

**GENDER EQUALITY  
THROUGH  
COLLECTIVE BARGAINING**



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ILO

*Gender Equality through Collective Bargaining*

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## FOREWORD

**G**ender equality through collective bargaining is an integral part of the principal objectives of the ILO/USA Declaration Project financed by the United States Department of Labor, which is the promotion and realization of freedom of association and the right to collective bargaining and building trust and capacity in industrial relations in Indonesia.

Gender equality is a fundamental human rights and an essential condition for achieving industrial peace and effective democracy. Women compared to men continue to be disadvantaged and vulnerable and exploitation at the workplace. Collective bargaining on the other hand is considered as a fundamental right at the work and an important mechanism for eliminating all forms of inequalities and discrimination against women and for improving their working conditions.

In close collaboration with the ILO in Geneva and the ILO International Training Centre in Turin, Italy, the project has conducted several workshops during the last two years on promoting and enhancing gender equality through collective negotiations. The tripartite constituents from at least seven major Indonesian provinces were represented in all those activities. To ensure sustainability and strengthen the capacities of the tripartite partners in organizing their own activities on the subject, the project recently conducted a tripartite training of trainers.

The training materials used in the activities of the project consist mainly of the excellent publications “Gender Equality: A Guide to Collective Bargaining” and “Promoting Gender Equality” A Resource Kit for Trade Unions” produced by the IFP Social Dialogue and Gender Promotion Programme”, respectively, ILO, Geneva.

The Resource Book which is now being published by the project in English and Bahasa Indonesia, contains the salient parts of the ILO publications which are considered to be the most relevant and responsive to the needs of the constituents and the prevailing industrial relations conditions in Indonesia.

Ms. Myra Hanartani, Head of the Legal and International Cooperation Bureau of the Ministry of Manpower and Transmigration provided necessary technical advice and helpful suggestions in order that the book will take into account the pertinent provisions of the newly enacted Manpower Act (Act No.13/2003).

The Resource Book is an important addition to the series of training materials which the project is publishing for the benefit and use of the tripartite constituents in their respective activities and programmes for their members. The ILO Jakarta Office and the project trust that all concerned and interested parties will find the present book a useful tool and source of reference for the effective promotion of gender equality through collective bargaining in Indonesia.

Jakarta, 19 December 2003

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# **GUIDE BOOK I**

## **GENDER EQUALITY : A GUIDE TO COLLECTIVE BARGAINING**



# MODULE 1

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## **GENDER EQUALITY BARGAINING: AN OVERVIEW**



## COLLECTIVE BARGAINING

Collective bargaining is the term used to describe the process of negotiation between workers and employers and their representatives concerning any issue related to terms and conditions of employment or any other matter of mutual interest to the workers and employer. A definition of what subjects are to be dealt with in collective bargaining may exist in national legislation. Even where a narrow definition is set out in legislation, this does not normally limit the ability of the parties to agree to bargain on a wider range of issues.

The Convention concerning the Promotion of Collective Bargaining, 1981 (No. 154) defines collective bargaining as follows:

Article 2

For the purpose of this Convention the term “collective bargaining” extends to all negotiations which take place between an employer, a group of employers or one or more employers’ organizations, on the one hand, and one or more workers’ organizations, on the other, for:

- (a) determining working conditions and terms of employment; and/or
- (b) regulating relations between employers and workers; and/or
- (c) regulating relations between employers or their organizations and a worker’s organization or workers’ organizations.

Collective bargaining in many countries is a key means of determining terms and conditions of employment. However, the concerns and interests of women, with perhaps the exception of maternity leave, have in the past often been overlooked in the process of collective bargaining. And since collective agreements tend to be based on past agreements, the situation has been perpetuated. Traditional bargaining agenda items have been approached without the input of women and issues of particular concern to women have not been addressed. But now that women are making up a greater share of the paid workforce and are an important and often untapped source of potential union membership, women, unions, women’s groups and employers are acknowledging the need to deal in collective bargaining with issues of concern to women.

Collective bargaining is proving to be an important means of promoting equality for women in employment, but to be truly effective the concerns of women must be understood and given credence. This guide raises some of the issues that may be appropriate for collective bargaining and provides some examples. Though the focus is on how these issues primarily affect women, many of these also of course have a positive impact on men’s working conditions. The overriding objective of the ILO’s work is to encourage the improvement of the employment of all workers.

Gender equality bargaining is important because:

- women's issues are union issues;
- women's contributions at work have been undervalued;
- women are making up an increasing proportion of the paid workforce;
- it is important in changing attitudes towards women in employment;
- it can address many of the persisting deep-seated misconceptions about the role of employment;
- women's concerns have traditionally been overlooked in collective bargaining;
- legislative coverage may be inadequate;
- where there is legislation, it must be implemented in a practical manner
- it addresses some non-pay issues that may be easier to bargain in difficult economic times;
- It is a means of attracting women to the union — it shows the union is committed to women.

## POSSIBLE ISSUES FOR GENDER EQUALITY BARGAINING

### WORKING CONDITIONS

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#### Wages and benefits

- equal pay
- overtime
- bonus systems
- job classification
- pension schemes
- housing benefits
- transport benefits
- medical benefits

#### Hours of work

- basic hours and overtime
- part-time work
- flexible working time
- job sharing
- night work
- expectant and nursing mothers
- time off for family responsibilities

<p><b>Leave</b></p> <ul style="list-style-type: none"> <li>▫ annual leave</li> <li>▫ compassionate leave</li> <li>▫ maternity/paternity/parental leave</li> <li>▫ medical/sick leave</li> <li>▫ paid educational/training leave</li> <li>▫ other personal leave (marriage, etc.)</li> </ul>	<p><b>Health and environment</b></p> <ul style="list-style-type: none"> <li>▫ health and environmental hazards</li> <li>▫ ergonomics</li> <li>▫ visual display units</li> <li>▫ control measures and personal protective equipment</li> <li>▫ welfare facilities and services</li> <li>▫ disabled workers</li> <li>▫ HIV and AIDS information</li> <li>▫ reproductive health</li> <li>▫ health and safety committees and safety representatives</li> </ul>
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#### **MATERNITY AND FAMILY RESPONSIBILITIES**

<p><b>Maternity</b></p> <ul style="list-style-type: none"> <li>▫ maternity leave and cash benefits</li> <li>▫ miscarriage and stillbirth</li> <li>▫ adoption</li> <li>▫ reproductive health care</li> <li>▫ rights of pregnant and nursing mothers</li> <li>• job security</li> </ul>	<p><b>Family responsibilities</b></p> <ul style="list-style-type: none"> <li>▫ paternity leave</li> <li>▫ parental leave</li> <li>▫ family leave</li> <li>▫ child care</li> <li>▫ care of the elderly</li> <li>▫ reproductive health services</li> <li>▫ protection against discrimination or victimization</li> </ul>
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#### **DEFENDING RIGHTS OF NON-PERMANENT AND VULNERABLE WORKERS**

<ul style="list-style-type: none"> <li>▫ categories - casual, temporary, task workers, seasonal, contract, part-time, rural, home workers, domestic, migrant, indigenous and tribal</li> <li>▫ extend general conditions</li> <li>▫ avoid child labour</li> <li>▫ avoid non-permanent status for permanent work</li> </ul>
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## DIGNITY AT THE WORKPLACE COMBATING DISCRIMINATION AND VICTIMIZATION

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- trade union activities
- sex discrimination
- sexual harassment
- violence at the workplace
- creating an enabling environment

## GIVING WOMEN A VOICE

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### **At the workplace**

- negotiating table
- occupational health, safety and environment committees
- grievance handling
- shop stewards and works committees
- Company boards
- training and retraining
- representation at all levels of the establishment

### **In the union**

- women's committees
- women's department
- women representatives at all levels: Local, regional, national, Congress
- education and training committees
- union organization
- negotiation committees/tables
- health, safety and environment committees
- building solidarity

## PREPARING FOR BARGAINING

The guide sets out a series of issues that should at least be considered in the context of collective bargaining. How to approach them and what level of priority they should be given should be determined by the women themselves. Taking into account that many of these issues will also affect men, joint strategies and action will often be needed.

- Women's committees or equal opportunities committees should play a key role in formulating demands and examining proposed clauses for discrimination.
- Try to determine the views of women who are absent or silent at meetings

– Perhaps through questionnaires or women shop stewards or representatives who work side by side with the women workers.

- Gather any statistics available regarding women in the workplace and the sector (for example, how many women are in different job categories, what is the differential in pay between men and women).
- Existing rights – determine what your rights are under existing collective agreements, legislation, government policies, and work rules.
- Determine how collective bargaining can be used to extend or secure Existing rights — for example, if there is legislative coverage, the collective agreement could repeat the terms of the legislation, but provide for more effective and accessible enforcement. In a number of areas, legislation may provide particular rights, but these may not be applied or enforced in practice so duplicating or extending them through the collective agreement can be an important additional safeguard.
- Identify and prioritize needs of workers — this will usually require determining the cost of a particular benefit. If an employer can be shown that a particular benefit will not cost anything (or not much), or that it can bring tangible benefits in terms of reduced absenteeism and higher productivity, the employer is more likely to agree. In difficult economic times, rather than pay raises, the union might have more success with negotiating for non-pay, low-cost equality benefits, such as flexible working arrangements or paternity leave which affect a small percentage of workers while exhibiting a progressive attitude on the part of both the management and the union. Benefits to employers should be explained, and not merely in monetary terms, but also with regard to such things as staff recruitment, less staff turnover, less absenteeism, etc.

## **AFTER BARGAINING**

Promoting gender equality in employment does not end once the collective agreement is signed. Following up the collective bargaining process is essential, otherwise the rights may exist on paper only.

- Make sure the negotiated policies, rights and benefits are communicated to all workers on a regular basis (including those with non-permanent status) – the information should be posted at the workplace, but can also be made available in lay language through newsletters, guides to good practice, seminars, role-play or lunch-time meetings.

- Regularly monitor the implementation and effectiveness of collectively bargained policies, rights and benefits – always think forward to what can be achieved during the next round of collective bargaining.
- Deal with equality issues in educational and training programmes.
- Publicize the work done by the union on behalf of women – as an organizing strategy, it is important for unions to publicize their new bargaining objectives and the strategies they have used or intend' to use to achieve them.

## MODULE 2

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# **WORKING CONDITIONS**



## ACCESS TO WORK

All workers should have equal access to employment opportunities. Recruitment, selection and employment practices may be discriminatory even in situations where applications are welcome from both men and women. Women returning to work after having children are likely to have less previous work history, to be older, to be less mobile and less able to work unsociable hours.

These practices are often reinforced by or not targeted in collective agreements. Bargaining can be used to ensure that all vacancies are properly advertised and that only those requirements that are necessary to carry out the job are demanded.

## WAGES AND BENEFITS

### 1. Equal Pay

#### *1) Equal pay for equal work*

Equal pay for equal work is a very different concept from equal pay for work of equal value. The concept of equal pay for equal work implies that similarly qualified women and men will be paid equally only when they perform the same or virtually the same work in equivalent conditions.

There are still instances where women receive less pay than men even though they perform the same or very similar jobs in the same enterprise. Sometimes, though the work is similar, different job titles are used which either identify the gender of the job holder (eg. storeman, policeman), or which appear neutral but cover jobs exclusively or predominantly carried out by one sex (eg. typist, messenger). There may be specific male and female rates, or in some cases classifications such as "A" and "B" rates, which in practice correspond to men and women. Such forms, of discrimination cannot be accepted, and must not be legitimized through their inclusion in collective agreements.

#### *2) Equal pay for work of equal value*

Equal pay for work of equal value is the more modern and forward-looking concept. The principle of equal pay for work of equal value is intended to cover not only those cases where men and women undertake the same or similar work but also the more usual situation where they carry out different work. The concept thus addresses the undervaluing of the jobs undertaken primarily by women, in particular, by comparing those jobs in terms of their actual requirements with the jobs undertaken

mainly by men.

Although this formulation of equal pay has been the minimum international standard since 1951, it has still not been fully implemented in many cases. It is a more complex concept to apply than equal pay for equal work, but it is essential for promoting equality in the workplace.

### **The Equal Remuneration Convention, 1951 (No. 100)**

#### Article 1

For the purpose of this Convention:

- (a) the term “remuneration” includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker’s employment;
- (b) the term “equal remuneration for men and women workers for work of equal value” refers to rates of remuneration established without discrimination based on sex.

#### Article 2

Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and ... ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.

Job evaluation (also called job appraisal or job assessment) is important to ensure equal pay, particularly in situations where women and men do not normally work alongside each other, to compare jobs with different content. Many employers have some kind of job evaluation process, but often it is carried out in an informal or non-analytical manner, or is based on traditional systems that maintain or import gender discrimination.

An example of job evaluation is giving particular values or points to the elements of a job, such as the education level required, strength, skill, responsibility, working conditions, etc. The process of evaluation is not effective however if sex stereotypes are used as this can result in the undervaluation of jobs mainly held by women. Evaluation may be biased against qualities regarded as feminine. For example, traditional schemes tend to measure only the physical and mental aspects of work and do not include factors that adequately measure dexterity, caring functions, organizing or coordinating activities or people. Where market wage rates are used to establish the relative weight of factors, these may simply reflect historical discrimination in the labour market. In these cases job evaluation will perpetuate rather than eliminate discrimination. There is a need to define and value factors in an objective manner, without being influenced by feminine stereotypes or bound by traditional criteria. New approaches to job evaluation conceptualize work as having human relations skills and emotional aspects, as well as mental and physical aspects.

The **Commission of the European Communities** has issued a Code of Practice on the Implementation of Equal Pay for Work of Equal Value for Men and Women. It states that, as a first step, information needs to be gathered to establish a general picture of gender and pay. The Code sets out a list of key indicators of potential sex bias:

Women have lower average earnings than men with the same job title. Women have lower average earnings than men in the same grade.

Women in female-dominated unskilled jobs are paid less than the lowest male-dominated unskilled job.

- Jobs predominantly occupied by women are graded or evaluated, lower than jobs predominantly occupied by men at similar levels of effort, skill or responsibility.
- Women are paid less than men with equivalent entry qualifications and length of service.
- Where separate bargaining arrangements prevail within one organization, those dominated by men receive higher pay than other bargaining groups dominated by women.
- The majority of men and women are segregated by different grading, classification and evaluation systems.
- Part-time or temporary workers, who are mainly women, have lower average hourly earnings than full-time or permanent employees in the same job or grade.
- Part-time or temporary workers, who are mainly women, have access to fewer pay and other contractual benefits.
- Different bonus arrangements, piece-rate and other “payment by result” systems, apply in different areas of production, affecting disproportionately one gender.
- Different overtime rates apply in different departments, affecting disproportionately one gender.
- Holiday entitlements vary between jobs in the same grade affecting disproportionately one gender.<sup>1</sup>

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<sup>1</sup> From the Commission of the European Communities: A Code of Practice on the Implementation of Equal Pay (or Work of Equal Value for Men and Women)(Brussels, 1996)

## 2. Overtime

Ensure that all workers can benefit from overtime hours paid at overtime rates, including part-time workers.

## 3. Bonus Systems

Since bonus systems concentrate on fixed-term and full-time employment, women are often at a disadvantage. Consideration should be given to concentrating on basic pay increases, which may be of greater benefit to women. Alternatively, bonus systems may be enlarged to include all workers regardless of status (including non-permanent workers), or extended to include grades of

jobs which have not traditionally attracted bonus payments. It is important, of course, to ensure that bonuses are paid without 'discrimination, either direct or indirect.

#### **4. Job Classification**

Jobs can be classified by categories or hierarchies. Women are often at the bottom of these categories. The union should work for equal representation of men and women in all professional areas, salary levels, hierarchical levels. Women and men are sometimes physically segregated in the workplace and therefore not always aware of discriminatory treatment. There is a need for the union to look at the distribution of women and men in different grades and uneven differentials within the grading structure. If women are the bottom and men at the top, the union should question the neutrality of the job classification system. There should be a re-evaluation of classifications in the light of changing circumstances and technology. Consideration should also be given to special training for women to upgrade their qualifications and thus their access to higher graded jobs.

#### **5. Pension Schemes**

Most women are in lower-paid employment and pension schemes which reflect salary levels which therefore leave women with lower pensions than men. Equal pay and equal opportunity are employment issues which manifest themselves in pension payments.

More women than men may have interrupted work histories. Women may need to take career breaks or extended periods of leave to meet the demands of their family responsibilities.

Many women work on a part-time basis and therefore may not have the same pension rights as full-time employees or they may be excluded completely from employer pension schemes.

The union can negotiate for better pension provisions for women, taking these difficulties into consideration.

All workers are at risk if pension schemes are not valued at worth for transfer. Unions can negotiate to ensure that pension schemes are fairly valued for transfer from one employer to another.

#### **6. Housing Benefits**

In some countries, married women in particular are denied housing allocations on the basis that such allocations are available for men only. But in

many cases,' women have the same, or greater, family responsibilities as their male colleagues. Housing allocations should be made available to women and men workers on an equal basis.

