



Tanzania Works: Advocacy Recommendations for Stronger Gender-Responsive Workplace HIV and AIDS Policies

KEY POINTS

HIV and AIDS significantly impact the world of work, affecting workers' health and productivity. Gender-responsive workplace HIV and AIDS policies play a vital role in preventing HIV infection and mitigating its impact.

In partnership, governments and employers can foster an enabling environment for HIV prevention and support that protects worker's rights and supports economic growth.

A legal and policy scan undertaken by the CHAMPION Project of the current environment for workplace HIV efforts in Tanzania highlights notable government achievements, identifies gaps, and offers recommendations for moving the national HIV and AIDS agenda forward.



HIV's IMPACT ON THE WORLD OF WORK

HIV and AIDS pose a considerable challenge to social and economic development in Tanzania, affecting workplace productivity, profitability, and the health and well-being of employees and their families (URT MoFEA, 2010). Of the estimated 1.6 million people living with HIV (PLHIV) in the country, the majority are in the prime of their working lives, with skills that their families, employers, and the national economy cannot afford to lose (TACAIDS et al., 2013). Further HIV prevalence is twice as high among those who are employed (TACAIDS et al., 2013), likely the effect of increased migrant labor (Beckmann & Rai, 2004) and rising household income (Parkhurst, 2010). By implementing and enforcing national gender-responsive HIV workplace policies and prevention and support programs, employers have tremendous potential to curb the spread of HIV.

GENDER-RELATED HIV RISK

Gender inequality and HIV and AIDS are inextricably linked, and the workplace offers a unique entry point to address both. Societal expectations of male and female behavior—called gender norms—equate “masculinity” with high-risk behaviors, including unprotected sex with multiple concurrent partners, alcohol and drug abuse, and gender-based violence (GBV) (ILO, 2011). In sectors of the economy dominated largely by men, such as transportation and mining and especially among transient workers in these sectors, the risk for contracting HIV is particularly high (TACAIDS et al., 2013; UNAIDS, 2008). Thus, to be effective, workplace-based HIV initiatives must address gender issues underlying HIV vulnerability (ILO, 2011).

WORKPLACE HIV POLICIES AND PROGRAMS

Workplace HIV and AIDS programs and policies play a vital role in raising awareness of HIV, preventing infection, caring for PLHIV, and challenging the inequitable gender norms that fuel the epidemic. In addition to workplace-based education that addresses the gender dimensions of HIV,¹ prevention efforts in the world of work require the implementation of gender-responsive workplace HIV and AIDS policies. This policy approach helps to address the root causes of the virus, including inequitable gender norms (ILO, 2011).

WORKPLACE
INTERVENTION



Box 1. Tanzania Employment and Labour Relations Act No. 6 (2004)

- Section 7 (1 and 4): Employers must promote equal opportunity and try to eliminate discrimination based on HIV status.
- Section 7 (5): Harassment is discrimination, and discrimination based on HIV status is prohibited.
- Labor disputes will be handled by the Commission for Mediation and Arbitration and the Labour Division of the High Court.
- Section 40: Cases of unfair termination are remedied by
 - Reinstating the employee from the day of termination without loss of pay during the period that the employee worked
 - Reengaging the employee on any terms that the arbitrator or court may decide
 - Paying compensation to the employee of no less than 12 months' pay
- Section 102: Offenses relating to discrimination are punishable by law, with a fine of up to 5 million shillings.



Workers from Symbion Power attend a workplace HIV education session in Morogor Region.

sets out key principles for workplace HIV and AIDS policy development, as well as guidelines for implementation. Among these is the importance of engendering more equitable gender norms.

GAPS AND RECOMMENDATIONS

While national laws and policies in Tanzania regarding HIV and the workplace provide the necessary framework for addressing the HIV epidemic, more consistent application of workplace HIV policies (where they exist) is needed. The following are gaps and advocacy recommendations to better enable current laws and policies to succeed.

Gap 1: Lack of Employer Initiative to Develop Workplace Programs

Despite the signing of HAPCA in 2008, few businesses have developed workplace HIV programs. This can be attributed to a lack of awareness among employers of current legislation,



A CHAMPION field facilitator leads a workplace HIV education session with Symbion Power employees.

An effective workplace HIV and AIDS policy establishes a framework for action to reduce HIV transmission, manage its impact, and sensitize workers and management about the role of gender equality in mitigating HIV risk (ILO, 2011). Such policies set standards for the protection of worker's rights with respect to confidentiality, prevention education, and nondiscrimination related to HIV status and stigma against PLHIV (ILO, 2003). A strong policy not only formalizes the company's commitment to mitigate the effects of HIV and AIDS on its labor force, but also shares the responsibilities for enforcing the policy.

LAWS AND POLICIES IN TANZANIA

Tanzania's National Workplace Policy on HIV and AIDS serves as a foundation for the development, introduction, and strengthening of the country's legal framework addressing the epidemic. The Tanzania Employment and Labour Relations Act No. 6 of 2004 (Box 1) and HIV and AIDS Prevention and Control Act (HAPCA) of 2008 (Box 2) uphold many of the international declarations, recommendations, and treaties with regard to discrimination against PLHIV within the workplace. The 2008 Control Act goes one step further in its mandate that employers offer HIV programs to their employees. Both acts are supported by punitive sanctions for noncompliance.

