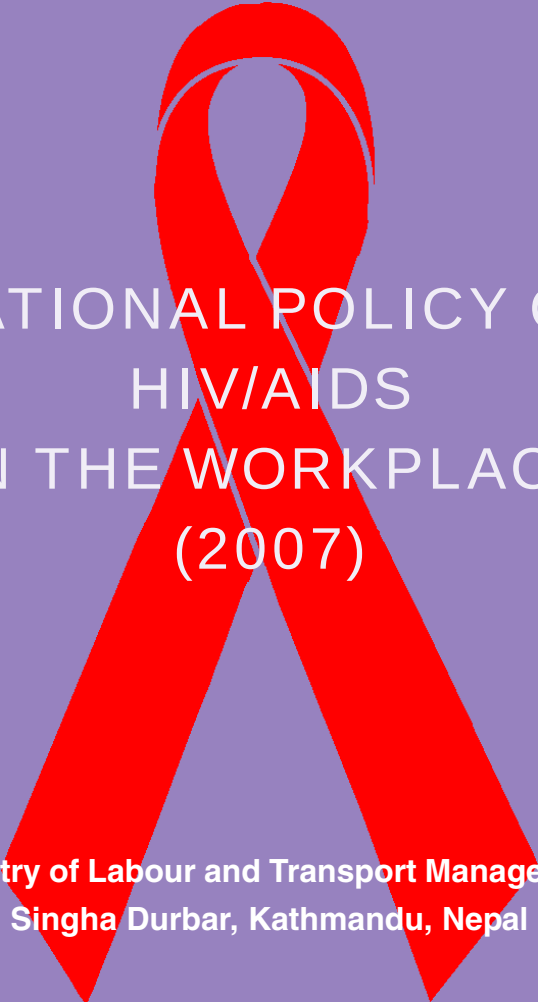


A large, vibrant red ribbon is draped across the center of the cover, forming a prominent loop that frames the title text.

NATIONAL POLICY ON HIV/AIDS IN THE WORKPLACE (2007)

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NATIONAL POLICY ON HIV/AIDS IN THE WORKPLACE, 2064 (2007)

1. Background

According to the International Labour Organization, around 36 million workers and employees 15 to 49 years of age have been infected with HIV, by the end of 2005.¹ Similarly, about 28 million workers and employees have died due to HIV/AIDS by 2005.² It is estimated that the number of infected workers dying of HIV/AIDS will rise to 74 million by 2015 if access to treatment services and care is not intensified and ensured.³

A study of countries that are acutely affected from HIV/AIDS shows that the supply of workers and employees has decreased, there is a turn over of workers and employees because of frequently being ill and the knowledge, technology and experiences which workers and employees have learnt and gained are eroding. On the other hand, the demand and need for essential services to be provided to people is on rise day by day.

The first case of HIV was diagnosed in Nepal in 1988. According to the statistics of the Government of Nepal, National Center for AIDS and STD Control (Ashwin 2064/ October 2007), the number of people infected by HIV in Nepal has reached

¹ ILO, 2006, HIV/AIDS and Work: global estimates, impact on children and youth and response

² ILO, 2005, HIV/AIDS and work in a globalizing world

³ Ibid

10,260, out of which 1,553 have been fully infected by HIV and 446 people have died from AIDS. In terms of age group, out of the total number of people infected by HIV, 9,512 people belong to working age (15 to 49 years of age). Similarly, out of the major vulnerable groups, 2,058 belong to the group taking narcotic substance through syringe, 2,134 housewives, 702 sex workers women, 4,733 customers of sex workers and 512 children.⁴ If efforts are not taken now to stop HIV infection from further spreading to vulnerable groups, a great portion of the population could run a risk of being infected by HIV. However, unlike other fatal diseases, HIV can be prevented fully.

Human Immunodeficiency Virus (HIV) and Acquired Immuno-deficiency Syndrome (AIDS) is a serious national and international infection, which is causing negative impacts on all sectors including social, economic, employment, legal, moral and human rights sectors. The Human Immunodeficiency Virus is transmitted through unsafe sexual contact with an infected person, when infected blood and blood products are transmitted from one person to another, when needles used by an infected person are used with others and when babies are born from infected mothers or breastfed by such infected mothers.

HIV is never transmitted by ordinary contact made in a workplace. HIV is not transmitted when one talk with a person living with HIV touches him or her, uses instruments and utensils in the same workplace or uses the same bathroom.

There is an effective and appropriate infection control mechanism created for health workers who come in contact with blood and blood products, which is called the "universal precaution". This precaution must be taken.