## **7. Transport Benefits**

The provision of transport benefits is also an effective means of ensuring punctuality and regular attendance from workers, as well as an excellent means of creating a stable and motivated workforce. Thus transport benefits can also be of direct benefit to employers and workers alike.

## **8. Medical Benefits**

Medical insurance should be available to all workers, even those in nonpermanent positions, most of whom are women. Wherever possible, health care provisions may be extended to cover workers' children.

Some employers refuse to pay medical benefits for gynaecological care. Unions must recognize and promote this as part of health care for women, including check-ups and tests against cancer.

Clinics sponsored by the employer may also be subject to negotiation, for example ensuring the employee's right to her choice of doctor, etc. In some countries, women's welfare groups have played an important role in the promotion of health care and medical benefits for women. Unions could work with these groups in setting up health care centres or petitioning for legal reforms.

# **HOURS OF WORK**

## **1. Basic hours and overtime**

Hours of work for both men and women should be calculated to avoid differentiation and possible gender discrimination.

Collective agreements can be used to ensure that both men and women are compensated for overtime work and have equal access to voluntary overtime. Steps can be taken to make sure that basic hours do not encroach into unpaid overtime at the request of the employer.

In some cases, women's ability to work overtime is limited due to their family responsibilities or prohibitions on night work for women. The union may negotiate to remove such restrictions or to protect the interest of women members in some other way.

## 2. Part-time Work

More and more part-time jobs are being created, and the majority of these jobs are held by women. Part-time work is a necessity for many women due to their domestic responsibilities and the lack of child-care facilities.

Part-time workers may be at a disadvantage due to:

- lower hourly rates of pay (this is contrary to the principle of equal pay for equal work)
- ineligibility for pension and other benefit schemes
- ineligibility for various forms of leave
- limited training and promotion possibilities
- the perception that they are less committed workers, thus affecting career development.

Part-time work should not be treated as second-rate work. Bargaining can be used to ensure that part-time employees receive the same benefits and have the same conditions as full-time employees. Agreements should include pro-rata basic and overtime pay.

A number of benefits, such as medical care and access to welfare facilities, are not appropriate for pro-rating – part-time workers should receive full benefits. Transport benefits and some other cash benefits are also unsuitable for systematic pro-rating and are more appropriately awarded to all workers on a needs basis.

### **The Part-Time Work Convention, 1994 (No. 175)**

#### Article 4

Measures shall be taken to ensure that part-time workers receive the same protection as that accorded to comparable full-time workers in respect of:

- (a) the right to organize, the right to bargain collectively and the right to act as workers' representatives;
- (b) occupational safety and health;
- (c) discrimination in employment and occupation.

#### Article 5

Measures appropriate to national law and practice shall be taken to ensure that part-time workers do not, solely because they work part time, receive a basic wage which, calculated proportionately on an hourly, performance-related, or piece-rate basis, is lower than the basic wage of comparable full-time workers, calculated according to the same method.

#### Article 7

Measures shall be taken to ensure that part-time workers receive conditions equivalent to those of comparable full-time workers in the fields of:

- (a) maternity protection;
- (b) termination of employment;

- (c) paid annual leave and paid public holidays; and
- (d) sick leave.

It being understood that pecuniary entitlements may be determined in proportion to hours of work or earnings.

### **3. Flexible Working Time**

Disciplinary action is sometimes taken against women because of family responsibilities. Women may have difficulties keeping to fixed schedules because of family responsibilities. Management could be persuaded to be flexible on working hours. The union can negotiate the terms and methods of monitoring flexi-time.

### **4. Job Sharing**

In some national situations, job sharing is increasingly a solution for certain kinds of work to allow the combining of work and family responsibilities. It is accepted that workers need to reconcile their working and personal lives for many different reasons which may not be linked to gender. Job sharing is where two people share one job taking joint responsibility for the tasks to be done.

Unions can negotiate to ensure that:

- job sharing is available to those who want it and at all levels of employment, not just in low-grade jobs;
- that job-sharers have the same conditions and access to pay and benefits as full-time workers.

### **5. Night Work**

The attitudes of women and society toward night work are influenced by cultural, economic and national contexts, and attitudes are changing. Views on the prohibition of night work for women in the context of the promotion of equality vary. It may be the case in some circumstances that women working at night are not as safe as their male colleagues travelling to and from work and that women working at night would have overly long working days as they are likely to also bear the domestic burden during the day, sometimes in conjunction with other paid work.

In 1990 the International Labour Conference adopted a protocol to the 1948 Night Work (Women) (Revised) Convention which provides that the prohibition on night work for women can be lifted where employers' organizations and unions reach a suitable agreement in this regard. In the same year, the Conference also adopted the Night Work Convention (No. 171) to protect night workers in general. It provides that women be given an alternative to night work before and after childbirth.

Making available services such as transport, security, child care, etc., will make it easier for women to work at night. Extra time off, special payment or bonuses, transport time, etc.,

If the national context is unfavourable to night work for women, unions should negotiate to protect women following consultation with' and recommendations of women workers.

## **6. Expectant and Nursing Mothers**

Unions should negotiate paid time off for pre and postnatal clinical checks for women. Women should be given paid time off for nursing breaks according to the Maternity Protection (Revised) Convention, 1952 (No. 103) and the Maternity Protection Convention, 2000 (No. 183). Where workers are entitled to nursing breaks the union may negotiate to extend this right if necessary.

Pregnant and nursing women may be allowed more flexible working schedules, such as being permitted to arrive later and leave work earlier to avoid traffic congestion, to work shorter hours and to have additional rest breaks during working time. In addition, pregnant and nursing mothers should be provided with the right to undertake lighter work.

## **7. Family Responsibilities**

Unions can negotiate for a flexible approach to working hours that would enable workers to meet the demands arising from family responsibilities such as caring for sick children or other family members. Time off for family responsibilities could be negotiated.

Protection against discipline or dismissal for reasons related to family responsibilities should be ensured.

# **LEAVE**

## **1. Annual Leave**

Many women with peripheral contracts (i.e. temporary, part-time, piece-workers) are not entitled to any leave, and therefore work throughout the year

without rest. Unions should negotiate with employers for annual and other kinds of leave. The basic union demand should be that these workers have the same pro-rata entitlement as their full-time colleagues.

There are two established methods for the calculation of annual leave in the case of part-time work – workers may either take a reduced number of days with full pay, or a full number of days at reduced pay.

Seniority may determine who has first choice of dates for holidays. Since women are usually not the most senior, they are disadvantaged because of their restricted options and family responsibilities. Women may also have difficulty meeting qualifying periods giving them the right to leave due to career breaks or late entry into the work-force and this can be overcome through collective bargaining.

## **2. Compassionate Leave**

Unions can negotiate for compassionate leave in the event of the death of a close family member. Provision may also be made for compassionate leave in the case of a serious accident or the hospitalization of family members under this clause.

## **3. Family Responsibilities**

Unions negotiate leave for workers in general, but since women often bear most of the responsibility for families, special attention must be given to ensuring negotiating time off for the care of sick children, taking family members to the doctor, etc. This is generally a short-term leave and is usually for a certain number of days per year.

The World Health Organization has recommended a minimum period of six months for breast feeding to ensure the continued good health of the child. The period of maternity leave (including in the case of miscarriage or stillbirth) required under the Maternity Protection Convention, 2000 (No. 183), is 14 weeks, a period determined with the health of the mother in mind. The Maternity Protection Recommendation, 2000 (No. 191), calls for maternity benefits to be paid at full pay for a period of 18 weeks and these requirements should form the basic target for collective bargaining. The union should try to ensure that annual leave is not included as part of maternity leave and that women may opt to take annual leave in conjunction with maternity leave.

*Paternity leave* can be negotiated to ensure that the father has time to care for the family and to meet the needs of the mother and new baby. It is also an important provision to promote the sharing of child-care responsibilities.

Negotiations should also cover the case of adoption and provide adequate time for the adoptive parents and the child to get used to each other.

*Parental leave* is usually taken by either parent or both either consecutively or simultaneously after the standard maternity leave is exhausted and may be available at any time until the child reaches a certain age.

#### **4. Medical and Sick Leave**

Unions should negotiate for optimum conditions for medical and sick leave, including special provisions relating to work-related illness and accident.

Due to women's special health needs resulting from menstruation, many unions have negotiated for days off each month. This is particularly important if some women have serious conditions, or if work is particularly heavy. Such leave is referred to as menstrual leave or mother's day leave, etc. This paid leave may be one or two days per month and negotiated by the union as leave days outside of annual leave or normal sick leave which normally must be substantiated by a doctor's certificate.

Labour legislation in **Indonesia** provides for menstruation leave which enables women to take up to two days' leave per month on request.

The original intention of the provision was to protect women working in unsatisfactory work environments. Several employers failed to provide this leave or imposed obligatory medical examinations to verify the claim for leave, causing industrial conflict in a number of instances.

Therefore menstruation leave became an issue around which women were able to organize. It is often the case that organizing around specific issues such as menstruation leave encourages women to become involved in wider trade union issues. In the longer term, unions may choose to pursue a campaign to improve the working environment, which might in turn remove the need for the women concerned to use the menstruation leave. This would be a way of meeting the concerns of employers anxious to avoid absences and to maintain a regular rhythm of production, by compelling them to recognize the value of an improved working environment.<sup>1</sup>

<sup>1</sup> See ILO: Indonesia: Social adjustment through sound industrial relations and labour protection (Jakarta, 1995).

#### **5. Paid Education Leave and Training Leave**

Under the Paid Educational Leave Convention, 1974 (No. 140), paid educational leave is granted to a worker for educational purposes for a specific period during working hours, with adequate financial entitlements. Unions should negotiate for leave for educational purposes, for training at any level, general, social and civic education and trade union education. Care must be taken to ensure that women have access to such leave, including those working part time.

## **6. Other Personal Leave**

Short periods of leave over and above the annual leave allowance may also be negotiated to cover events such as marriage of the worker or a member of their immediate family, moving house or for important personal appointments such as meetings with a child's school authorities.

# **HEALTH AND ENVIRONMENT**

## **1. Health, Safety and the Environment**

Some examples of health hazards in the working environment and their causes are:

- exposure to chemicals and other hazardous substances at the workplace;
- carrying of heavy weights;
- inadequate management and disposal of hazardous waste;
- use of machinery and tools without adequate protective equipment and clothing and without appropriate training on safety procedures.

Violence in the workplace can also be a health and safety issue. Steps should be taken to protect workers where there is a potential for violent incidents to occur.

Unions must negotiate with management to have access to information regarding what chemicals or dangerous substances workers are using and to ensure that proper instructions, information, labelling and disposal procedures are provided. Special attention must be given to women workers who are pregnant or nursing.

## **2. The Physical Working Environment**

Some of the physical factors at work which may cause adverse effects on health include ventilation, light, extreme temperatures, noise, vibration, work positions (such as sitting, standing).

Negotiations should ensure that proper ergonomic principles are adhered to regarding workstation design and working positions, including provisions for work performed seated and/or standing.

Work tools and processes are often designed with little or no consideration given to the health of the worker. A growing number of injuries caused by repetitive and stressful movements are now being recognized in a wide variety of jobs. These are known generally as Repetitive Strain Injuries (RSI). The incidence of RSI can be reduced by better designed workstations and tools

and by improved work organization. Unions should record cases of RSI among their members.

Pregnant women have special health and safety needs that should be considered in order to protect both the mother and the unborn child. These include not assigning them to heavy manual tasks, night work or arduous tasks; ensuring adequate access and space for movement around machines and equipment; providing sitting facilities; and granting sufficient rest periods. Include the possibility of pregnant and nursing women transferring to other work where necessary.

### **3. Impact of New Technologies**

#### *Visual Display Units (VDUs)*

Working with VDUs can have negative effects for the operators. Complaints can be related to eye problems, muscular aches and pains, monotony and accumulation of fatigue. Health-related complaints associated with VDU use can generally be avoided by sufficient attention to the selection, installation and use of equipment, including premises, workplace setting, work organization and environmental factors (lighting, noise, temperature and humidity). Workers should be provided with adjustable tables and chairs as well, as regular rest breaks. Annual eye examinations should be free of charge and work assignments should be varied to prevent monotony, stress, fatigue, repetitive strain injuries and other musculoskeletal disorders. On the basis of current scientific knowledge there is no evidence of any danger due to radiation for a pregnant woman working with VDUs. Should a pregnant woman nevertheless show concern about working with VDUs, this should be taken seriously and alternative work assigned.

### **4. Control Measures and Personal Protective Equipment (PPE)**

There are five general categories of control measures: elimination, substitution, engineering controls, administrative controls and personal protective equipment. A combination of methods usually provides a safer and healthier workplace than relying on only one method.

Personal protective equipment should be the last choice in control measures since it is the least effective method for controlling hazards in the workplace and should be used only when hazards cannot be controlled sufficiently by other methods. PPE can be uncomfortable, decrease work performance, and can create new health and safety hazards. Hot or humid working conditions

decrease the effectiveness of PPE. Under these conditions, workers should take frequent breaks and drink plenty of fluids. The type of PPE required depends on the hazard, the route of entry and the exposure time. If PPE does not fit well it may not protect the worker. This is most important with respirators. All PPE should be checked for leaks. PPE is usually designed for the “average” North American or European worker, which can be a problem for workers above or below their average height or weight. It is possible to negotiate for the purchase of large and small sizes of protective clothing for both men and women. All workers using PPE should be trained in the proper use, maintenance and limitations of the PPE.

## **5. Welfare Facilities and Services**

Welfare facilities and services include sanitary facilities, arrangements for drinking, eating and resting, and access to first aid, health care, transport and recreation. Ensure that good changing, washing and sanitary facilities are provided and maintained with separate facilities available for women workers. Provide for drinking facilities, eating areas and rest-rooms. The provision of clean drinking-water is essential for all types of work.

## **6. Disabled Workers**

Unions should pay attention to the needs of disabled workers and ensure that facilities and equipment are adapted so that they can do their jobs safely and efficiently, including ensuring they have easy access to work areas, special toilet facilities, transport and other conveniences.

## **7. HIV and AIDS Information**

Unions should negotiate for the provision of appropriate information and health education for the prevention of HIV/AIDS and other sexually transmitted diseases, including counselling for workers and their families exposed to such illnesses.

Issues to consider when developing a workplace policy on HIV/AIDS are:

- pre-employment screening;
- HIV/AIDS screening for employed workers;
- confidentiality;
- informing the employer;
- protection of the employee;

- access to services for employees;
- benefits;
- reasonable changes in working arrangements;
- continuation of employment relationship;
- first aid.

In areas where there is a known high incidence of HIV/AIDS in the general population, unions can play an active role in providing appropriate health education to workers and their families, even where the risk is not necessarily occupational.

## **8. Reproductive Health**

Thousands of hazardous chemicals are produced and used in a wide variety of workplaces worldwide. Some of these substances can have negative effects on the reproductive health of workers who are exposed to them.

Many industries have adopted exclusionary policies whereby fertile women are refused work where there are known or suspected reproductive health hazards. Such policies often require workers to transfer to a different job during pregnancy. Although excluding fertile women from certain jobs may be an attempt to protect them, such policies do not extend the same protection to fertile men, and thus result in discrimination against women and unreasonable health risks to men.

Unions can also play an active role in ensuring that workers have access to information by qualified medical personnel on reproductive health and family planning issues. Agreements can also provide for free medical services and check-ups for employees and for counselling and follow-up of any illness.

## **9. Using Health and Safety Committees at Work**

Trade unions must organize, educate and take action to solve health and safety problems. One of the most effective means is to establish health and safety committees at national policy level and at the workplace.

The Structures, powers, operating procedures and number of committees will vary from workplace to workplace. It is the responsibility of the union to ensure that some structure is incorporated into agreement with the employer.

## **10. Role of the Safety Representative**

The safety representative can play an important role in helping to ensure that work does not jeopardize the health and safety of any worker –male or

female. The efforts made in the areas of workers' education, workplace policy development and implementation, monitoring of substances and working conditions and record-keeping will help to achieve this objective.

For example, the representative should encourage workers to keep a record of their working conditions, names of chemicals they work with and potentially hazardous situations in which they may work. Workers should note any irregularities or abnormalities which occur in their sexual functioning, in their menstrual cycle, in their ability to conceive, or in their children's development. Many other areas of safety and health can be assigned to the safety representative whose independent role is ensured through collective agreements.

## **JOB SECURITY**

Redundancy is always a difficult issue for employers, unions and employees and no redundancy scheme can ever be perfect. Some schemes can, however, be more discriminatory than others.

Bargaining can be used to negotiate the least discriminatory scheme for redundancy.