To further strengthen both acts, the Tanzanian government ratified the ILO's 2010 Recommendation Concerning HIV and AIDS and the World of Work, which calls for the adoption and enforcement of workplace HIV policies and programs that address stigma and discrimination, protect the human rights of PLHIV, and promote gender equality. It also offers practical guidance on developing gender-responsive workplace policies and prevention and care programs. The ILO Code of Practice on HIV and AIDS and the World of Work (Box 3)

Box 2. The HIV/AIDS Prevention and Control Act (HAPCA) No. 28 (2008)

- Part IV, Section 9: All employers, in consultation with the Ministry of Health, must have HIV programs for their employees, including gender-responsive HIV and AIDS education, distribution of condoms, and support to PLHIV.
- Part IV, Section 15: Prohibits and criminalizes compulsory HIV testing, which includes HIV screening to acquire or keep a job.
- Part V, Section 17: Medical practitioners, employers' recruitment agencies, and insurance companies must maintain confidentiality regarding people's HIV status. Breach of confidentiality is punishable with a fine of 500,000–1,000,000 shillings and/or imprisonment for a period of 6–12 months.
- Part VII: Policies or acts that discriminate against PLHIV are prohibited and offenses may be subject to penal sanctions.

limited technical expertise among employers to develop and implement a workplace program, or the belief that implementing HIV workplace programs is time-consuming and costly.

Advocacy Recommendations:

1. Distribute summaries of HAPCA and the 2004 Employment and Labour Relations Act to employers throughout Tanzania, to increase awareness of their existence.
2. Encourage the media to publish articles about the responsibility of employers to uphold both acts. Highlight case studies of successfully implemented workplace HIV policies and programs, to encourage replication.
3. Work with the government to implement the already ratified ILO's Recommendation Concerning HIV and AIDS and the World of Work No. 200 (ILO, 2010). In the interim, distribute briefs on the Recommendation, to provide employers with practical guidance on how to formulate and implement appropriate workplace HIV policies and programs.



A CHAMPION staff member collects information on workplace HIV education sessions.

Box 3. ILO Code of Practice on HIV/AIDS and the World of Work

Key principles:

- Recognition of HIV and AIDS as a workplace issue
- Nondiscrimination
- Gender equality
- Healthy work environment
- Social dialogue
- No HIV screening for purpose of exclusion from work
- Confidentiality
- Continuation of employment relationships
- Prevention
- Care and support

4. Work with the Tanzania Commission for AIDS (TACAIDS), the Ministry of Labour and Employment (MoLE), and the Ministry of Health and Social Welfare (MOHSW) to establish a technical assistance body that assists employers in designing HIV and AIDS programs.

Gap 2: Low Awareness among Employees of Their Rights and Routes to Recourse

Employees' awareness of their rights and legal recourse regarding HIV testing and screening, discrimination, and confidentiality of HIV status is low. Even when employees are aware of these rights, they may feel that they cannot access the legal system, which is often perceived as confusing and mired in bureaucracy. When employees know their rights and how to ensure proper redress for offenses, employees are more likely to uphold the law.

Advocacy Recommendations:

1. Work with key stakeholders—including government agencies involved in workplace issues, employer associations, and labor unions—to disseminate throughout workplaces in Tanzania a summary of employees' rights and routes to recourse, which are outlined in the two acts.
2. Encourage the media to publish stories about employees' rights under both acts.
3. Work with legal aid groups to develop and publicize a system that links employees with local advocates able to help them navigate the legal system.

Gap 3: Weak Surveillance and Judicial Capacity to Enforce Existing Law

Both the 2004 Employment and Labour Relations Act and the 2008 HAPCA have little to no history of being applied in mediation or case law in Tanzania. Tanzania currently has in place an inspection system under the Occupational Safety and Health Agency that could play a central role in enforcing existing HIV-related employment laws. One of the functions of the Labour Inspection Convention, ratified by Tanzania in

1962, is to enforce legal provisions related to work conditions and the protection of workers' safety and health. Both systems could be used to prevent and prosecute HIV-based discrimination and ensure that HIV-related workplace policies and programs are in place.

Advocacy Recommendations:

1. Work with the appropriate government ministries to develop policy guidelines, protocols, and training plans for workplace inspectors to enhance their knowledge and skills to survey and resolve complaints related to HIV and AIDS in the workplace.
2. Work with the government to invest in the training and capacity building of judicial officers to interpret key HIV and AIDS legislation as it relates to the workplace.

Gap 4: Unclear Roles and Responsibilities over Enforcement of Existing Laws and Policies

One limitation of the 2008 HAPCA is its centralization of power within the MOHSW and its silence on who should bear responsibility for ensuring compliance with the law. As a result, MoLE does not actively hold noncompliant companies liable, because there are no clear guidelines to guide them in doing so. A further lack of clarity exists between the role of the MoLE and TACAIDS in regard to implementing and coordinating workplace HIV programs.

Advocacy Recommendation:

1. Work with the Tanzanian government to develop guidelines that clearly outline the roles and responsibilities of the MOHSW, MoLE, and TACAIDS in coordinating and enforcing HAPCA in relation to HIV in the workplace.

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¹ Women are more likely to become infected and are more often adversely affected by the HIV pandemic than are men, due to biological, sociocultural, and economic reasons. The greater the gender discrimination in societies and the lower the position of women, the more negatively they are affected by HIV.



A worker from Nile Perch Fisheries in Mwanza Region, and a participant in a CHAMPION workplace-based HIV education session

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