

Unions and bargaining councils neglect HIV/AIDS

In recent editions *Labour Bulletin* has focused on the limited role that trade unions have played in combating HIV/AIDS. **Thulani Guliwe** concurs that this is a problem and believes this neglect is reflected in bargaining council priorities.

In 1990 HIV prevalence in South Africa was less than 1%. However, the scale of HIV/AIDS skyrocketed to unprecedented levels in 1997. The Department of Health believes that over 200 000 people die each year as a result of AIDS related diseases. UNAIDS estimated that at the end of 2003 there were 5.3 million people living with HIV and in 2006 about 6 million people were infected.

Despite the high levels of HIV/AIDS in South Africa, unions' response has been minimal and ad hoc. A few unions have responded comprehensively to the pandemic, but most union programmes and policies are still at an embryonic stage. Most employers too have not developed comprehensive workplace policies. The impact of HIV/AIDS on the economy and labour is huge. Despite the huge socio - economic and political impacts government, business and labour have not adequately responded to the pandemic.

STIGMATISATION OF WORKERS

In instances where business and labour have HIV/AIDS programmes in the workplace it appears that there is poor coordination, lack of consultation and to a certain extent stigmatisation of the infected workers.

Cases of stigmatisation, prejudice and exclusion are endemic in the

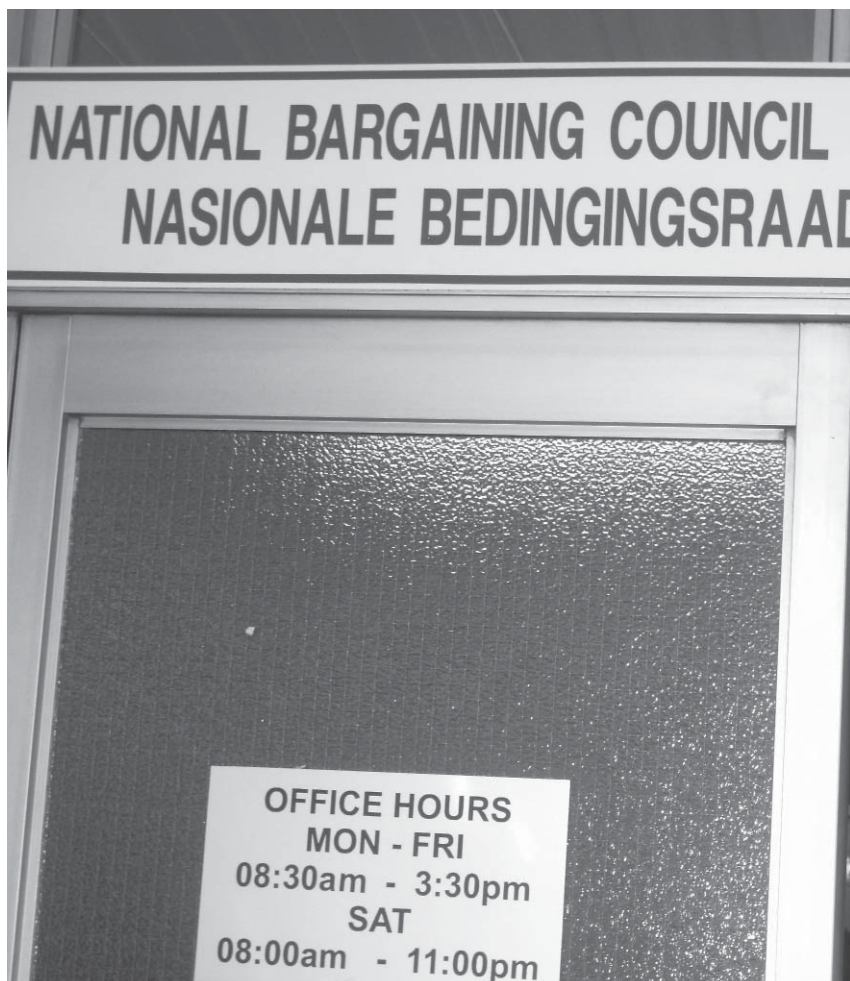
workplace. The recent case of Jabulani Ngwenya who was summarily dismissed by a locomotive manufacturing company in Nigel for disclosing his status bears testimony to this. Ngwenya was forced to disclose his HIV status after he became sick for a week. He was told to report for a further medical check-up with the company medical physician or face permanent dismissal if he was found unfit to resume his duties. Labour law protects workers living with HIV/AIDS and employees cannot be dismissed on the grounds of their HIV/AIDS status. When an employee becomes too ill to perform his/her work, statutory guidelines must be followed - agreements and procedures regarding ill health retirement due to incapacity must be followed.