## **TERMINATION OF EMPLOYMENT RECOMMENDATION (No. 166)**

Paragraph 23 of the Termination of Employment Recommendation (No. 166) provides that "the selection by the employer of workers whose employment is to be terminated for reasons of economic, technological, structural or similar nature should be made according to criteria, established wherever possible in advance, which give due weight both to the interests of the undertaking, establishment or service and to the interests of the workers". The General Survey on the Termination of Employment Convention and Recommendation states:

When measures to avert and minimize terminations of employment are not sufficient to solve the difficulties and the employer is forced to terminate certain contracts, it is important for the choice of workers to be affected by this measure to be made as objectively as possible in order to avoid any risk of reaching arbitrary decisions. If these criteria are established in advance, as advocated in the Recommendation, the risk of arbitrary measures is reduced...

The criteria most often applied relate to occupational skills, length of service, family circumstances, with preference sometimes being given to a particular criterion. Other criteria may be included, such as the difficulty of finding alternative employment ... In other countries, the focus is more on the protection of more vulnerable categories of workers.

Protection against unjustified dismissal, Report of the Committee of Experts on the Application of Conventions and Recommendations, International Labour Conference, Report III (Part 4B) (ILO, Geneva, 1995), paras. 334-337.

## WORKING CONDITIONS UNDER MANPOWER ACT NO.13/2003

According to Act No.13 of 2003 regarding Manpower, the Government has provided protection to workers/labour for equal opportunity and treatment without discrimination to obtain job including women workers/labours. This condition is pursuant to ILO Convention No.111 regarding Discrimination in Work and Position and ILO Convention No.100 regarding Equal Remuneration for Women and Men which have been ratified by Act No.80 of 1957.

Government through Act No.13 of 2003 regarding Manpower has stipulated the policy on wages in order to protect workers/labours including women workers/labours, among others related to minimum wages, over time wages, absent wages, on-leave wages, etc. (*Article 88 paragraph 3*)

Some issues related to protection to women workers/labours under Act No.13 of 2003 are:

- protection to work safety and health;
- working hours for women workers/labours (at night);
- menstruation;
- Maternity and miscarriage leaves; nursing, etc.

## MODULE 3

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# **MATERNITY AND FAMILY RESPONSIBILITIES**



# MATERNITY PROTECTION AND BENEFITS

While many of the issues raised for gender equality bargaining are new to the bargaining agenda, maternity protection and benefits have generally had a more established history: they have featured in legislation and in collective agreements in many countries for many years. The degree of these rights, however, differs from country to country.

Collective agreements sometimes refer to statutory rights or the text of the law is reproduced in the agreement. Although most countries provide for a minimum level of maternity protection under the law, there are still some countries, where there is no legal protection, making collective agreements often the only source of rights. Usually, collective agreements are used to improve upon the protection and benefits provided by law.

The importance of maternity protection and benefits is underscored in international instruments such as ILO Conventions on maternity protection: the Maternity Protection Convention, 2000 (No. 183); the Maternity Protection (Revised) Convention, 1952 (No. 103); the Maternity Protection Convention, 1919 (No 3) The issue of maternity protection was on the agenda of the first International Labour Conference of the International Labour Organization in 1919.

## 1. Maternity Leave

Adequate maternity leave is important to ensure that women have sufficient time off work to let the body recover, to adapt emotionally to the changes resulting from childbirth and to properly nurture their children. Rest before the birth is key to ensuring that the foetus can fully develop and be born mature.

Breast-feeding is important for the growth of the child and the development of an adequate immune system and is another reason for maternity leave. The World Health Organization (WHO) recommends six months' exclusive breast-feeding for all newly born babies, before introducing any other form of food. Ideally this would be enabled through a six month period of postnatal maternity leave. A minimum of 14 weeks' maternity leave is required under the Maternity Protection Convention, 2000 (No. 183). The Maternity Protection Recommendation, 2000 (No. 191) suggests extending the period to 18 weeks.

Maternity leave prior to birth allows the mother to rest during the latter stages of pregnancy when she might otherwise be too uncomfortable to work, though this will vary from woman to woman; as a result, Conventions No. 103 and 183 advocate a flexible approach to the duration of maternity leave prior to the birth.

Legislation must be followed concerning maternity leave, but unions can negotiate for extended periods of maternity leave to ensure that the needs of mother and child are met.

Unions can also bargain to ensure that maternity leave is available to all categories of female employees. The legislation in some countries, for example, provides that women must work a certain number of hours per week in order to be entitled to maternity leave under law. Many women working part time are not eligible as a result. Collective bargaining then becomes an essential vehicle for ensuring that these women benefit from maternity leave.

Where it is not practical or possible to agree to a period of maternity leave of six months after the birth, the provision of day-care centres, crèches, nursing rooms, etc. on or near the workplace, or community based, could assist mothers to breast-feed for the recommended six-month period. These facilities are of equal benefit to all employees in need of child-care services during the working day.

## **2. Maternity cash benefits**

In most countries where social security systems are developed, maternity cash benefits are paid by the State. In others, the employer pays for maternity leave or supplements state-provided maternity benefits. Unions need to address this issue in consultation with their women representatives.

Unions can negotiate to ensure that maternity cash benefits are at a high, enough level to sustain the mother's income during her leave. Where state payments are less than a woman's salary, unions can persuade employers to supplement them.

## **3. Miscarriage and Stillbirth**

Stillbirth is the term used for a foetal death in late pregnancy; miscarriage is the term used foetal death in earlier pregnancy. Unions should ensure that appropriate leave and health care is available for both miscarriage and stillbirth, especially considering the emotional stress suffered by the woman and the family members in such circumstances.

## **4. Adoption**

A period of leave should be negotiated by the union to ensure that the adopted child and family have an adequate opportunity to adapt to each other. The period could be similar to that provided by law for postnatal maternity leave. Of course all the benefits negotiated regarding family responsibilities

should be available to parents of adopted children. The Maternity Protection Recommendation, 2000 (No. 191) refers specifically to leave and benefits for adoptive parents.

## **5. Reproductive health care**

This can include routine examinations as well as advice concerning reproductive health and contraception. There should also be an assessment made of any workplace risks related to the safety and health of pregnant or nursing women.

## **6. Rights of Pregnant and Nursing Women**

Unions can use collective bargaining to ensure that pregnant and nursing women are able to continue to work and to cope with their pregnancy and meet their family responsibilities.

In particular, unions can bargain to ensure and maximize employees' rights to:

- flexible working hours to avoid travelling during peak hours – this protects pregnant women from the fatigue and physical stress associated with rush hour traffic, particularly when public transport is inadequate
- shorter working hours;
- additional rest breaks;
- lighter work – pregnant women and nursing mothers should be permitted to avoid heavy physical work which may endanger the pregnancy, and to choose alternative positions such as being able to sit comfortably rather than standing all day, or alternate between sitting and standing;
- move from night work to day work;
- safe work – working with toxic materials and chemicals can be harmful and may damage an unborn child; lifting heavy weights and working with vibrating machines should also be avoided;
- nursing breaks – nursing breaks should be frequent enough and long enough to enable mothers to continue to breast-feed their children.

## **7. Job security**

Bargaining can be used to ensure that maternity does not result in reduced job security. In particular unions can negotiate for:

- the right to return to the same or a similar job after maternity leave this should include cases of negotiated parental leave and extended leave
- no interruption in seniority during leave
- no loss of annual or sick leave
- option to return to part-time work at woman's request
- right to return to full-time work after a period of part-time work
- no victimization or loss of job due to pregnancy;
- reassignment to non-hazardous tasks;
- special protection for pregnant women working on a fixed-term contract. Non-renewal of contract for a job of a continuous nature should be considered as dismissal and hence be prohibited;
- prohibition of pregnancy testing for recruitment or while on the job.

**Checklist:** In negotiating for their members, unions should ensure that:

- all women employees receive sufficient maternity leave to ensure the recovery of the mother and development of the child
- any illness related to maternity will warrant extra leave as well as in the case of multiple births such as twins, or other exceptional deliveries such as caesarean delivery
- either the employer or the State provides or assists with day-care centres or crèche facilities at or near the workplace or in the community
- mothers should have the right to nursing breaks without reduction in pay
- if the public transport system poses problems for the mother to be with her child, special conditions are negotiated for the transport of the mother
- pre and postnatal care as well as reproductive health care is arranged by the establishment. Where the cost of setting up a clinic is too high or inappropriate, collaboration with public health services or other arrangements should be encouraged. A doctor could visit the workplace on certain days on a regular basis for the sole purpose of checking women workers and their children, at the request of the worker. Paid time off should be negotiated for these check-ups
- flexible working hours are negotiated, especially for nursing and expectant mothers to avoid congestion and possible injury during travel time
- expectant or nursing mothers have the right to lighter and non-hazardous work, especially, where chemicals are used or heavy weight lifted by workers manually
- while being reassigned to light duties, particularly for expectant mothers, great care must be taken to avoid exposing them to chemical or ultraviolet radiation which might be harmful to the fetus
- Job security especially after maternity leave should be ensured
- there is no discrimination against women on grounds of pregnancy or reasons related to pregnancy.

## **FAMILY RESPONSIBILITIES**

In many cases women entering formal employment are not relieved of their traditional role of assuming total or major responsibility for the care of children and other family members, domestic chores, and sometimes working in family undertakings. They assume employment responsibilities in addition to their domestic responsibilities. This dual burden is acutely felt in many countries where domestic roles are perceived as entirely feminine yet the need for cash income is forcing more and more women to seek paid employment.

Women are often the heads of households due to labour migration and other economic and social factors. In this situation women bear the sole responsibility for running the home and for income-generation.

The integration of domestic responsibilities and working life can be a problem for both sexes. Workers' needs at the workplace, therefore, include arrangements to enable these family responsibilities to be combined more harmoniously with their responsibilities at the workplace.

The ILO has incorporated these needs and issues which affect employment in the Workers with Family Responsibilities Convention, 1981 (No. 156) and its accompanying Recommendation (No. 165).

The union can address these issues through collective bargaining, particularly, by negotiating clauses on:

- paternity leave;
- parental leave;
- family leave;
- family care services;
- protection against discrimination and victimization.

### **1. Paternity Leave**

A male worker whose spouse/partner has a baby requires time off from work to attend to the pressing family needs surrounding birth. This might entail taking the woman to and from the hospital, attending to other children during her absence, organizing payment of hospital bills and giving emotional support to the new mother. The working father needs leave to deal with all these issues. The union can negotiate for paternity leave (perhaps one to two weeks).

Paternity leave can be negotiated not just in the event of birth but also to cover the adoption of a child. Leave might also be given in the case of miscarriage or a stillbirth.

It is important that the rate of pay for such leave is considered. Rather

than calculating paid leave on the basis of basic pay, average earnings (including average overtime pay) could be used.

## **2. Parental Leave**

Following the period of maternity leave when the mother is to return to work, the baby still needs special care. The woman worker also has responsibilities relating to her job and career. Although there may be a day-care centre, parental attention is vital, particularly for the child's emotional development.

The union can negotiate parental leave which can be taken by either parent after the standard maternity leave has expired, and is available until the child reaches a certain age. The union can negotiate to ensure that the parent will return to work in the same 'or an equivalent post without loss of seniority or benefits. This should also be negotiated in the case of adoption of a child.

## **3. Family care services**

### *1) Child Care*

Child care is a major concern to many workers: there may be no facilities available, existing facilities may be too expensive or the day-care centre hours may be inflexible. The union can negotiate for various options to solve these child-care problems:

- day care;
- crèche;
- after-school care;
- child-care allowances;
- holiday play scheme;
- child-care information services.

Allocations or facilities may be provided by the employer, State or in some cases co-sponsored by unions and employers.

### *2) Care of the Elderly*

More and more workers are having to deal with caring for the elderly since most adult members have jobs and work responsibilities and people in general are living longer.

The benefits negotiated might include:

- flexible working hours for carers;
- paid leave to care for the elderly;

- respite care services;
- life insurance;
- long-term care insurance;
- medical expenses;
- group insurance;
- work/family stress management services.

Service programmes might be provided directly under union auspices or through employer-facilitated arrangements.

The United Nations' Vienna International Plan of Action on Ageing states: The family, regardless of form or organization, is recognized as a fundamental unit of society. With increasing longevity, four- and five-generation families are becoming common throughout the world. The changes in the status of women, however, have reduced their traditional role as caretakers of older family members; it is necessary to enable the family as a whole, including its male members, to take over and share the burden of help in and by the family. Women are entering and remaining in the labour force for longer periods of time. Many who have completed their child-rearing roles become caught between the desire and need to work and earn income and the responsibility of caring for elderly parents or grandparents.<sup>1</sup>

In 1992, the General Assembly adopted a set of Global Targets on Ageing for the Year 2001. The guide for implementation, underlines regarding the goals for "family targets", the need to:

Promote, enhance and support family care-giving: this will include, among others, information and training on care-giving, housing and rental subsidies for multi-generational families, provision for respite care, remuneration for unpaid long-term care-giving and consideration of time spent on care-giving for pension-scheme calculations.

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<sup>1</sup> Recommendation No. 24, adopted in 1982 by the World Assembly of Ageing.

### *3) Reproductive Health Services*

Reproductive health concerns are of immediate priority to the worker and his or her family. The union can negotiate:

- access to family planning;
- check-ups on a regular basis, particularly for the mother and child;
- access to information on HIV and AIDS, including appropriate protective measures.

## 5. Protection Against Discrimination or Victimization Due to Family Responsibilities.

It is vital to ensure job security for employees with family responsibilities.

The Termination of Employment Convention, 1982 (No. 158) advocates protection against dismissal on the grounds of family responsibilities (Article 5(d)) and it is supported by Recommendation No. 166.

See the workers with Family Responsibilities Convention, 1981 (No. 156) and Recommendation (No. 165). See also the Maternity Protection Convention, 2000 (No. 183) and Recommendation (No. 191).

## MATERNITY AND FAMILY RESPONSIBILITY UNDER MANPOWER ACT NO.13/2003

In order to give protection to women workers/labours, Act No.13/2003 has stipulated many issues related to women workers/labours, among others are:

### □ Protection to Work Safety and Health

- Pregnant women workers/labours are prohibited to work between 23.00 pm until 07.00 am if it is considered risky to their safety and health pursuant to doctor's certification;
- Women workers/labours shall have opportunity to nurse their babies;
- Women workers/labours feel pain during their menstruation period, has no obligation to work at the first and second day of the menstruation period.

### □ Maternity/Miscarriage Leave

- Women workers/labours are entitled to leave for 1.5 months before and 1.5 months after giving birth;
- Women workers/labours whose miscarriage their babies are entitled to leave for 1.5 months or pursuant to doctor's certification.

### □ Menstruation

- Women workers/labours feel pain during their menstruation period and submit a notice to the employer, have no obligation to work at the first and second day of the menstruation period.

## □ Long Leave

- Workers/labours shall be entitled for compensation money of annual leave on the eighth year in the amount of half of their salary and for company that applied long leave with conditions better than Manpower Act provisions; such company shall not reduce the existing policies.

## □ Wages

- The employer must pay wages during the absent of women workers/labours due to maternity or miscarriage leave or in the event of first and second day of menstruation period, women workers/labours feel pain.



MODULE 4

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**DEPENDING RIGHTS OF  
NON-PERMANENT AND  
VULNERABLE WORKERS**



## CATEGORIES OF NON-PERMANENT AND VULNERABLE WORKERS

Many categories of workers may be non-permanent and vulnerable. Some are at risk due to the nature of their employment contract, such as:

- casual
- temporary
- task
- seasonal
- contract
- part-time.

Other categories of workers have special characteristics that render them more vulnerable than others:

- rural workers
- homeworkers
- domestic workers migrant workers
- indigenous and tribal peoples.

Many of these categories are considered low status and precarious; workers in these categories are vulnerable to abuses of employment rights. The majority of workers in these vulnerable groups are female. They may not be unionized due to national legislation or practice, or the unions may not know how (or may not yet have attempted) to organize them effectively, or to service them once they are organized.

There is a growing number of workers joining the informal or unorganized sectors due to various factors such as down-sizing, technological changes and recession. The trend towards globalization has pushed many workers out of formal employment as companies shift to other countries in search of 'low cost labour and more lenient legislation. Structural adjustment 'policies have reduced government and parastatal establishments, and resulted in cuts in personnel and overall social programmes: in the long term this has devastating effects on the workforce in areas of health, education and welfare, all of which impact strongly on women and their families.

Unions therefore have a number of reasons to try and defend the rights of these workers, some of whom were their members when they had more permanent jobs. It is also to the union's advantage to improve their conditions so that union members with secure permanent employment do not find their conditions of work under threat or eroded due to competition from non-organized workers.

## **ISSUES FOR BARGAINING**

The following issues should be considered during the bargaining process, and included in collective agreements where appropriate.

### **1. Extension of general conditions**

The application of general conditions negotiated for permanent workers needs to be extended to non-permanent workers as much as possible. This might be done on a pro-rata basis, or for certain categories. Any negotiated improvements create a better working environment for all. It should be ensured that training opportunities are open to these workers so that they are able to improve their employment status and enrich their jobs.

### **2. Child labour**

Child labour may exist in several contexts: the first where children are employed directly by the employer and receive payment for their work. Another, less apparent form, occurs when the employer relies on task work, subcontracting or home work often supplied by women. In order to complete the daily quota or to collect daily bonuses, workers may bring other family members, including their spouses and children, to assist in the work.