Despite HIV infection, people living with HIV can remain fit and healthy for many years. However, through lack of information and understanding, terror

⁴ National Center for AIDS and STD Control (NCASC) Data, Ashwin 2064

and negative trend toward HIV/AIDS infected persons are being developed between employers, workers and employees, which would one way or another give rise to negative attitudes such as disregard and discrimination against workers and employees living with HIV/AIDS. Against this backdrop, HIV/AIDS is now a major challenge in workplaces.

The Government of Nepal has ratified the ILO Convention against Discrimination (Employment and Occupation) (C 111), attended the Special Meeting of the United Nations on HIV/AIDS held in June 2001 and endorsed the Millennium Development Goals. The Government of Nepal, employers, workers and employees have united and expressed commitments to perform an active role in the prevention and management of HIV/AIDS in workplaces. In such a context, there is a need for a national policy designed also to implement the commitments expressed in a tripartite manner. Nepal has to formulate and implement a national policy on HIV/AIDS in the workplace in order to prevent the Labour force from HIV infection. The Ministry of Labour and Transport Management, Government of Nepal has, therefore, formulated the National Policy relating to HIV/AIDS in the Workplace.

Workers and employees can use this Policy as a proper instrument of advocating for those living with HIV in workplaces. Workers and employees in Nepal, who are involved, both in the formal and informal sectors, can command social honor and dignity from their families and communities and also represent rural communities. Therefore, if such groups can be well-informed about HIV/AIDS as well as organized and motivated, it will be much easier to spread awareness of HIV/AIDS in villages. A policy on HIV/AIDS is necessary in a workplace where a large number of people gather for work. The Ministry of Labour and Transport Management, Government of Nepal has, therefore, formulated this National Policy with intent to carry out activities preventing the problems occurring in such workplace on long-term basis.

2. Fundamental Principles of the Policy

This Policy fully incorporates principles of ILO code of practice on HIV/AIDS and the world of work, such as accepting HIV/AIDS as workplace issue, prohibiting discrimination, internalizing gender equality, creating a health working environment, promoting social dialogue, prohibiting HIV/AIDS tests with an objective to remove from employment or work, respecting the right of infected people to confidentiality, guaranteeing the continuity of employment until one can not perform a normal work, preventing and treating this infection as far as possible and supporting those living with HIV.

3. Need for the Policy

- 3.1 This National Policy is a strategic intervention formulated to guide mutual understanding between the government, employers, workers, employees and all other stakeholders in the management of problems associated with HIV in workplaces.
- 3.2 The National HIV Strategy of the Government of Nepal expresses a commitment to formulate a HIV/AIDS policy in the workplace.
- 3.3 The objective of the Policy is to contribute towards the creation of a safe, healthy and productive environment in workplaces so that those who are infected by HIV/AIDS are free from disregard, discrimination and bias in such places.
- 3.4 In accordance with the commitment undertaken by the Government to the prevention of HIV/AIDS, this Policy will serve as a guideline to prevent HIV infection and mitigate its effects in workplaces.

4. Scope

This Policy will apply to all private, public, formal and informal workplaces in Nepal. The scope of this Policy is to incorporate and protect, through their organizations, if possible, those who are involved in informal and economic

sectors, those who are migrant workers in workplaces and those who are self employed.

5. Long-term objective:

To promote activities relating to the prevention and management of HIV/AIDS, realizing that HIV/AIDS is a major challenge in workplaces, and to make efforts to mitigate the effects of HIV/AIDS in workplaces, paying particular attention to women and vulnerable groups.

Objectives:

- 5.1 To prevent all women and men workers and employees from new infection and reduce health expenses in the case of infection.
- 5.2 To prevent discrimination of any form towards people living with HIV/AIDS.
- 5.3 To enhance productivity by mitigating obstructions that may occur from HIV/AIDS in workplaces.
- 5.4 To ensure that all workers and employees infected or affected by HIV/AIDS in workplaces receive appropriate counseling and support to the furthest possible extent.

Strategy related with objective 5.1

To discourage workers from engaging in risky behavior by providing complete information on HIV/AIDS through the implementation of HIV/AIDS policies in the workplace.

Working policies

- 5.1.1 All employers will be encouraged to provide appropriate information about HIV infection and AIDS to workers and employees.
- 5.1.2 Workers and employees will be encouraged to communicate problems related to their health, security and well being to their employers.
- 5.1.3 All employers will be encouraged to disseminate HIV/AIDS information, communicate about such issues and to host preventive programs

involving the participation of workers, employees and their families.