Despite the ILO (International Labour Organisation) and the Department of Labour's stance on discrimination, it has become a trend that infected workers who disclose their status face dismissal or ill-treatment. In instances where employers provide anti-retrovirals, workers accessing treatment are badly treated. This limits the potential for workers to disclose their status. Consequently, some unions have challenged employers not only to have wellness programmes, but to consult with labour when rolling-out the treatment.

Cases of discrimination towards HIV/AIDS workers are common despite the existence of policies prohibiting such behaviour. Trade unions have been weak in ensuring that employers comply with the regulations advocated by ILO and national policies. In the face of a deteriorating work rate, workers face discrimination and the possibility of dismissal. Labour and business need to protect workers' rights through the provision of necessary support and also create an environment of openness through, for example, respecting workers' right not to be forced to test for HIV/AIDS, while also encouraging them to know their status in order to be assisted. This would help prevent further spread of the pandemic and also contribute to higher productivity levels.

HIV/AIDS, UNIONS AND BARGAINING COUNCILS

Unions and civil society have exposed and forced the government to expedite anti-retroviral treatment and have challenged the representation on the South African National AIDS Council (SANAC) which previously consisted of government officials alone. They have forced the government to revise its plans and strategy on HIV/AIDS. Proper representation has also forced government to set tangible milestones in the battle against HIV/AIDS.



Unions like the National Union of Mineworkers have made some major strides in tackling the pandemic within and beyond the workplace. The South African Teachers Union (Sadtu) has also been able to fundraise in order to assist its members in a sector experiencing a skills shortage. However, few unions have taken the issue of HIV/AIDS to collective bargaining councils.

Sadtu has tried to negotiate with the public service bargaining council especially as unions operating within the public sector, such as those organising nurses and teachers, have been hard hit by the pandemic. Despite harsh realities facing the public sector unions the response has been that "HIV/AIDS affects all the citizens of South Africa and the public sector is no exception to the mainstream."

Despite the stigmatisation and other problems that HIV positive workers experience, the relegation of HIV/AIDS to the margins of

bargaining councils bears testimony to the inadequate labour and business responses to the pandemic. The majority of bargaining councils are still developing HIV/AIDS policies. This lack of focus is exacerbated by the fact that the few bargaining councils who have dealt with HIV/AIDS in their bargaining rounds do not monitor the implementation of decisions and this negates major achievements.

The response to HIV/AIDS within the bargaining council depends on the sector. In most councils, the inclusion of HIV/AIDS is a result of pressure from labour. This is the case, for example, with the National Bargaining Council for South African Cotton Textile Processing and Manufacturing.

In the sectors where casualisation is rampant, as in the building industry, the bargaining council does not have a plan in place and enforcement from the side of labour appears to be weak or non-existent. Enforcing HIV/AIDS

agreements in weaker sectors with high levels of casualisation as in the building, agriculture and retail sectors remains a major challenge for labour.

The weakness in trade unions and bargaining councils tackling HIV/AIDS suggests that the issue should be prioritised in wage negotiations. There should be a uniform approach within bargaining councils at various levels to table that HIV/AIDS should be developed in tandem with ways of implementing agreements so as to leave it to individual employers or unions. A comprehensive approach needs to be adopted to enforce compliance measures.

Bargaining councils should lobby government to pass a law to bind employers to provide sufficient HIV/AIDS support. Yet the problem remains that even government as an employer is unable to give the necessary support to its workers and this is a major challenge for both bargaining councils and unions.

Given that the majority of unions and bargaining councils are still developing their policies on HIV/AIDS, it is imperative for unions to form a partnership especially regarding information sharing. There is a need for a union-driven conference on HIV/AIDS to strive towards a common framework to overcome hurdles and challenges. Unions affiliated to one federation and in similar sectors seem unable to share information and are often moving in different directions. This weakens the campaign against HIV/AIDS and abandons defenseless workers. The major task facing unions is to implement HIV/AIDS policies in the workplace and to give the pandemic urgent attention. LB

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