These family members may not be paid directly, receive benefits nor be calculated in the national statistics as workers. This situation is most likely to occur when the family is female-headed and poverty makes the worker totally dependent on the daily pay. Small children sometimes assist, or simply accompany the mother, in a dangerous work environment such as in the agricultural sector. Other forms involve children working as family workers of the self-employed, or children, often young girls, working as domestic workers.

Unions can negotiate to avoid task work or set task targets at reasonable levels to avoid the use of children.

Unions should also ensure through their negotiating and monitoring capacity that young workers are not being employed in inappropriate or hazardous work.

Such monitoring and negotiation can take place at the national, regional and international level. Unions can also raise the awareness of workers and the community at large through information campaigns. Unions can play an important role in programmes to eliminate the worst forms of child labour.

<b>Minimum Age Convention, 1973 (No. 138)</b> <b>Minimum age for admission to employment</b>	
<p><b>General</b></p> <ul style="list-style-type: none"> <li>□ 15years</li> <li>□ light work: 13 years</li> <li>□ dangerous work: 18 years (16 years with consultation and adequate protection)</li> </ul>	<p><b>Developing countries</b></p> <ul style="list-style-type: none"> <li>□ 14years</li> <li>□ light work: 12 years</li> <li>□ dangerous work: 18 years (16 years with consultation and adequate protection)</li> </ul>

### **3. Avoid Non-permanent Status for Work that is Permanent**

Many women work on non-permanent status, even in cases where they are employed 12 months a year. Unions should negotiate so that such terms are not applied to workers who are hired on a continuous basis or in a job that is not temporary in nature.

If the union cannot negotiate for status as permanent workers, then the union can try to negotiate for basic pay of non-permanent workers to be considerably more than that of permanent workers to compensate for the precarious status and to discourage abuse of this status.

### **4. Casual, Temporary, Seasonal and Task Workers**

A worker may be hired in one or more of these categories, but the unifying thread is the lack of access to permanent status. Although some of these workers may work only for limited periods, a large percentage are hired on a more or less permanent basis, but never receive bonuses, leave, benefits or increases in wages.

The union must determine what are the priority areas, and make a clear attempt to cover the needs of these workers, a significant proportion of whom are women.

### **5. Rural workers**

Rural workers encompass a large group of women and men world wide, often working for part of the year for wages and unemployed or self-employed for the rest of the year. Agricultural wage labourers are among the occupational group with the highest incidence of poverty, often over 60 per cent in many

countries. The precarious nature of their labour leads to seasonal and low-level wages.

The first priority should be to bring agricultural wage workers, whether casual or permanent, within the scope of a collective agreement. This should aim to include all conditions of work, from wage levels to occupational health, safety and environment, working time, training and social security.

Special attention should be given to women who occupy the lowest level and vulnerable jobs. Piece-rate or task work will also need to be monitored and addressed, since it often leads to children assisting or accompanying the family to the field. In addition, the particular vulnerability of female rural workers to sexual harassment must be addressed. It has been found in Africa, as well as in many other regions, that sexual harassment is “very pronounced in the plantation economy where women are rendered economically vulnerable and through desperation give special sexual favours to get work in order to feed their families”, with resulting health, personal and family problems.

Other services can be negotiated with the authorities to increase employment in the off-season such as through government-funded rural workers’ employment schemes or through the development of other special services to assist members of rural workers’ organizations.

## **6. Homeworkers**

Millions of women throughout the world are homeworkers. They may work for an employer or intermediary or they may produce goods which they sell themselves or through an agent. Many of these workers are “invisible” or unknown to authorities. They are often excluded from legislation and organizing efforts.

Homeworkers are often at a disadvantage for a number of reasons: their pay and conditions are generally inferior to those of their counterparts in factories or other workplaces and the employment relationship is often precarious. Homeworkers tend to have few employment rights and very little social security protection. Where homeworkers are paid at a piece rate, their pay may be significantly less than that of a worker paid at an hourly rate to perform the same work. Health and safety conditions may be poor in the home.

An additional concern regarding home work is the potential involvement of children. Homeworkers may be compelled to call upon their children for help, thus contributing to the spread of child labour.

Unions should ensure that home-workers are adequately represented within the union movement. Existing unions may include homeworkers in their membership or assist home-workers in organizing their own effective unions.

It is vital that unions protect the rights of homeworkers and ensure that they are included within the terms of collective agreements. Conventional recruitment approaches will not be effective when aiming to organize homeworkers, since these workers are not found at the traditional workplace where union representatives make their visits. Creative organizing efforts aimed at reaching these workers are needed, such as visiting them at home, organizing events specifically for them, etc.

The formulation of international labour standards for the protection of homeworkers was discussed at the International Labour Conference in 1996 and a Convention (No. 177) and Recommendation (No. 184) were adopted. Among other things, the Home Work Convention promotes equality of treatment between home-workers and other wage-earners.

Article 4(2) of the **Home Work Convention, 1996 (No. 177)** states:

Equality of treatment shall be promoted, in particular, in relation to:

- (a) the homeworkers' right to establish or join organizations of their own choosing and to participate in the activities of such organizations;
- (b) protection against discrimination in employment and occupation;
- (c) protection in the field of occupational safety and health;
- (d) remuneration;
- (e) statutory social security protection;
- (f) access to training;
- (g) minimum age for admission to employment or work and;
- (h) maternity protection.

Collective agreements are foreseen as one possible means of implementing such policies.

## 7. Migrant Workers

The World Bank estimates that worldwide the value of remittances from migrant workers amounted to more than US\$65 billion in 1989, making the value of remittances second only to trade in crude oil. None the less, migrant workers suffer exploitation because they are far from home, often not covered by relevant labour legislation and vulnerable due to their status, lack of knowledge of the local language and culture, and separation from their families, etc. Migrant workers are often offered "the 3 D jobs: dirty, dangerous and difficulty women migrant workers are faced with even greater problems.

Special terms of recruitment and employment often exist for these workers. At the international level, the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) states that ratifying countries shall respect the basic human rights of all migrant workers, and encourages them to pursue

national policies to promote equality of opportunity and treatment. A number of other international labour standards also seek to protect and enhance the rights of migrant workers.

### Conventions and Recommendations concerning migrant workers

C.97	Convention concerning Migration for Employment (Revised)	1949
R.86	Recommendation concerning Migration for Employment (Revised)	1949
R.100	Recommendation concerning the Protection of Migrant Workers in Underdeveloped Countries and Territories	1955
C.143	Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers	1975
R.151	Recommendation concerning Migrant Workers	1975
C.118	Convention concerning Equality of Treatment of Nationals and Non-Nationals in Social Security	1962
C.157	Convention concerning the Establishment of an International System for the Maintenance of Rights in Social Security	1982
R.167	Recommendation concerning the establishment of an International System for the Maintenance of Rights in Social Security	1983

Female migrant workers are, often employed in domestic service, one of the most vulnerable occupations. Due to the “invisibility” of immigrant female domestic workers, employers can often evade labour legislation. The women are often required to work long hours for low wages. A common complaint of women in domestic service is sexual harassment.

Migrant women also suffer from discrimination, particularly regarding pay and promotion, and they fail to take full advantage of their rights in this respect due to lack of information, training and motivation.

Migrant workers in agriculture, are covered by the Plantations Convention, 1958 (No. 110) which aims to improve the situation of plantation workers by ensuring that certain provisions of other Conventions are applied to them. It specifically states that its provisions apply equally to all plantation workers, irrespective of sex.

## Migrant workers issues

### **Migrant-sending countries**

- maintaining statistics on the number of women migrants who are members of the union;
- establishing a welfare fund for migrant workers and their families;
- promoting the education of children and other family members;
- encouraging the regular flow of remittances;
- improving access to national legislation on migrant workers;
- maintaining close liaison with government;
- maintaining close liaison with other bodies dealing with migrant workers;
- negotiating for internationally acceptable employment contracts for migrant workers;
- representing migrant workers at all fora at the national level;
- assisting returnee migrants;
- linking trade unions of migrant-supplying and migrant-receiving countries.

### **Migrant-receiving countries**

- arranging for the reception of new entrants;
- promoting equal opportunities and elimination of discrimination at the workplace;
- promoting training and education services;
- ensuring desirable living conditions;
- promoting cultural identity;
- educating national workers about the contribution of migrant workers to the economic development of the host country;
- improving access to national regulations on migrant workers;
- maintaining close liaison with government;
- ensuring that the legal rights of migrant workers are accepted and providing legal advice where necessary;
- developing a network with other organizations concerned with migrant workers;
- promoting ratification of ILO Conventions;
- promoting racial harmony and peaceful coexistence between nationals and migrants;

- representing migrant workers on all relevant platforms in the host country (not permitting language to be a bar);
- ensuring equality of treatment and avoidance of discrimination at the national level.

## 8. Indigenous and tribal peoples

It is estimated that there are approximately 300 million indigenous and tribal peoples throughout the world, representing the largest identifiable disadvantaged group. Although the situations will differ, this group is perhaps the most vulnerable, informal and excluded group of workers. Their earnings are much lower than other workers, and their female members are often the most exploited and socially ignored group in society.

Public Services International (PSI) has recently published a report and modules on Indigenous Tribal Peoples and Trade Unions. The report begins with a working definition of indigenous peoples:

First, an indigenous people is a unique, identifiable group of individual human beings who share a common ethnic background, history, culture, tradition, cosmology, language, sense of community, and connection to the earth (the land certainly, and perhaps the sea, as well).

And second, an indigenous people is a unique, identifiable group of individual human beings contending with external forces (political, economic, cultural) which threaten its very collective survival, including its use of traditional lands and territories.<sup>1</sup>

<sup>1</sup> Indigenous/tribal peoples and trade unions: A PSI report, 1996, p.7.

Article 3 of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), states that these peoples must enjoy fully human rights and fundamental freedoms without hindrance or discrimination and the benefits of the Convention without discrimination between males and females. Among the measures that ratifying governments are to take to eliminate discrimination, the Convention states that workers belonging to these peoples must have equal opportunities and equal treatment in employment for men and women, and protection from sexual harassment.

## **DEFENDING RIGHTS OF NON-PERMANENT AND VULNERABLE WORKERS UNDER MANPOWER ACT NO.13 OF 2003**

Defending rights of non-permanent and vulnerable workers are related to fixed-term employment agreement. Under Act No.13 of 2003, the employer must fulfill the requirements as stipulated by Act No.13 of 2003, among others:

- No requirement of probation period;
- Only apply to certain workers/labours that according to the type and nature of the job will be completed in a fixed period, i.e.:
  - a. Work to be performed and completed at one go or work which is temporary by nature;
  - b. Work whose completion is estimated at a period of time which is not too long and no longer than 3 (three) years;
  - c. Seasonal work; or
  - d. Work that is related to a new product, a new type of activity or an additional product that is still in the experimental stage or try-out phase.

In practice, the implementation of fixed-term employment agreement is not perfectly conducted by the employer, due to for women workers/labours commonly entered into the fixed term employment agreement even though the type and nature of the job is not completed in a fixed period. There are some reasons for the employer to treat women like that, among others because of women will experience giving birth, menstruation, limited working hours, etc., in which such situations will disturb production process.



## MODULE 5

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# **DIGNITY AT THE WORKPLACE**



## COMBATING DISCRIMINATION AND VICTIMIZATION

Though there are international and national standards on freedom from sex discrimination and protecting the right of workers to organize and take part in trade union activities, people are still discriminated against and victimized on these grounds. Proving such discrimination or victimization has presented a difficult challenge to unions, since there are seldom clear statements or written proof of discriminatory motives. In many instances, overt discrimination has been replaced by more subtle forms of discrimination and victimization.

It is important for unions to negotiate with a view to protecting workers who are active in trade unions, as well as workers who may be discriminated against on the basis of sex, race, colour, religion, political opinion, national extraction or social origin, disability, family responsibilities or sexual orientation.

### 1. Trade Union Activities

For women to be able to promote and protect their rights and interests, they must be able, like all workers, to take part in trade union activities without suffering disciplinary measures or dismissal or otherwise being prejudiced.

Trade union activists often face obstacles with respect to recruitment, advancement, promotion, training opportunities, dismissal or lay-offs, all related to their attitudes towards or participation in trade unions.

While it may be difficult for unions to prove victimization or harassment against trade unionists, it is possible and necessary to find ways and means of protecting these workers. Unions can place conditions in collective agreements or influence national legislation to ensure that the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) are respected.

Since proof of anti-union discrimination is so difficult to establish, consideration could be given to lobbying for a reversal of the onus of proof in legislation. Such a reversal can also be placed in the collective agreement.

## Reversal of the onus of proof

Where a worker claims to have been dismissed for trade union activities and wishes to make a complaint that the dismissal was unfair, he or she often bears the burden of proof, that is to say, the worker must be able to prove that this was the employer's reason. When the onus of proof is reversed, once the fact of dismissal is proved by the worker, it rests with the employer to prove that the dismissal was for a valid reason and unconnected with the worker's trade union activities.

The Committee of Experts on the Application of Conventions and Recommendations has addressed this point:

In cases of termination of employment, the application of the general rule applicable in contract law, whereby the burden of proof rests on the complainant, could make it practically impossible for the worker to show that the termination was unjustified, particularly since proof of the real reasons is generally in the possession of the employer. This is all the more true if there is no clear statement of the reasons by the employer, which may well be the case when the employer is not required to provide written reasons for the termination of employment. In an employment relationship, it is the employer who has the upper hand, particularly because he [or she] controls the sources of information.

ILO: Protection against unjustified dismissal, General Survey on the Termination of Employment Convention (No. 158) and Recommendation (No. 166), 1982(Geneva, 1995).p. 77.

## 2. Sex Discrimination

Just as trade unionists may be discriminated against merely for being trade unionists, some women face discrimination merely because they are women or because of their marital status or family responsibilities.

Like discrimination against workers on the basis of trade union activities, women workers are also faced with areas of discrimination which are difficult to prove with respect to recruitment, advancement, promotion, training opportunities, dismissal and lay-offs.

Sex discrimination can be overt, such as limiting applications for certain jobs to only men or only women (direct discrimination) or more subtle, indirect discrimination.

The Committee of Experts on the Application of Conventions and Recommendations defines "indirect discrimination" as "apparently neutral situations, regulations or practices which in fact result in unequal treatment of persons with certain characteristics. It occurs when the same condition, treatment or criterion is applied to everyone, but results in a disproportionately harsh impact on some persons on the basis of characteristics such as race, colour, sex or religion, and is not closely related to the inherent requirements of the job." So where a requirement or condition is gender-neutral on its face, but in reality is more difficult for women than men to meet, indirect discrimination may be found.

Unions can negotiate for provisions in collective agreements to protect women against discriminatory practice.

The burden of proof is an important nation and should be discussed in issue in the context of sex discrimination and should be discussed in negotiation.

**Checklist for bargaining to avoid sex discrimination:**

- general equal opportunities clause, expressing the commitment of the union and the employer to promoting equal opportunities for women and men;
- opportunities for women, including those with non-permanent contracts, to apply for all positions and to benefit from training programmes;
- no discrimination against workers with family responsibilities, in particular with respect to promotion and advancement;
- avoid informal systems of recruitment that often prejudice women;
- carefully determine what training, education or past experience is actually needed for a position, as well as whether age limits or mobility requirements are absolutely essential;
- job application forms should include only those questions relevant to the job;
- if the candidate is successful, then questions such as marital status and number of children can be asked if linked to particular benefits;
- neutral job descriptions — if they are gender-specific, stereotypes are enforced. Women may also feel excluded;
- gender-inclusive language in the collective agreement — if possible, avoid saying “the worker, he shall ...”. Gender-inclusive language shows a commitment to equality;
- equality officer or women’s committee to implement objectives and review progress;
- training in equal opportunities issues for all those involved in recruitment and negotiations;
- reversal of burden of proof — once a worker can show she was disadvantaged, it is for the employer to prove that it was not on the basis of sex.

### 3. Sexual Harassment

A serious, and often misunderstood, form of sex discrimination is sexual harassment. It can also be considered a safety and health issue.

Although legal definitions vary from country to country, sexual harassment is essentially unwanted conduct of a sexual nature. Two types of sexual harassment have been distinguished at the international and national levels:

- *quid pro quo* harassment (also known as “sexual blackmail” in Europe or “lay down or lay off” in Asia). Generally, it is a demand by a supervisor, usually a man, directed to a subordinate, usually a woman, for sexual favours in order to keep or obtain certain employment benefits or privileges;
- *hostile environment* (also known as abusive, offensive or poisoned working environment). In this situation, the complainant does not need to show

the loss or threat of loss of specific employment benefits. It is a more subtle form of harassment and creates a stressful or intimidating environment (for example, inappropriate sexual comments, touching, the display of obscene pictures, etc.).