- 5.1.4 The government will encourage programs designed to manage HIV/AIDS in workplaces on the basis of operational collaboration with other bodies involved in the health sector.
- 5.1.5 Provisions of information, education and communication about universal precaution procedures will be made in order to mitigate risks of infection and transmission of HIV in workplaces.
- 5.1.6 Arrangements will be made for appropriate equipment and materials to be distributed to workers and employees to protect them from being infected with HIV.

Strategy related to Objective 5.2

- a. To formulate HIV/AIDS Policy in the Workplace and thereby discourage all forms of discrimination.**
- b. To ensure that HIV testing will not be performed in any process including appointment, training and promotion, etc.**

Working policies

- 5.2.1 Equal opportunity of work will be provided by employers to all qualified candidates including those infected by HIV in Nepal.
- 5.2.2 No HIV test will be done directly or indirectly prior to engagement in work.
- 5.2.3 No questionnaire will contain any question seeking information about HIV/AIDS status, when hiring.
- 5.2.4 General medical inquiry will be made only to ascertain whether one is occupationally fit to perform work professionally, provided that such inquiry will not include an HIV test.
- 5.2.5 All those who are living with HIV/AIDS in the workplace will be treated like others with chronic illnesses, and are entitled to human resource

policies and facilities such as leave, medical treatment and facilities to the disabled.

- 5.2.6 The terms and procedures of termination of service for people living with HIV/AIDS will be the same as those of people suffering from disease such as tuberculosis, cancer, diabetes and heart disease.
- 5.2.7 Employers will not compel workers and employees to undergo HIV test.
- 5.2.8 The workers and employees living with HIV will have the legal right to keep their status of health, confidential. The workers and employees living with HIV will not be required to give information in regards to their HIV status to their employers.
- 5.2.9 Employers will ensure that no discrimination will be made against workers and employees infected or affected by HIV.
- 5.2.10 All workers and employees infected by HIV and living with AIDS or vulnerable to such infection will be allowed to work smoothly and have discussions with each other.
- 5.2.11 Workers and employers will be encouraged to exchange information about the right to equality and protection of those who are infected by HIV.
- 5.2.12 Refusal to work with any worker or employee, to harass any person because of his or her chronic health condition or HIV infection or to refuse to procure service due to discrimination will be considered a violation of employment policies, and subject to the protocol on discipline.
- 5.2.13 Employers will encourage the empowerment of female workers and employees to protect them, because females are more vulnerable to sexual harassment and might face additional discrimination due to being infected or affected by HIV/AIDS.

Strategy related to Objective 5.3

To solve problems related to HIV/AIDS in workplaces by creating an environment of mutual support and understanding of employers, workers, employees/labourers and other stakeholders, through mutually beneficial collaboration.

Working policies

- 5.3.1 Queries of colleagues, workers and employees relating to HIV, as well as all questions and problems relating to the colleagues living/affected by HIV or suspected to be affected by HIV will be solved through educational counseling.
- 5.3.2 A modus operandi will be developed to ensure appropriate management of occupational accidents, events and vulnerability to HIV infection.
- 5.3.3 A system of maintaining records of occupational accidents and events related with vulnerability to HIV infection will be developed.
- 5.3.4 Workers and employees infected by, affected by, living with HIV will receive the same humane and cordial treatment as those workers and employees suffering from other serious health conditions.
- 5.3.5 All employers will be encouraged to provide the opportunity to the workers and employees living with HIV/AIDS and suffering from serious health condition to continue their job unless they are not able to work up to certain standards.
- 5.3.6 The workers and employees living with HIV/AIDS or who are suffering from serious health condition will have the right to demand for transfer to appropriate work or section. Employers will also be encouraged to provide an appropriate alternative, if possible, on the basis of the changed health condition of the workers and employees.
- 5.3.7 Workers and employees will be provided with full information about HIV testing and encouraged to make an informed decision based on the information about the possible effects of living with HIV/AIDS.
- 5.3.8 When a worker or employee voluntarily agrees to undergo HIV test, the results of such test will be provided to the concerned worker or employee;

and the employer will not use such information in any decision and act, other than the treatment and control of HIV and AIDS.

