useful websites

NACO www.nacoonline.org NACO Guidelines on Strengthening HIV/AIDS Interventions in the World of Work in India
http://www.hivpolicy.org/bib/HPP001482.htm
International Labour Organisation /AIDS: http://www.ilo.org
Lawyers Collective www.lawyerscollective.org/hiv-aids
Indian Business Trust www.indianbusinesstrust.org

Useful publications

1. ILO: HIV/AIDS and the World of Work (http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_090177.pdf
2. Lawyers Collective leaflet on knowing your rights in employment http://www.lawyerscollective.org/hiv-aids/publications/leaflets

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