Although men may be victims of sexual harassment, the victims are most often women, and they may suffer more because of societal attitudes and their often precarious employment position. Frequently targeted are young women, widowed or divorced women, women of racial minorities and disabled women. Women in low-paying, low-status jobs may also be particularly vulnerable. Many women, particularly those in low-status jobs or with precarious employment contracts, find it difficult to complain or seek support for fear of jeopardizing their job.

Sexual harassment can result in biased job evaluations, poor personal recommendations, demotion, resignations, dismissal or transfer. It may create an intimidating and thus unproductive working environment. It can also result in stress-related illness.

**Role of trade unions in combating sexual harassment:**

- develop a policy for their own members
- include sexual harassment on the collective bargaining agenda
- educate members to change attitudes especially in male-dominated unions
- set up procedures for handling complaints
- provide training for those handling complaints
- set up a service for counselling of victims
- keep a record of complaints
- take consequent action against members involved in harassment

ILO Promotion of equality of opportunity and treatment for women workers .4n ILO manual for Asia and the Pacific (Thailand 1994)

Provisions in collective agreements should include measures to *prevent sexual harassment* such as:

- the issuing and publicizing of strong policies against sexual harassment;
- information and education campaigns drawing attention to the various forms of sexual harassment and the fact that it will not be tolerated.

The collective agreement should also include measures to *deal appropriately with sexual harassment complaints* such as:

- establishing a complaints procedure that enables and encourages women to take action against their harassers. Procedures should be discreet and sensitive to the emotions of the women. The use of female counsellors or complaints officers should be considered. It should be ensured that where

the harasser is a supervisor, the complainant can submit a complaint to a higher level of management;

- all complaints must be taken seriously and dealt with promptly;
- often the process begins with an informal procedure, moving on to a formal procedure if necessary. The formal procedure may be part of the regular grievance procedure, or a special sexual harassment procedure may be established;
- union representation should be permitted at all stages;
- where harassment is proven, the harasser must be dealt with seriously and the person who was harassed should not be prejudiced in any way in an attempt to separate the two workers from the same working environment (i.e. transfer the harasser, not the complainant).

#### 4. Violence at the Workplace

Violence at the workplace may occur between co-workers; workers may also be at risk of violence from others such as customers or clients.

Violence between co-workers should be treated as a serious disciplinary (or even criminal) offence and perpetrators disciplined accordingly. Criminal charges should be laid where appropriate.

Violence can be psychological or physical to different degrees. A variety of behaviour constitutes violence, including abuse, assault and threats:

- **Abuse** is all behaviour departs from reasonable and involves the misuse of or psychological strength
- **Assault** generally includes any attempt at physical injury or attack including actual physical harm
- **Threats** include the menace of death or the announcement of an intention to harm a person, or damage his or her property.

Preventive strategies are needed, as well as policies and procedures to deal quickly and effectively with violence when it occurs. A risk assessment can be undertaken to identify where there are risks of violence. Policies and procedures for reporting, investigating and dealing with violence need to be drawn up and put into practice. Workers need to be informed of the policies and procedures and the workplace risks. Finally, provision should be made for the evaluation and monitoring of the policies and procedures. All these steps should be taken with the full involvement of the union.

#### 5. Creating an Enabling Environment

To deal with the problems of victimization noted above, there should be

an open and enabling environment to allow for dialogue and discussion. Information should be made available about the rights of workers, and women workers in particular, so that all management, colleagues, workers and workers' representatives are familiar with the issues. One approach is to provide trained confidential advisers comprising at least a trade union woman representative and a woman representative from management who could as a preliminary measure advise and deal with any complaint in an objective and sensitive way and then be able to continue along a negotiated procedure to ensure discretion and confidentiality.

Unions should negotiate for more widely disseminated information on the issues of discrimination, sexual harassment and violence to ensure dignity at the workplace.

## **DIGNITY AT THE WORKPLACE UNDER INDONESIAN LAW**

As the consequences of the ratification of ILO convention Nos.87 and 98, Indonesian government has issued Act No. 21 of 2000 on Workers Union/Labours Union as the guideline for workers'/labours' organization inside and outside the company.

Act No. 21 of 2000 aims to provide protection, defending rights and interests, and improves the welfare of workers/labours and their family. This aim is related to the efforts to give protection to workers/labours against the discriminative treatment and anti-union.

Protection of the rights to organize has been stipulated in articles 28 and 29 Act No. 21 of 2000, basically, the society is prohibited to involve in the action that prevent workers/labours establish a union, be or not to be a member or official of trade union. The prohibited actions include dismissal, suspension or disadvantage workers/labours in their job, retain or reduce the wages, intimidate and campaign against the emerging of trade union.

Beside that, the employers must allow the official and member of trade union to absent from their works due to unions' activities as determined by Collective Labour Agreement or as mutually agreed by both parties.

The activities of trade union inside and outside the company shall be participated by all workers/labours including women workers and labours.

In practice, women workers/labours that join the activities of trade union in improving rights and interest are often experiencing indiscipline action or dismissal from company.

To handle such matters, Act No. 21 of 2000 provides sanction on the matters against the activities of trade union.

## MODULE 6

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# **GIVING WOMEN A VOICE**



# GIVING WOMEN A VOICE AT WORK

## 1. Defending and Improving Rights

In order to articulate the issues of concern to women, the women should be involved in all of the various processes which deal with improving and defending workers' conditions and rights. Special attention should be given to dealing with issues such as discrimination and harassment. Proper and sensitive complaints procedures are needed to ensure that women who are discriminated against can make formal complaints without fear of victimization.

## 2. More and Better Jobs

Training is an important aspect in ensuring that women have a voice at work. In some cases women are denied access to positions because they lack seniority or because they are perceived as more likely to leave employment due to family responsibilities. This kind of attitude keeps women in lower pay/lower status jobs and limits their scope for career development.

The union should press for greater training and richer task-assignment opportunities for women, promotion procedures and machinery should therefore be rendered more transparent and subject to union participation.

Employers should be encouraged to employ women without discrimination on the basis of sex and persuaded to promote women at all levels of the establishment or enterprise.

The lack of women in senior positions in both management and in the ranks is often the result of societal attitudes as well as the lack of continuous employment. Unions should negotiate for upward mobility of women to ensure that women are represented at all ranks of the establishment, which in turn would create an environment sensitive to women-related work issues.

Positive measures may be needed to address existing discrimination, but also to overcome the effects of past discrimination. A proactive approach requires:

- an analysis to identify the employment practices that discriminate against women
- the formulation of a policy and measures to address deficiencies that are found
- a monitoring and evaluation of the measures taken.

Monitoring may be done through a joint ad hoc committee or as a function of a permanent equal opportunities/ employment equity committee.

The **objectives** of positive measures are to:

- diversify the jobs and posts held by women in the company
  - balance the distribution of men and women in a maximum number of posts
  - create conditions in which women, who have previously been held back, are able to demonstrate their skills, talents and potential abilities
  - promote women to higher grades
  - increase the number of women working in the company by introducing a recruitment policy that favours women at the levels where they are under-represented
  - raise the awareness and increase the qualification level of women, mainly through training
  - ensure that women are fully involved in technological progress
  - institute a wage policy which does not disadvantage women
- improve the working conditions of women.

Some measures that can be adopted to assist in overcoming the constraints faced by women are to provide reserved places for women in training and retraining opportunities, and to set targets or quotas, with clear timetables, for recruitment or promotion. Unions must also be very vigilant in reviewing dismissals and their causes when women are laid off.

## **GIVING WOMEN A VOICE IN THE UNION**

As increasing numbers of women join the formal work-force, more and more women are joining trade unions or are potential members. Women are approximately 33 per cent of the global trade union membership yet they represent a mere one per cent of the governing bodies of unions. Clearly women have not achieved equal status with men within the trade union movement. If trade unions are to be credible to women regarding their commitment to promoting equality through collective bargaining, they must be able to show that equality is an integral part of their own policies and structures.

The lack of women's participation in trade unions is due to a number of fundamental barriers:

- stereotyped ideas about women's abilities, preferences and roles;
- discouragement or hostile reactions from (male) colleagues or family members;
- informal procedures for nomination/appointment relying on established male networks;
- entrenched organizational rules and bureaucratic structures which hamper women's involvement and advancement;

- the burden of family responsibilities borne by many women workers;
- the high proportion of women who work part-time;
- women's lack of confidence in their own abilities.

Women are often concentrated in unskilled and semi-skilled jobs and as such are less likely to be appointed to union leadership positions.

Unions must take steps to overcome these barriers and to promote women's involvement in both union structures and business.

Lack of adequate union representation carries with it the inherent risk that little or no attention is given to women's concerns in the trade unions. Without significant female involvement it is likely that unions will lack much of the information necessary or the motivation to persuade the employers to provide fair working conditions for women.

Some unions appoint women or support the election of women at local, regional, national and congress levels. Others have also elected or appointed women to the education and training divisions, organization, negotiation and occupational health, safety and environment committees and have seen the impact women are able to make on a wide range of work issues. The unions have a role to ensure that women and their interests are represented both within the union system and at the workplace.

## WOMEN'S COMMITTEES

Unions all over the world are appreciating the need to set up women's committees in order to give women effective representation within the union and to create awareness of their special needs at work. Women's committees also promote, awareness-raising, open discussions and the training of women members.

Women's committees are usually elected within the union and deal with women's affairs and equal opportunity issues such as:

- problem identification
- advocacy on women's issues
- training needs assessment
- representation of women members in all trade union activities and at work.

In order to be effective, the committee must have adequate funding and be closely linked to the decision-making structures of the union. Women's committees provide a forum for women's issues and serve as a vehicle for future developments, but care must be taken to ensure that they remain in direct contact with core decision-making bodies at all levels and do not become

marginalized.

Women's committees are often most necessary in trade union movements which are male-dominated and in which women's interests and perspectives would otherwise be overlooked. In other instances their role can be performed equally successfully by equal opportunities committees which reflect the ideal that both men and women members have a stake in bettering the lot of women workers.

# **GUIDE BOOK II**

## **GENDER EQUALITY : A GUIDE TO TRADE UNIONS**



MODULE 1

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**PROMOTING  
GENDER EQUALITY  
THROUGH  
COLLECTIVE BARGAINING**



## GENDER EQUALITY BARGAINING

*“We cannot rely on legislation to achieve and protect equality issues. Collective bargaining is a much more effective mechanism for ensuring that these rights exist. Although there have been major achievements made in equality issues in the past, downsizing and reorganization are taking a toll; impacting on the lives of workers and women workers in particular. Therefore, it is essential that equality issues become central to collective bargaining objectives.”*

In many countries, the key means of action promoting gender equality in the world of work is through collective bargaining — as a process of negotiation between workers’ representatives and employers. This process may result in a collective agreement which outlines the terms and conditions of employment or any other matter of mutual interest to the workers and employer.

The role of trade unions in promoting gender equality through collective bargaining is especially important in the context of the current inadequacies of equality legislation and its enforcement in many countries. The role of trade unions is acknowledged in the Platform for Action of the Fourth World Conference on Women (Beijing, September 1995, paragraph 178h, p.106), which calls on governments and all social actors to recognize collective bargaining as a right and an important mechanism for the promotion of gender equality.

**Unions should promote gender equality through collective bargaining because:**

- Women are accounting for a growing proportion of the workforce, and unions should represent and defend the rights of all workers;
- Stereotypes and misconceptions persist about the role and contributions of women workers;
- The elimination of discrimination with respect to employment and occupation and equal pay for work of equal value are basic workers’ rights - and are therefore union issues;
- Collective bargaining is a critical means of improving the terms and conditions of employment and safe and healthy work environments for both women and men;
- Gender equality and women’s issues have traditionally been neglected in collective bargaining;
- Women’s concerns may be inadequately covered by labour legislation or inadequately enforced;
- Where there is equal employment opportunity legislation, unions can help to ensure that it is effectively implemented and monitored;
- Bargaining equality measures means that resolution for complaints can be accessed through the grievance procedure, a quicker and less costly process;

- Action on behalf of women workers would demonstrate the commitment of unions, and encourage women to join unions;
- Promoting gender equality through collective bargaining would show that unions are keeping up with the times and adapting and adjusting their goals and strategies to social concerns and the changing needs of workers.

Collective bargaining can take place at different levels, from the individual workplace level to the company, sectoral or industry, national or international level. For example, where collective bargaining is centralized at the national or sectoral level, minimum standards relating to the promotion of gender equality could be established that cover a wide range of workers. But before embarking on collective bargaining for the promotion of gender equality at the national level, unions should be aware of and take into account other forms of social agreements that have been developed and adopted with the direct participation of union representatives. For example, there could be national tripartite agreements on the promotion of gender equality; such agreements in some cases can have a similar impact to national law and cover all workers in a country.

At the company level, some companies have unilaterally adopted codes of conduct, often in response to negative publicity generated by reports of poor, exploitative or dangerous working conditions. These codes could be used by companies to avoid dealing with trade unions. In such cases, national or local trade unions should not accept the codes where they could otherwise negotiate collective agreements for the workers they represent.

Therefore, before beginning any bargaining process, trade unions should analyse the particular context where the bargaining is to take place — so as to be able to articulate appropriate action and to be more effective in achieving desired results.

**Relevant ILO Standards :**

- Freedom of Association and Protection of the Right to Organize Convention, 1948 (No.87);
- Right to Organize and to Bargain Collectively Convention, 1949 (No. 98);
- Collective Bargaining Convention, 1981 (No.154) and
- Recommendation, 1981 (No.163).

## PREPARING FOR NEGOTIATIONS

To prepare for gender equality bargaining, unions should:

- Ensure the active participation of women, seek their views and make sure their voices are heard;
- Promote awareness and appreciation of gender issues among the union membership and also among employers;
- Select the negotiating team;
- Develop the gender equality bargaining agenda;
- Be well prepared for negotiations: gather all relevant facts, draft the agenda for bargaining, develop a clear strategy.
- Ensure the active participation of women, seek their views and make sure their voices are heard.

Since collective bargaining is aimed at the collective rights of workers, it is clearly important to obtain the views of all workers, women and men, and to ensure that their needs and concerns are properly identified and prioritized.

Women's concerns about work are often inseparable from their domestic lives. But they may not be aware of how to translate their day-to-day problems or difficulties on the job or in combining work and family responsibilities into remedial action that can be taken by their union. Unions must therefore educate their women members in order that they fully understand the role of unions in their lives and how practically they can get their concerns into the collective bargaining agenda.

To identify what women's constraints, needs and priorities are, both male and female union representatives must ask questions of them and listen attentively to their answers. Traditional union methods to ask members for their views may not always get results with women members. Unions should, therefore, be innovative in seeking the views of women. In preparing for negotiations, unions ought to:

- Recruit women members and promote their active participation in all union structures and activities;
- Ensure that all workers, especially women workers, understand and are able to make their concerns known to union representatives;
- Educate members so that they are able to recognize different forms of discrimination that may be occurring in the workplace;
- Widely publicize upcoming negotiations, for example, through sending out circulars to all workers, and provide ample time for workers to submit their views and demands;

- Conduct research: Fund the women's unit or equality unit to enable it to research women's concerns, such as tracking promotions by sex, cataloguing sexual discrimination cases, etc.;
- Send out simple questionnaires to all workers, and allow them to fill out the questionnaire in the language of their choice;
- Obtain information on what is happening at the various levels of social dialogue;
- Examine what happened in earlier negotiations;
- Hold consultation on issues for collective bargaining and, if draft policy available, circulate among all workers for comments and suggestions;
- Provide specific opportunities for women workers to make their voices heard.
- Devise innovative ways of obtaining the views of those who are absent or silent at meetings.

February 2001 13,572 women had responded, of whom some 27.1 per cent were non-unionized. The regional distribution was as follows: Africa: 15.7 per cent, Americas 18.0 per cent, Asia/Pacific 19.6 per cent, Central and Eastern Europe 26.7 per cent, other Europe 20.1 per cent. Each respondent was asked to check 3 out of 15 issues of priority to them. Their list of priorities is indicated below:

1. Higher pay	52.2 per cent
2. Job security	37.1
3. Respect on the job	26.3
4. Retirement security	25.4
5. More control over work hours	23.8
6. Career development and training	23.7
7. Health and safety at workplace	22.1
8. Equal pay	22.0
9. Child care and after-school care	19.9
10. Promotions	16.5
11. Health insurance	14.1
12. Fair pay and benefits for part-time, etc.	13.9
13. Stronger programmes to end all forms of discrimination	8.8
14. Maternity leave	8.6
15. Elder care	7.1

When asked whether unions were addressing these issues, the responses were:

Frequently	35.0 per cent
Occasionally	34.1

All the time	14.5
Rarely	13.3
Never	3.0

The most important reasons given by non-unionized women for not joining unions were:

- |  |               |
|--|---------------|
| 1. Do not understand how union can help me         | 71.7 per cent |
| 2. Have no time because of family responsibilities | 58.4          |
| 3. No one has approached me                        | 57.6          |
| 4. Negative image of union                         | 50.8          |
| 5. Union not sensitive to my needs                 | 42.4          |
| 6. Union male dominated                            | 38.0          |

These survey findings were mainly confirmed by the AFL-CIO surveys and the responses received on the ICFTU website.