- 5.3.9 In providing opportunities of HIV tests in workplaces, such tests will be conducted by experts in accordance with national and international standards.
- 5.3.10 Employers will be encouraged to provide workers and employees with access to positive health and safe environment and HIV pre and post test counseling.
- 5.3.11 If any worker or employee, because of his or her position or voluntarily, gives information about HIV of another employee or worker, the worker or employee who receives such information on HIV shall restrict such information to himself or herself.
- 5.3.12 No person shall, except compelled by a court order, disclose any information about the HIV/AIDS status of another person without written consent of the infected person.
- 5.3.13 Ensure that HIV/AIDS-related research conducted at the workplace is done only after informing employees and receiving their consent. Such research will be conducted transparently in accordance with agreed national and/or international standards, and practices of relevant national and /or international regulatory bodies.
- 5.3.14 No person or personal matter shall be made subject to medical examination and used in the context without giving written information to the concerned workers or employees in workplaces and without obtaining their consent in writing.
- 5.3.15 This Policy shall ensure the involvement and clear role of those who are infected by HIV in all affairs of their concern. To this end, the workers or employees involved in a workplace will be included to the furthest extent possible. Involvement of the organizations of HIV infected people will also be included to the furthest extent possible. Such involvement will not be confined to policy matters only; it will be ensured at the operational levels of programs in workplaces.

Strategy related to Objective 5.4

To provide, to the furthest possible extent, the existing internal facilities and consultancy services on HIV/AIDS in workplaces. In the event of the need for additional facilities and consultancy services, to ensure access to the relevant governmental and non-governmental service centers.

Working policies

- 5.4.1 The process of HIV tests will be encouraged in the workplaces with possibility of infections in the course of work and provisions of compensation for such kind of accident.
- 5.4.2 All possible benefits from employment are available without discrimination, in a gradual manner and in a manner to provide support to all workers and employees will be ensured.
- 5.4.3 The dependents of those workers and employees who have died of AIDS and the workers and employees retired because of AIDS are entitled to benefits available under pertinent headings, without discrimination.
- 5.4.4 Workers and employees will be well-educated and well-informed as to the headings of benefit schemes, rights and interests and promises and covenants. In the event of a need to make any change in the benefit schemes, such change will be made with their participation and through social dialogue.
- 5.4.5 Employers will be encouraged to make effective provisions for care, accessible to workers and employees and those dependents. This care will be easily available, comprehensive and standard.
- 5.4.6 Where employers cannot provide care at homes of HIV infected persons, the employers will be encouraged to maintain good relations with public health offices and send the infected person to a recognized institution for medical treatment, psychological support as well as to provide encouragement to develop networks.
- 5.4.7 Employers will be encouraged to take initiatives to make services accessible, with active involvement of the concerned sectors,

organization and health related bodies. Workers and employees in the formal, informal and unorganized sectors will have easy access to relevant services such as Sexually Transmitted Diseases treatment centers, Anti-retroviral (ARV) and other quality treatment centers, orphan children care centers, care and support centers and stigma and discrimination control centers.

Implementation of National Policy on HIV/AIDS in Workplace:

A steering committee, chaired by the Secretary at the Ministry of Labour and Transport, Government of Nepal, will be established at the national level for the successful implementation, management and evaluation of this Policy. Its members will comprise of representatives from the Ministry of Labour and Transport Management, National AIDS and Sexually Transmitted Disease Control Center, Federation of Nepalese Chamber of Commerce and Industry, trade union federations recognized at the national and international levels and civil society. Its meeting will be held regularly and it will perform, or give instruction to perform, the following functions:

1. Each workplace/institution will form one HIV/AIDS management committee (if the institution is small, it will appoint a focal person), which will support the coordination and enforcement of the National Policy on HIV/AIDS in Workplace.
2. The HIV/AIDS management committee should represent all relevant sections or sectors of the workplace, including human resource management, representatives of workers and employees, information/communication and occupational health and safety.
3. The HIV/AIDS management committee or focal persons will launch programs and activities such as providing information to all workers and employees about training, education, awareness, advice about this infection and its associated effects, policies, advising them to visit doctors, making provisions for the rare and support to those who are living with, and affected by, HIV/AIDS and ensuring the secrecy of workers

and employees on the status of HIV/AIDS. The committee will make an evaluation of the HIV/AIDS Policy and program from time to time and report its findings to the management and stakeholders.

4. The HIV/AIDS management committee will, with the advice and with the support of other stakeholders, launch programs ranging from the prevention of HIV to the care of HIV infected persons in accordance with the manuals and protocols endorsed by the National Center for AIDS and STD Control (NCASC).
5. The steering committee will recommend names of individuals, organizations and workplaces, who successfully implement the policy enthusiastically, diligently and successfully, for appreciation and award.
6. The steering committee will make arrangements to send reports of workplace relevant indicators set by the United Nations General Assembly Special Session (UNGASS) on HIV/AIDS held on June 2001 and the Millennium Development Goals (MDG) with respect to HIV/AIDS in workplaces.