
Working with AIDS

The bold declarations at the recent International Aids Conference aside, workplace discrimination remains rife

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Anna is a 35-year-old secretary who has worked with a government organisation in Bangkok for many years. Two years ago she received news that would change her life. Her doctor told her that a blood test had shown her to be HIV-positive — the virus had been transmitted from her husband.

Her office colleagues stopped talking to her and shunned personal contact or interaction. She was not allowed to share office equipment and facilities including toilets. Worse, she said, she was asked to come in every morning — but only to sign in — and then to leave immediately. She started to receive unfair performance evaluations from her direct supervisor and promotion was out of the question.

The experience of Anna (not her real name) is hardly unique in Thai workplaces. The fact that she is still employed — if only on paper — is small consolation. Many other HIV-positive workers have encountered worse treatment.

Given the rise in the HIV/Aids-infected population across the globe, workplace discrimination is a significant social issue. The challenge of ensuring fair treatment needs to be embraced by senior executives and managers. The peers of infected workers, meanwhile, need to be educated about the disease in order to reduce the incidence of day-to-day discrimination.

In Thailand, about one million people have been infected with HIV and 400,000 have died. The remaining 600,000 are dealing with the daily realities of living with the disease. One hopeful sign is that the number of newly infected patients has been declining dramatically — to 20,000 last year from 150,000 in 2000.

According to Anthony Pramualratana, executive director of the Thailand Business Coalition on Aids (TBCA), an estimated 1.5% to 2% of all people in the local workforce are HIV-positive.

In a recent survey of 510 businesses conducted by the TBCA, the percentage saying they had compulsory pre-employment blood testing for HIV was 12%, down from 27% in 2001.

However, sadly, the number of companies saying they would not terminate HIV-positive employees declined to 41% from 64% three years ago.

The practice of job applicants being asked to submit to blood tests, companies screening for HIV during annual medical check-ups, and dismissals of HIV-positive workers are still commonplace. Discriminatory behavior, unjust performance evaluations or demotions, even forced

resignations, are not unusual.

Such practices are at odds with the Constitution, which says human dignity, privacy and equality of people are legally protected. Discrimination on the grounds of difference in origin, race, physical or health condition is not permitted.

The law also states that the disclosure of a person's confidential information, in this case medical or blood tests results, without consent, is considered defamation and an offence.

However, the law does not clearly state that an employer must accept HIV/Aids-infected people into the workplace. And in a highly competitive business world focused on results, an employer has the right to refuse to offer employment with or without a clear reason.

Thawat Damsa-ard, a legal partner at Tilleke & Gibbins International Ltd, says it is understandable that employers might be reluctant to hire people with certain conditions.

However, if an employer later terminates employment because of the disease, then there is cause for legal action.

"That's because the termination of employment for such a reason is unlawful and so the employer is required by law to pay severance and compensation to that employee," he said.

Likewise, according to The Civil Service Act, there is no provision stipulating that infected people are not eligible to be hired by government organisations.

"Therefore, the state can't refuse such people to work as government officials. As well, it has no right to force them to take [HIV tests]," says Mr Thawat. "And even if it later finds out that the employee is HIV-positive, it still has no right to terminate that person from a position as Aids is not considered a dangerously infectious disease according to the law."

The list of dangerously infectious diseases stipulated by the Public Health Ministry includes cholera, bubonic plague, yellow fever, smallpox and severe acute respiratory syndrome (Sars). Aids is not on the list as it cannot be spread through casual contact.

However, in a case where a government employee is incapable of working because of sickness, the state has a right to terminate employment. "Yet, somehow, it should provide medical welfare to assist the infected person," says Mr Thawat.

In Mr Anthony's view, discrimination and unethical treatment of people with HIV/Aids can be lessened by educating the workforce about the disease.

"The problem is not the 2% of em-



Participants in a workshop developed by Standard Chartered Bank use role-play to learn how to interact with HIV-affected workmates.

employees who are infected but the remaining majority of 98% — can they live peacefully and happily with their infected peers? If not, that will definitely lead to workplace conflict and management inefficiency."

Answering the challenge, the TBCA has been providing training programmes for people in the workforce, from executives to lower-level staff, to help them better understand the disease and its prevention and to live and work harmoniously with infected colleagues.

The response has been highly encouraging, he says. "It's amazing that after only a three-hour session, the attitude of employees can be changed for the better through a better understanding of the disease. They become willing to work with their HIV-positive peers, interact with them and even share the same glass of water. That's an excellent result."

Standard Chartered Bank has been a pioneer in HIV workplace training since 1999. The UK-based bank has sound busi-

ness reasons for doing so — it has seen the impact of HIV at its operations in Africa, China and India.

According to Annemarie Durbin, chief executive officer of Standard Chartered in Thailand, the bank has no policy requiring HIV testing for job applicants at any level. "And if they tell us that they are HIV-positive, we will still consider them along with other candidates," she said.

"From a philosophical perspective, our policies are non-discriminatory, aimed at ensuring access to information, access to support and confidentiality."

Testing and counselling are offered to all employees. New recruits also undergo extensive training aimed at increasing awareness of HIV/Aids. "We're not doing anything but asking people to open their minds," Mrs Durbin said.

Central Marketing Group four years ago started an HIV/Aids education programme among its 1,410 factory workers, a high-risk group. Chartchai Norasethaporn, executive vice-president for human resources, said the programme was originally designed to educate the employees of three factories. However, it has since been expanded to cover 3,800 office staff.

"The programme aims to educate employees about how to prevent the disease and live with those who are infected. This way, they should be able to take care of themselves and their families. And that will benefit the company in the long run," Mr Chartchai said.