## **PROMOTE AWARENESS AND APPRECIATION OF GENDER ISSUES**

Success at gender collective bargaining hinges greatly on the mutual support and activism of both women and men. All workers, female and male, must be aware of why they should have a stake in bettering the lot of women workers. They must understand the language and meaning of the gender equality agenda for bargaining and what it means to them. It is therefore important that there is a strong educational component and advocacy materials to accompany the key bargaining proposals to help build support among the rank and file members. It is also important to promote gender awareness of employers.

## **SELECT THE NEGOTIATING TEAM**

Choosing the best negotiating team is critical to ensuring success at the negotiating table. The people on the team should reflect union membership and the needs and interests of the membership. Team members should be good negotiators, with clear ideas of the interests of the workers. Strong and articulate women will always make an invaluable contribution in any negotiating team.

Many unions have adopted a specific policy of including women on the negotiating team: by establishing percentage or numerical quotas or by stipulating that certain office bearers (notably the head of the equality/women's committee, department or unit or a female executive member) on the negotiation team. Such a policy of ensuring that women are always represented on the team is more effective and equitable than one of including women only when there are issues to be raised in collective bargaining that are deemed to be of particular concern to women.

However, without properly educating the female representatives about the negotiating process and negotiation techniques, their presence on the teams becomes an act of tokenism. Unions must provide education and training for women delegates in negotiation techniques and the preparation and review of negotiation documents. Such education and training should convince the women that raising gender issues in collective bargaining is valid and important and also equip them with the information and arguments they need to be able to successfully raise gender issues in negotiations.

## **DEVELOP THE GENDER EQUALITY BARGAINING AGENDA**

Unions have to make serious choices in developing their collective bargaining agendas. They need to represent the interests of all their members and, importantly, to develop an agenda which best represents their bargaining goals.

Union members will prioritize all union proposals, including gender equality proposals, for collective bargaining. At this time, it will be necessary to ensure that gender demands are not subsumed under more general, but no doubt important, union demands. They must remember that women are often more than half the workforce with equal rights to have their issues on the collective bargaining agenda and, from this perspective, should not be treated as a special group with special demands. The negotiating team will carry out the priorities determined by the union members.

Sometimes, getting an item on the collective bargaining agenda may be more difficult than bargaining with the employer. The negotiating team members often have to juggle competing demands by different groups of workers, and are compelled to make difficult decisions.

In prioritizing gender equality and women's demands on the bargaining agenda

Remember that:

- *Company policies that support women often help men too;*
- *Facilities that appear to most help women, for example, child care, benefit both mothers and fathers, children, families and communities;*
- *Proposals that benefit women have ripple effects that extend to families and communities;*
- *Many proposals that support the entire union membership can have direct positive benefits for women. Better pay, increased safety measures, better lighting, etc. are measures that benefit both women and men.*

The draft collective agreement should be circulated to all members for their approval and support. It is important to educate and inform all members of what the provisions for gender equality or women's concerns are and what these imply. Women members might have to lobby for the acceptance of these provisions.

## BE WELL PREPARED FOR NEGOTIATIONS

Unions need to be well prepared if they are to be successful in gender equality bargaining. Gender workplace issues and women's concerns are obviously a necessary component for promoting equality and social justice. Negotiators must, therefore, be ready to present data and evidence of the monetary and financial benefits of gender equality provisions. They should also carefully examine all clauses of the collective agreement to ensure that they are worded in gender-neutral language and they are not discriminatory, either explicitly or implicitly. It is also important to ensure that adequate resources are allocated and mechanisms specified within the collective agreement to allow for proper implementation and monitoring.

Arguments to convince employers at the bargaining table that promoting gender equality at the workplace is both the right thing and the smart thing to do:

- *in terms of recruitment, equal opportunity policies would attract more qualified women to apply to work in the company;*
- *equitable hiring, promotion and training policies would enable a company to make the most of available human resources and increase productivity;*
- *flexible working time, family leave arrangements and other family friendly policies can reduce absenteeism and even staffturnover;*
- *provisions for safe work environments benefit both male and female workers, ensure a healthy and productive workforce and may reduce the costs of health insurance premiums as well as legal liability for accidents;*

- *gender equality benefits can increase an employee's organizational commitment and loyalty;*
- *in difficult economic times, gender equality bargaining may be easier to negotiate and less costly than other wage or monetary benefits;*
- *gender equality and non-discrimination provisions would enhance the positive and progressive image of the company – more and more companies today are proud to be able to label themselves equal opportunity employers;*
- *in today's global economy where consumers are more aware and sensitive to the labour conditions in which their products are produced, a company's public image would be enhanced by demonstrating a commitment to gender equality and workplace ethics.*

## AT THE NEGOTIATION TABLE

To effectively introduce gender equality demands at the negotiation table requires the presence of active and informed negotiators, including women. The emphasis should be on their active participation. Unions should make efforts to establish with the management and with all the rank and file members the legitimacy of their female negotiators, as well as the validity of the gender equality demands presented.

There is a tendency to discount gender equality issues at the workplace as of low priority for collective bargaining. Since women negotiators serve as a crucial link between the women constituents of a union and their workplace, these negotiators should be assisted to adequately and effectively raise gender concerns in the negotiations. The union should organize surveys, open dialogue sessions, womenonly meetings, etc. to enable the negotiators to become aware of the pertinent issues within their workplace, to compile solid evidence of the need for gender provisions within work contracts, as well as to establish the support of the union constituency for such demands. The access of the women negotiators to solidarity networks is also important – so that they have opportunities to acquire technical cooperation or assistance from other unions or equality groups, exchange information, compile data, etc.

The active support of the male leadership is also critical for establishing the legitimacy of the women negotiators. When entering a bargaining scenario, each negotiator, male and female, should be introduced to the management as equally qualified representatives of the union.

In the course of bargaining, it must be ensured that women negotiators are given an equal opportunity to speak and contribute to the proceedings. If a situation transpires in which this does not occur, female representatives should be directly asked for their views and encouraged to contribute their perspectives. 'When female negotiators do present a gender issue for bargaining, other male representatives should express their complete support for the demand. A divided bargaining team is a weak bargaining team. It would be even more impressive

if the male representatives could be the ones to raise the gender equality demands – and this can very easily happen if all members have been well gender sensitized.

## FOLLOW-UP AFTER THE NEGOTIATIONS

Promoting gender equality in employment does not end once the collective agreement is signed. Following up the collective bargaining process is essential, otherwise the gains for women workers might exist on paper only.

Firstly, unions and companies must ensure that employees' rights and privileges under the new agreement are widely publicized. Including gender issues in collective bargaining produces little change if workers are not aware. Such victories at the bargaining table may also be used by unions to further publicize their commitment to promoting the interests of their whole constituency, male and female. Additionally, they may be used by union organizers as a way of attracting new members.

It is essential to ensure that there are mechanisms for achieving and monitoring implementation of the agreement and for collecting and disseminating information on the impact and outcomes of the agreement in practice. Monitoring may be conducted through independent ad-hoc committees or, joint ad-hoc committees.

Affiliated unions should report to the national centre on progress on equality bargaining. Unions are also recognizing the benefits of joint partnerships with other local human rights and non-governmental organizations in helping to monitor workplace practices based on collective agreements or self-stated corporate codes of conduct.

Research has identified a number of factors that are likely to encourage or discourage gender equality bargaining:

**Factors relating to trade unions include:**

- the extent to which women's voice is heard within the union, including women's proportion of the membership and their participation in the union;
- the extent to which women have power within the union and the extent to which those in power (men or women) have a commitment to equality;
- the importance attached to equality bargaining in the union;
- the existence and nature of the policies and structures to give this effect.

Factors relating to employers (at the company level) include:

- labour market and competitive position;
- workforce composition (including proportion of women);
- actual or desired employer image;

- management style and culture;
- identity and role of key individuals within the organization, including matters of ownership and control.

**Factors relating to the nature and structure of collective bargaining within an organization:**

- the extent of recognition afforded to the union by the employer;
- the quality of the bargaining relationship;
- the nature, power and discretion of the negotiators;
- the way in which bargaining agendas are constructed;
- links between equality structures in employer or union organizations on the one hand and negotiation structures on the other, and the relationship between the different bargaining agents/units.

Source: Bercusson, B. and L. Dickens. 1998. Equal Opportunities and Collective Bargaining in Europe Defining the Issues. Dublin: European Foundation for the Improvement of Living and Working Conditions, p.40.

## SOME BASIC CONCEPTS

*Gender: refers to the socially determined differences between women and men such as roles, attitudes, behaviours and values.*

*Sex: identifies the biological differences between women and men. While sex is genetically determined, gender roles are learned, vary widely within and between cultures, and are thus amenable to change over time.*

*Gender Equality: Equal rights, responsibilities and opportunities of women and men, girls and boys. Gender equality is not just a "women's issue" - it concerns men as well. Equality does not mean that women and men will become the same, but that women's and men's rights, responsibilities and opportunities will not depend on whether they are born male or female.*

*Sameness or difference: Gender equality does not mean **same treatment**. If gender equality is seen as requiring men and women to be treated the same, this may lead to women being offered equality only on male terms (eg. only if they can conform to male-centred norms or requirements) and may reinforce the notion that difference = disadvantage. It is also important to address changes in male-gendered (but often taken as neutral) organizational and occupational structures, practices, cultures, norms, value systems, etc. Such changes may require "women-friendly" provisions to help women adapt to, or get on within structures as they currently are, or, alternatively, call for changes in those structures, cultures, etc. to accommodate women.*

***Discrimination:** Any distinction, exclusion or preference based on designated criteria such as race, colour, sex, religion, political opinion, national extraction, social origin or other designated criteria which have the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. The existence of discrimination in fact (in reality or in practice) is **de facto discrimination** (a legal expression). The existence of discrimination in law is **de jure discrimination** (a legal expression).*

**Direct or indirect discrimination:** Sex discrimination can be overt or direct discrimination or more subtle, indirect discrimination. Employers may discriminate against women directly by limiting applications for certain jobs to only men or only women. Discrimination is indirect when employers impose criteria for applicants or specific characteristics which are not closely related to the inherent requirements of the job, as a screening device. The purpose of the screening is either to exclude women or to obtain workers of a certain type. Many jobs are still seen as exclusively 'male' jobs or female jobs.

#### **The promotion of gender equality: basic policy and programme concepts**

##### **Gender-blind and gender neutral policies and programmes**

'Gender-blind' policies and programmes do not distinguish targets, participants or beneficiaries by sex or gender.

'Gender-blind' policies and programmes are not necessarily gender-neutral' in impact, that is they do not necessarily affect men and women in the same way.

##### **Gender analysis:**

The systematic effort to identify and understand the roles and needs of women and men in a given socio-economic context. To carry out gender analysis, it is necessary to collect statistics by sex, identify gender differentials in the division of Labour and the access to and control over resources, identify the practical and strategic gender needs of women and men, identify the constraints and opportunities facing women and men and assess the institutional capacities to promote gender equality.

##### **Gender planning:**

Gender planning consists of developing and implementing specific measures and organizational arrangements for the promotion of gender equality, identifying how to incorporate gender concerns into mainstream activities and ensuring that adequate resources are earmarked.

##### **Gender mainstreaming:**

A strategy for making the concerns and experiences of women as well as of men an integral part of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres and at all levels, so that women and men benefit equally and inequality is not perpetuated. The ultimate goal of mainstreaming is to achieve gender equality.

##### **Positive or affirmative action:**

To eliminate the current direct and indirect consequences of past discrimination, special measures may need to be designed in order to achieve de facto equality of opportunity and treatment. Such positive measures (also termed affirmative measures) are intended to be temporary: once the consequences of past discrimination have been rectified, the measures should be removed. Positive action is seen as essential for the achievement of genuine equality between women and men in the world of work and society. Positive action may encompass a wide range of measures, including corrective actions such as setting targets for women's participation in activities from which they have previously been excluded, or promotional measures designed to give women access to wider opportunities.



## MODULE 2

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# **THE ISSUES AND GUIDELINES FOR GENDER EQUALITY BARGAINING**



## THE ISSUES FOR GENDER EQUALITY BARGAINING

Unions are nearly unlimited in the types of issues which they might present for negotiations. Every worker, irrespective of sex, race, colour, religion, political opinion, national or social origin, age, sexual orientation, disability has the right to an equitable, fair and safe work environment as well as the right to be able to fulfil responsibilities relating to his/her personal and family life. As such, any issue which is identified as eliminating direct or indirect discrimination, promoting equality of opportunity and treatment or more effectively balancing work and family responsibilities is a legitimate issue for collective bargaining.

Gender equality bargaining can be a powerful mechanism through which unions can either reinforce existing rights under legislation or previous collective agreements through devising practical methods of implementation, or extend workplace rights on issues which have traditionally been ignored. Unions may strategically choose which issues they will present for negotiations. Their choice will depend on those factors which may affect their bargaining leverage and success, such as the state of the local or national economy, the current state of the labour market, the economic situation of the company, or the public image of the company. The list below of issues that a union may want to raise from a gender perspective is not set out in any particular order.

### **Non-discrimination and dignity at the workplace**

- trade union activities
- sex discrimination
- sexual harassment
- violence at the workplace
- equal opportunities in hiring and promotion
- equal access to education and training programmes
- affirmative action to give women a voice at all levels of the establishment

### **Wages and benefits**

- Equal Pay
- Job classification
- Pensions
- Transport benefits
- Medical benefits
- Overtime entitlements

- Bonus systems
- Housing benefits
- Dependent allowances

### **Maternity protection and family responsibilities**

#### **Maternity**

- non-discrimination against pregnant and nursing women
- maternity leave and cash benefits
- job security
- reproductive health care
- leave for prenatal checkups
- rights of pregnant and nursing mothers
- adoption

#### **Family responsibilities**

- paternity leave
- parental leave
- family leave
- child care facilities
- care of the elderly or disabled
- reproductive health services
- protection against discrimination or victimization

#### **Hours of work**

- Basic hours and overtime
- Night work
- Part-time work
- Flexible working time
- Job sharing
- Expectant and nursing mothers
- Time off for family responsibilities

#### **Leaves of absence**

- paid annual leave
- compassionate or bereavement leave
- maternity/paternity/parental leave
- medical or sick leave
- paid education or training leave
- other personal leave (for marriage, etc.)

#### **Health, safety and the work environment**

- health and environmental hazards
- ergonomics
- health and safety committees and safety representatives
- personal protective equipment
- welfare facilities and services
- disabled workers
- duty to accommodate
- reproductive health
- HIV and AIDS information
- impact of new technologies

#### **Defending rights of non-permanent and vulnerable workers**

- categories — casual, temporary, task workers, seasonal, contract, part-time, rural, homeworkers, domestic, migrant, indigenous and tribal
- extend general conditions to such workers
- eliminate child labour
- avoid non-permanent status for permanent work

## **BARGAINING CHECKLISTS FOR KEY GENDER EQUALITY ISSUES**

### **Ending Discrimination and Promoting Equal Opportunities**

#### *a. Sex discrimination*

Just as trade unionists may be discriminated against merely for being trade unionists, some women face discrimination merely because they are women or because of their marital status or family responsibilities. Women may face discrimination in areas such as recruitment, promotion, training opportunities, job assignments, dismissal and lay-offs.

Sex discrimination can be overt or direct discrimination or more subtle, indirect discrimination. Employers may discriminate against women directly by limiting applications for certain jobs to only men or only women. Discrimination is indirect when employers impose criteria for applicants or specify characteristics which are not closely related to the inherent requirements of the job, as a screening device. The purpose of the screening is either to exclude women or to obtain workers of a certain type. Many jobs are still seen as exclusively 'male' jobs or 'female' jobs.

## **ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111)**

### Article 1

1. For the purpose of this Convention the term “discrimination” includes:
  - (a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;
  - (b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers’ and workers’ organisations, where such exist, and with other appropriate bodies.
2. Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.
3. For the purpose of this Convention the terms “employment” and “occupation” include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

Unions can negotiate for provisions in collective agreements to protect women against direct and indirect discriminatory practices:

- General equal opportunities clause, expressing the commitment of the union and the employer to promoting equal opportunities for women and men;
- Opportunities for women, including those with non-permanent contracts, to apply for all positions and to benefit from training programmes;
- Non-discrimination against workers with family responsibilities, in particular with respect to promotion and advancement;
- Avoid informal systems of recruitment that often prejudice women;
- Carefully determine what training, education or past experience is actually needed for a position, as well as whether age limits or mobility requirements are absolutely essential;
- Job application forms should include only those questions relevant to the job;
- If the candidate is successful, then questions such as marital status and number of children can be asked if linked to particular benefits;
- Neutral job descriptions — if they are gender-specific, stereotypes are enforced. Women may also feel excluded;
- Gender-inclusive language in the collective agreement — if possible avoid saying ‘the worker, he shall...’. Gender-inclusive language shows a commitment to equality;

- Equality officer or women's committee to implement objectives and review progress;
- Training in equal opportunities issues for all those involved in recruitment and negotiations;
- Reversal of burden of proof— once a worker can show she/he was disadvantaged, it is for the employer to prove that it was not on the basis of sex.

The burden of proof is an important issue in the context of sex discrimination and should be discussed in negotiations. Especially since discrimination tends to be indirect, it may be important to negotiate for the reversal of the onus of proof. Once a worker can show that she/he was disadvantaged, it is for the employer to prove that it was not on the basis of sex.

*b. Equal opportunities agreement*

To protect workers from both overt and more subtle forms of discrimination and victimization, unions can negotiate an equal opportunities policy and agreement.

When preparing to negotiate or review an equal opportunities agreement with employers, union negotiators may find the following questions useful:

- Do you have an equal opportunities agreement?
- Do all members and prospective members know about it?
- Is it published or advertised?
- Is it monitored?
- Is it reviewed by management and union representatives? If so, how and how often?
- Does it deal with job segregation, or lack of promotion for women?
- Does it commit management to take positive action where the policy is not working? If so, what positive action has been taken and is it showing results?
- Are management and employees trained on the policy? Is the training regularly updated?
- Is there a joint union/employer equal opportunities committee? Does it meet on a regular basis?
- Is there an agreed procedure for investigating complaints about recruitment, appointments and promotions?
- Can staff get paid time off to attend union training on equal opportunities?

- Does the agreement demand that all collective agreements are reviewed to eliminate any sex bias?

### Equal opportunity measures

The equal opportunities policy and agreement can cover four main types of measures:

1. **Barrier elimination measures** to remove or change policies and practices which cause a particular sex or group of workers to be excluded from certain occupations or which limit them to a small unrepresentative number. Such measures could include:
  - posting or advertising jobs in a variety of media;
  - restricting testing and other selection criteria to 'bonafide' job requirements;
  - fair assessment of prior learning, foreign credentials, work/volunteer experience and skills;
  - leave of absence provisions to accommodate needs of all workers;
  - workplace documentation, notices provided in all workers' languages and on tape for visually impaired workers.
2. **Positive or affirmative action measures** or special efforts which are put in place over a period of time to offset imbalances due to past discrimination. These measures reflect the understanding that without temporary measures to alter past discriminatory structures, efforts to achieve equality will be unjustifiably slow, and also that economic efficiency is impaired by the under-utilization of the potential of a large segment of the workforce. There are normally four components:
  - corrective action, such as setting numerical targets for women's participation in activities from which they had been excluded;
  - promotional measures, designed to redress the cause of discrimination, such as giving women wider access to opportunities for vocational training and employment in non-traditional sectors;
  - a time table to attain set objectives and to apply measures;
  - supervisory machinery to monitor progress, assess difficulties and make the necessary adjustments.
3. **Supportive measures** which are similar to positive measures, except that they also benefit all employees, whether or not they are a designated sex or group member. These measures could include:
  - policies to address balancing of family and work responsibilities;
  - anti-discrimination and anti-harassment policies, including provision of training and education for all workers;
  - education and communication programmes to dispel myths and promote acceptance and understanding of equal opportunities;
  - mentoring programmes.
4. **Accommodation measures** to ensure that jobs, tools and workplaces "fit" women or members of the designated group. They could include:
  - work related assistive devices and access to updated and appropriate technology and software required to perform job duties;
  - flexible hours, modified job duties;

- ensuring accessibility of buildings and facilities and areas within buildings;
- accessible work areas appropriately equipped;
- dress codes which accommodate women and cultural minorities.

Source: Canadian Labour Congress. Bargaining for Equality. CLC Women's Symposium November 1-3 1998. Website: <http://www.clc.ctc.ca/woman/bargntc.html>

### *c. Training and Promotion*

Women are often denied access to training and promotion which limits their ability to meet the challenges of changing technologies and to advance in their jobs.

Employers often perceive that women are more likely to leave employment because of family responsibilities and hence do not invest in upgrading their skills and fully developing their capacities. Women are also under-represented in senior positions both because of stereotyped assumptions and interrupted work histories. Without the opportunity to upgrade their skills and qualifications, women will continue to be denied the opportunity to move to higher paid jobs. Unions can negotiate to:

- Press for greater training and richer task-assignment opportunities for women, including those in non-permanent positions;
- Ensure that women workers have access to information on training opportunities; EEJ Make company training programmes more flexible and responsive, so that women workers can be more adaptable and multi-skilled, rather than having traditional stereotyped vocational and sex-segregated skills. It is important that there are provisions to ensure that women are able to avail themselves of training opportunities, eg. through flexible training schedules and childcare facilities;
- Where necessary, provide reserved places for women in training and retraining opportunities, and set targets or quotas, with clear timetables, for recruitment or promotion;
- Ensure that training programmes have the following objectives:
  - meeting the skills needs of new and growing occupations [Remember: occupations in information and communications technology];
  - enhancing the skills of workers to cope with changes in equipment, job specification and work organization;
  - multi-skilling to improve flexibility;
  - retraining for workers whose jobs have been abolished or redesigned;

- Ensure that skill upgrading and job-enrichment are duly recognized in individual evaluation procedures and calculation of pay and for career progression;
- Make all selection and promotion systems transparent and establish union participation in procedures;
- Ensure that women receive credit for work-related experience and that they do not lose their seniority due to career breaks.

### **ILO Human Resources Development Recommendation, 1975 (No.150)**

#### **VIII. Promotion of Equality of Opportunity of women and Men in Training and Employment**

- (1) Measures should be taken to promote equality of opportunity of women and men in employment and in society as a whole.
- (2) These measures should form an integral part of all economic, social and cultural measures taken by governments for improving the employment situation of women and should include, as far as possible :
  - (a) educating the general public and in particular parents, teachers, vocational guidance and vocational training staff, the staff of employment and other social services, employers and workers, on the need for encouraging women and men to play an equal part in society and in the economy and for changing traditional attitudes regarding the work of women and men in the home and in working life;
  - (b) providing girls and women with vocational guidance on the same broad range of educational, vocational training and employment opportunities as boys and men, encouraging them to take full advantage of such opportunities and creating the conditions required for them to do so;
  - (c) promoting equality of access for girls and women to all streams of education and to vocational training for all types of occupations, including those which have been traditionally accessible only to boys and men, subject to the provisions of international labour Conventions and Recommendations.
- (4) promoting further training for girls and women to ensure their personal development and advancement to skilled employment and posts of responsibility, and urging employers to provide them with the same opportunities for extending their work experience as offered to male workers with the same education and qualifications;
- (5) providing day-care facilities and other services for children of different ages, in so far as possible, so that girls and women with family responsibilities have access to normal vocational training, as well as making special arrangements, for instance in the form of part-time or correspondence courses, vocational training programmes following a recurrent pattern or programmes using mass media;
- (6) providing vocational training programmes for women above the normal age of entry into employment who wish to take up work for the first time or re-enter it after a period of absence.

#### *d. Sexual harassment*

Sexual harassment is a serious, although often misunderstood. It is

also a safety and health issue at the workplace.

Legal definitions vary from country to country, but the one paramount principle is that sexual harassment refers to sexual conduct which is unwanted by the recipient.

Sexual harassment can take many forms and may include:

1. deliberate and unsolicited physical contact or unnecessarily close physical proximity;
2. repeated sexually-oriented comments or gestures about the body, appearance or life-style of a protected person;
3. offensive phone calls, letter or e-mail messages;
4. stalking;
5. showing or displaying sexually explicit graphics, cartoons, pictures, photographs or Internet images;
6. questions or insinuations about a protected person's private life;
7. persistent invitations to social activities after the protected person has made it clear they are not welcome; and
8. sexually explicit jokes or propositions.

Men may be victims of sexual harassment, but most often it is women who suffer – because of societal attitudes and their often precarious employment position. Those in low-status jobs or with precarious employment contracts find it difficult to complain or seek support for fear of jeopardizing their job. Sexual harassment can result in:

- the victim leaving a job rather than face the harassment;
- biased job evaluations or poor personal recommendations;
- demotion, transfer, dismissal and loss of opportunity for training or promotion prospects and job security;
- stressful and hostile working environment that can lead to mental and physical illness for the victim and an uncomfortable atmosphere for other workers. Victims of sexual harassment suffer tension, anger, anxiety, depression, insomnia, stress-related medical problems such as headaches, digestive disorders, etc.;
- victims often suffer loss of face and social rejection, leading to family hardship and even break-up;
- the harasser jeopardizes the victim's future job opportunities by giving the victim a bad reference or bad reputation.

## WAGES AND BENEFITS

### a. Equal Pay

In the survey of trade unions [accompanying report], equal pay was the second most common gender matter (after maternity protection) included in collective agreements. Worldwide, women continue to earn 20-30 per cent less than men. In the recent ICFTU Ask a Working Woman Survey, equal pay ranked eighth and higher pay ranked first among the respondent's priorities.

To bargain for equal pay for work of equal value, unions could:

- As a first step, gather information to establish a general picture of gender and pay; and
- Ensure that job evaluation systems are gender neutral.

### b. Job Evaluation

Job evaluation is important to ensure equal pay, particularly in situations where women and men do not normally work alongside each other. Job evaluation is a comparison of the relative value of different jobs in terms of the level of demand the work makes on the average worker. The abilities of the individual workers are not measured. Where sex stereotypes are used in the process of evaluation, this can result in the undervaluation of the jobs mainly held by women.

Unions should, therefore, bargain for the use of gender neutral job evaluation criteria that define and value factors in an objective manner — taking into account only those aspects required to perform the work to the expected level of accuracy and efficiency, without being influenced by feminine stereotypes or bound by traditional criteria; and that conceptualize work as having human relations skills and emotional aspects, as well as mental and physical aspects.

#### Gender neutral job evaluation criteria

##### I. Objective job evaluation criteria:

1. Knowledge and Skills
2. Physical Skills
3. Mental Skills
4. Communication Skills
5. Human Relation Skills

##### II. Effort:

1. Physical demands

2. Mental demands
3. Emotional demands

**III. Responsibility (for):**

1. Information and material sources
2. Direct supervision over other employees
3. Direct responsibility for the well-being including health and safety of other people
4. Planning, organisation and development

**IV. Working Conditions:**

1. Hazards - exposure, risk of injury, diseases
2. Environment exposure to disagreeable working environment etc

### c. Pensions

Pensions are deferred pay — pay a worker gets after he/she retires. So the right to a decent pension is important for women. It is another aspect of equal pay. The social security offered by pensions is also important because women are making up the majority of the over 60 years population in almost every country of the world. In addition, more and more women in the world today can expect to be single, separated, divorced or widowed and need a pension in their own right.

But women are often disadvantaged regarding pension schemes because:

- The types of work women are involved in often do not have pension plans;
- Many women work on a part-time basis and tend to be excluded from employer pension plans;
- Even when they are covered by pension plans, women's lower wages result in lower pension benefits;
- More women than men have interrupted work histories due to family responsibilities or women enter the workforce later having had their families;
- Pension schemes are often designed assuming contributions based on continuous full time working life, so that those who have interrupted employment or delayed entry may not receive an adequate pension upon retirement.

Unions need to monitor and counter these trends through collective bargaining to ensure that older women workers have financial security upon retirement. They should also take into account that more and more workers are changing employment over the course of their lives.

## FAMILY-FRIENDLY POLICIES

Harmonising working life and family responsibilities is a challenge for both women and men. Yet it is often women who bear the biggest burden of earning an income while still assuming the care of children and other family members and taking care of domestic chores. This double burden is acutely felt in many countries where domestic roles are perceived as entirely feminine yet the need for cash income is forcing more and more women to seek paid work. Changing economic, demographic, social and migration patterns also mean that women are increasingly becoming heads of households, solely responsible for income generation and running their homes.

Trade unions have a crucial role in easing this burden through bargaining for 'family-friendly' policies at the workplace, benefiting both men and women workers, their families and communities. There is a broad range of family-friendly measures which trade unions can include in collective agreements, such as child-care, elder care, maternity protection and benefits, family leave and alternative work schedules.

### Advantages of family friendly policies

Employers benefit from:	Employees benefit from:
<ul style="list-style-type: none"> <li>□ improved employee commitment improved retention of skilled workers</li> <li>□ increased returns on training and investments</li> <li>□ reduction in absenteeism and unplanned absences</li> <li>□ reduction in costs associated with staff attrition and workers' compensation</li> <li>□ improved staff morale</li> <li>□ improved occupational health and safety performance</li> <li>□ enhanced public image and competitive edge in recruiting</li> </ul>	<ul style="list-style-type: none"> <li>□ improved level of communication with family members</li> <li>□ enhanced career and development opportunities</li> <li>□ maintenance of skills</li> <li>□ greater focus and energy at work, along with increased motivation and job satisfaction</li> <li>□ increased job security arising from the knowledge that a commitment to family will not be viewed as lack of commitment to the organization</li> <li>□ reduction in stress as a result of flexible and more suitable working arrangements</li> <li>□ maintenance of physical and emotional health</li> </ul>

ILO Workers with Family Responsibilities Convention, 1981 (No.156)

## ILO Workers with Family Responsibilities Convention, 1981 (No.156)

### Article 1

1. This Convention applies to men and women workers with responsibilities in relation to their dependent children, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.
2. The provisions of this Convention shall also be applied to men and women workers with responsibilities in relation to other members of their immediate family who clearly need their care or support, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.

### Article 2

This Convention applies to all branches of economic activity and all categories of workers.

### Article 3

1. With a view to creating effective equality of opportunity and treatment for men and women workers, each Member shall make it an aim of national policy to enable persons with family responsibilities who are engaged or who wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities.
2. For the purposes of paragraph 1 of this Article, the term “discrimination” means discrimination in employment and occupation as defined by Articles 1 and 5 of the Discrimination (Employment and Occupation) Convention, 1958.

### Article 4

With a view to creating effective equality of opportunity and treatment for men and women workers, all measures compatible with national conditions and possibilities shall be taken :

- (1) to enable workers with family responsibilities to exercise their right to free choice of employment; and
- (2) to take account of their needs in terms and conditions of employment and in social security.

### Article 8

Family responsibilities shall not, as such, constitute a valid reason for termination of employment.

## a. Childcare

Childcare is a necessity for working parents. Childcare provisions are not only about full-time daycare for pre-school children. Working parents also need care for school-age children before and after school; back-up for sick children or in emergencies; and care for children during evenings, weekends, holidays and when parents are working non-standard hours. Unions can negotiate for various options to solve these child care problems:

- Day care
- Creche
- After school care
- Child care allowance
- Holiday pay scheme
- Child care information services.

Allocations or facilities may be provided by the employer, the State or in some cases co-sponsored by unions and employers.

- **Resource and referral:** finding high quality, reliable and affordable care can be very difficult for working parents. Resource and referral services can help employees with appropriate and available child care providers, taking into consideration the special needs of each family. An employer may contract with an outside agency or handle referrals in-house. Resource and referral services also can help develop child care resources in an area if no appropriate child care exists.
- **Child care tax programmes and funds:** Such programmes or funds can be in the form of tax programmes, such as a dependent care assistance plan or flexible spending account, a child care fund or a direct financial assistance arrangement.
- **Providing child care:** Setting up a child care centre is a costly and time-consuming process.

Before negotiating for a child care centre, the union needs to consider the needs of members: do they prefer in-home or centre care. If the union decides to set up a centre, some important questions are:

- will the centre be profit or non-profit,
- will the centre be funded through employer contributions, parent fees or other sources,
- who will manage and operate the centre and how will the standards be monitored,
- what will the terms and conditions of work of the child care workers in the centre?
- **Backup and sick child care:** Backup care can be provided for mildly sick children. Backup care can be provided through a special programme, such as employer subsidies for in-home care or a backup centre, or by allowing parents to use their sick time to care for sick children.
- **Extended hours/before and after school care:** Many working parents need child care before 9am and after 5pm, including before and after school hours and during extended hours when parents are working shifts.

## **b. Maternity protection and benefits**

Maternity protection and benefits represent the gender equality issue most frequently included in collective agreements. Although pregnancy and maternity are uniquely biologically specific to women, reproduction itself is a social function which should be protected for both women and men. Pregnancy and maternity should not restrict women from their right to work and should not constitute grounds for discrimination against them. Collective bargaining should therefore ensure that:

- Statutory rights to maternity protection are observed;
- Improvements are made to the protection and benefits provided by law;
- Maternity protection is covered in the collective agreement in those countries where there are still no legal provisions.

Maternity protection and benefits should be viewed as a package including nondiscrimination, job security, maternity leave, cash benefits, health protection measures and nursing breaks. Unions can bargain to ensure:

### **ILO Maternity Protection Convention, 2000 (No.183)**

#### Scope Article 2

1. This Convention applies to all employed women, including those in atypical forms of dependent work.

#### Article 3

Each Member shall, after consulting the representative organizations of employers and workers, adopt appropriate measures to ensure that pregnant or breastfeeding women are not obliged to perform work which has been determined by the competent authority to be prejudicial to the health of the mother or the child, or where an assessment has established a significant risk to the mother's health or that of her child.

#### Article 4

1. On production of a medical certificate or other appropriate certification as determined by national law and practice, stating the presumed date of childbirth, a woman to whom this Convention applies shall be entitled to a period of maternity leave of not less than 14 weeks.

#### Article 5

On production of a medical certificate, leave shall be provided before or after the maternity leave period in the case of illness, complications or risk of complications arising out of pregnancy or childbirth. The nature and the maximum duration of such leave may be specified in accordance with national law and practice.

#### Article 6

1. Cash benefits shall be provided, in accordance with national laws and regulations, or in any other manner consistent with national practice, to women who are absent from work on leave referred to in Articles 4 or 5.
2. Medical benefits shall be provided for the woman and her child in accordance with national law and regulations or in any other manner consistent with national practice.

Medical benefits shall include prenatal, childbirth and postnatal care, as well as hospitalization care when necessary.

3. In order to protect the situation of women in the labour market, benefits in respect of the leave referred to in Articles 4 and 5 shall be provided through compulsory social insurance or public funds, or in a manner determined by national law and practice. An employer shall not be individually liable for the direct cost of any such monetary benefit to a woman employed by him or her without that employer's specific agreement.

#### Article 8

1. It shall be unlawful for an employer to terminate the employment of a woman during her pregnancy or absence on leave referred to in Articles 4 or 5 or during a period following her return to work to be prescribed by national laws or regulations, except on grounds unrelated to the pregnancy or birth of the child and its consequences or nursing. The burden of proving that the reasons for dismissal are unrelated to pregnancy or childbirth and its consequences or nursing shall rest with the employer.
2. A woman is guaranteed the right to return to the same position or an equivalent position paid at the same rate at the end of her maternity leave.

#### Article 9

1. Each Member shall adopt appropriate measures to ensure that maternity does not constitute a source of discrimination in employment, including - notwithstanding Article 2, paragraph 1 - access to employment.
2. Measures referred to in the preceding paragraph shall include a prohibition from requiring a test for pregnancy or a certificate of such a test when a woman is applying for employment, except where required by national laws or regulations in respect of work that is (a) prohibited or restricted for pregnant or nursing women under national laws or regulations; or (b) where there is a recognized or significant risk to the health of the woman and child.

#### Article 10

1. A woman shall be provided with the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.

### c. Family Leave

Family leave allows employees to take time off work to care for their families or recuperate from serious illnesses with a guaranteed job when they return.

- **Paternity Leave:** A male worker whose spouse/partner has a baby requires time off from work to attend to the pressing family needs surrounding birth. Paternity leave also gives an opportunity for the father to bond with the new child and to accept family responsibilities. It is important that the rate of pay for such leave is considered. Rather than calculating paid leave on the basis of basic pay, average earnings (including average overtime pay) could be used. Paternity leave can be negotiated not just in the event of birth but also to cover the adoption of a child. Leave

might also be given in the case of miscarriage or a stillbirth.

- **Parental leave (paid and unpaid):** Parental leave is taken by mothers and fathers to care for newborn, newly adopted or foster care children. The best parental leave language provides for paid leave, but many contracts offer unpaid leave as well.
- **Family Leave:** Family leave is broader in scope than parental leave in that it gives an employee the right to take time off from work not only to care for a newborn or newly adopted child but also to care for a family member who is seriously ill or for other family related reasons.
- **Part-time return to work:** Many new parents want to work part-time after children are born or adopted. Unions can also negotiate for a parent to work part-time for a defined period, for example, up to two years at the end of which time the worker decides whether he or she wants to remain permanently part-time or to return to full-time.
- **Short-term leave:** Working families often need the flexibility to take short periods of time off from work, such as a day or two, a half day or just a few hours. Unions can bargain contracts allowing members to take time off for various personal reasons, including school-related activities and adoption proceedings.
- **Donated leave and leave banks:** Some union contracts allow employees to donate their own leave directly to another employee who has used all of his or her own leave or to a leave bank. Donated leave and leave banks usually are reserved for employees experiencing serious family or personal crises.

## HOUSE OF WORK

### a. Flexible Working Time

Flexible working time agreements allow employees to start and end work during some range of hours. Management could be persuaded to be flexible on working hours. The benefits of flexibility for both management and workers should be identified. The union can negotiate the terms and methods of monitoring flexi-time.

### b. Part-time Work with Benefits

The majority of part-time workers tend to be women. For some women, part-time work is a necessity because of their family responsibilities and the

lack of dependent care facilities. But many women have no choice because there are no full-time jobs available.

Bargaining can be used to ensure that:

- Various types of part-time work arrangements are possible;
- There is equal treatment for part-time and full-time workers, including the same basic hourly and overtime pay rates;
- Part-time employees receive the same benefits and have the same conditions as full-time employees;
- Part-time workers have rights with respect to lay-off, including severance pay;
- Avoid thresholds built into eligibility requirements and qualifying conditions, such as minimum number of hours worked or earnings.

### c. Other Types of Alternative Work Schedules

Alternative work schedules allow men and women to balance the responsibilities of working life and family life. Women especially may have difficulties keeping to fixed schedules because of family responsibilities. Unions can develop many creative strategies to give workers, especially women, greater control over their work lives, and bargain for a broad range of alternative work schedules:

- **Telecommuting:** is working from a site other than the central worksite, usually home. Unions have traditionally opposed telecommuting because work at home is difficult to regulate and could easily become “sweatshop” labour. Another union objection is that workers who telecommute become isolated from each other and difficult to organise. However, telecommuting can offer workers a great deal of flexibility. Women are much more likely than men to be engaged in telecommuting.
- **Job sharing:** Under a job-sharing arrangement, two part-time employees share one full-time job, taking responsibility for the tasks to be done. The two employees divide the full-time salary between them according to hours worked. Benefits and seniority often are pro-rated according to hours worked, although in some job-sharing situations both may receive full benefits and/or seniority. Union can negotiate to ensure that:
  - employee’s right to enter into a job share arrangement is protected. Job sharing should be available to those who want it and at all levels of employment, not just in low-grade jobs;
  - standards are established for job sharing. Job sharers should have the same conditions and access to pay and benefits as full-time workers.

- **Compressed work week:** Compressed work schedules allow full-time workers to work all their hours in fewer than five days per week. Common examples of this are schedules allowing workers to work four 10-hour days for an extra day off per week, or eight 9-hour days and one 8-hour day for an extra day off every two weeks.
- **Making overtime voluntary:** For many working families, being forced to stay at work past the regularly scheduled end time can be very stressful, particularly for working mothers who do not have backup arrangements for child care. Unions can negotiate to make overtime voluntary and thereby protect employees from this loss of power over their daily schedules.
- **Shift swaps:** A shift swap provision in a collective bargaining agreement allows workers to exchange shifts or workdays voluntarily to accommodate family needs.
- **Voluntary reduced time:** allows an employee to reduce the number of hours she or he works in a week in order to have extra time to take care of personal or family needs.

## HEALTH AND SAFETY OF WORKERS

Historically, occupational safety and health concerns have focussed on male dominated occupations, a practice established before the influx of women into the paid labour force. Women's work was assumed to be safe because the more obvious dangers inherent in many male occupations do not exist. However, women are exposed to health and safety hazards in the work place. For example, female industrial workers in highly competitive export-oriented industries, tend to be exposed to a range of physical safety and health problems in the work environment, as well as psychological stress. Women are also more likely than men to work in smaller establishments where occupational safety and health standards are often poor.

Unions need to negotiate health and safety processes and procedures which take women into account and which include access to information and training, workplace joint committees in which women are members, and special provisions for women who are pregnant or nursing. Relying on legislation and labour inspections is not sufficient. Unions should negotiate to ensure:

- Access to information regarding what chemicals or dangerous substances workers are using, and proper instructions, information, labelling and disposal procedures are provided;

- Adequate protective equipment and clothing and training on safety procedures are provided;  
Adequate ventilation and lighting are provided;
- Workers are protected from exposure to extreme temperatures;
- Noise does not exceed legally admissible levels;
- Proper ergonomic principles are adhered to regarding workstation design and working positions, including provisions for work performed seated and/or standing;
- Better designed workstations and tools and improved work organization to reduce the risk of repetitive strain injuries;
- Annual employer-paid eye examinations, especially for those working with computers;
- Separate toilet and rest room facilities for women workers;
- Special health and safety provisions to protect pregnant women and foetuses, including:
  - not assigning pregnant women to heavy manual tasks, night work or arduous tasks;
  - ensuring adequate access and space for movement around machines and equipment;
  - providing sitting facilities;
- granting sufficient rest periods;
- possibility for pregnant or nursing women to transfer to other work where necessary.

### **a. Violence in the workplace**

Violence in the workplace may occur between co-workers or workers may be subjected to violence from customers or clients.

Firstly, there is an increasing number of attacks on workers in general, especially in the service sectors, both public and private. Some workers are more at risk because of the nature of their work. Workers that handle money or valuables, workers that work in care giving institutions, deal with complaints or work with people in distress, those who work alone and those involved in inspecting or enforcing legislation and policies tend to be at highest risk of encountering violence.

Secondly, violence at work, including sexual harassment, can also take the form of a power display, intimidation or abuse from a supervisor or co-worker. Violence between co-workers should be treated as a serious disciplinary (or even criminal) offence and perpetrators disciplined accordingly. Violence

can be physical or emotional and include abuse, assault or threats. Particular forms of violence are harassment, bullying or mobbing.

### **Model collective agreement provisions on violence at work**

1. ***Definition of violence:*** Violence shall be defined as any incident in which an employee is abused, threatened or assaulted during the course of his/her employment. This includes the application of force, threats with or without weapons, severe verbal abuse and persistent sexual and racial harassment.
2. ***Violence policies and procedures:*** The employer agrees to develop explicit policies and procedures to deal with violence. The policy will address the prevention of violence, the management of violent situations and the provision of legal counsel and support to employees who have faced violence. The policies and procedures shall be part of the employer's health and safety policy and written copies shall be provided to each employee.
3. ***Measures and procedures to prevent violence to employees:*** The employer agrees that, in all cases where employees or the union identify a risk of violence to staff, the employer shall establish and maintain measures and procedures to reduce the likelihood of incidents to the lowest possible level. It is understood that the measures and procedures are in addition to and not a replacement for a training programme about dealing with violence. In developing measures and procedures to prevent violence, priority will be given to options such as job redesign, adequate staffing levels and improving the working environment, before considering the need for personal protection or alarms.
4. ***Function of workplace union-employer health and safety committee:*** All incidents involving aggression or violence shall be brought to the attention of the health and safety committee. The employer agrees that the health and safety committee shall concern itself with all matters relating to violence to staff, including but not limited to: (i) developing violence policies; (ii) developing measures and procedures to prevent violence to staff; (iii) receiving and reviewing reports of violent incidents; and (v) developing and implementing violence training programmes. Where no union-employer health and safety committee has been established, the employer agrees to consult with the union.
5. ***Staffing levels to deal with potential violence:*** The employer agrees that, where there is a risk of violence, an adequate level of trained employees must be present. The employer recognizes that workloads can lead to fatigue and a diminished ability both to identify and to subsequently deal with a potentially violent situation.

# ADDITIONAL EXAMPLES AND CASE STUDIES

## Equal opportunities agreements

### 1. UF/Nestle Sweden

“We shall actively and resolutely:

- work to ensure that work places, the organization of work, the working environment and working conditions are generally organized so as to suit both women and men;
- work to ensure that paid employment can be combined with parental responsibilities;
- ensure that women and men have equal pay in similar positions with comparable qualifications and generally have the same conditions of employment;
- work to ensure that all employees in the Group know what the equal opportunities legislation means and what Svenska Nestle is aiming for;
- work to ensure that women and men have equal opportunities in employment, training, promotion and further development; ie. to work against all gender discrimination;
- work to ensure that no employee is subjected to sexual harassment or to harassment for making complaints about gender discrimination;
- work to ensure constructive consideration of the differences between women and men. Thereby we will reach maximum effectiveness and profitability for successful joint development.”

### 2. International Union of Food, Agriculture, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) Asia Pacific

IUF Asia Pacific has prepared a charter of clauses relating to women workers' issues, including:

“Management agrees to establish a programme jointly with the union within 3 months of the signing of this agreement to undertake a review of the company's employment practices in order to remove discriminatory practices and to introduce positive measures to assist the disadvantaged group ie. female employees, to overcome past and current discrimination and to provide a written report of the de facto situation in the company with respect to gender equality as well as the remedial measures adopted”.

### 3. CFDT and CGT with Eurotec-Manducher

A Professional Equality Plan has been signed by the CFDT and CGT with one of the leading French companies in the manufacture of plastic technical parts, with the aim of giving maximum career opportunities to its women workers. Under the agreement, equality of opportunity is broadly interpreted. The initiatives are intended to help both women and men to develop their career opportunities. Training is provided to ease the access of women to jobs traditionally held by men. The training focuses on their technical knowledge and on their career evolution prospects. But each worker, male and female, is encouraged to find something that suits him or her in the much wider range of opportunities offered. At the same time and in light of the difficulties

encountered in changing mentalities, courses promoting knowledge of the equality strategy are run for supervisory managers and heads and for staff managers. Everyone in the company is involved. The training courses under the agreement have been paying off. Almost as many women as men have been taking the courses, and women are now to be found in the traditionally male-dominated jobs.

#### 4. IUF/Nestle Austria

“The Company declares its conviction to implement equal opportunities for female staff at all levels, to uphold all laws and statutes pertaining to equal treatment and to uphold the participation rights of the works council laid out in the Constitutional Labour Act. Support for the development of our female staff is an important element of our Personnel Policy. It is our goal to increase the proportion of women at levels and in the jobs in which they have been under-represented. Equal opportunities does not mean unlimited preference for women regardless of their qualifications.

Equal opportunity will become a permanent item of the Central Works Council's Meetings agenda, where its implementation progress will be reviewed and discussed. The following binding principles which have been agreed upon and documented with the labour representatives are to be implemented:

- equal pay for identical or equivalent employment within the framework of the collective agreement and within the framework of the Company's special statutes
- equal working conditions in any field of activities;
- support for promotion through the involvement of female staff in all personnel development activities and training measures. Further development is subject of the performance talks between superior and subordinate, whereby women are not to be discriminated;
- exploitation of all possibilities for part-time employment. Job openings are to be offered to part-time female employees whenever possible in order to provide them with the opportunity to switch to full-time employment;
- avoidance of obstacles that may possibly have a negative effect on hiring and promoting women;
- encouragement of women to apply for positions traditionally considered male occupations (eg. sales field staff, production staff);
- new staff appointments through recruiting from inside or from outside will be solely based on the applicant's qualifications and merits regardless of sex;
- our job application forms and job interviews will continue to be free of any discrimination questions;
- female staff who are on maternity leave will be contacted regularly by their departments and be sent the Company magazine”.

5. A collective agreement between the social partners at ENEL, the Italian public electricity board defined the various aims in the area of equal opportunities. The wide range of measures include information, training and also social schemes for women employees such as full pay during maternity leave. The agreement is part of a rational policy to instigate change by influencing the corporate culture. The company is also counting on a snowball effect, whereby the youngest employees help change

attitudes. All new graduates joining the company start out by taking a special training course. This includes a module on equality of opportunity. Regardless of sex, all new employees are informed of the working conditions of women, the legislation on equal opportunities and company policy in favour of equality. While collar women employees are given the same training courses as their male colleagues. But special courses have been set up for women secretaries, so as to foster a new approach to the profession of secretary, less mechanical and more participatory.

## COLLECTIVE AGREEMENTS VIOLENCE AT WORK

1. In Norway, the basic agreement of 1994 between the Norwegian **Confederation of Trade Unions (LO)** and the **Confederation of Norwegian Business and Industry** establishes the express right for workers to refuse to work with persons who have exhibited such improper conduct:  
“Employees have the right to refuse to work with, or under the management of, persons who have shown such improper conduct that, according to the norms of working or social life generally, it ought to justify their dismissal. Discussions between employers and shop stewards should be held immediately if such situations arise. If they fail to reach agreement, there shall not be any stoppage or other forms of industrial action”.
2. In the United Kingdom, UNISON has developed a Model Agreement on Tackling Violence in the National Health Service. The development and implementation of policies to tackle violence must be the subject of negotiation and agreed at all stages between management and trade union representatives. Full use must be made of the safety and representatives and safety committees. This must include adequate information and opportunities for additional union-approved training for safety representatives; adequate arrangements to investigate cases of violence and assault; and provision for safety committees to review the effectiveness of anti-violence policies.
3. The Manufacturing, Science and Finance **Union (MSF)** in the United Kingdom has published a Guide to Prevention of Violence at Work, which stresses that a successful strategy in this area can only be achieved if employees are fully involved in its development. The employer must consult fully with safety representatives over the strategy, and over the planning and organization of any training provided as part of that strategy.

Source: D. Chappel and V. Di Martino, 1998. Violence at work. Geneva: ILO, pp.96-98.