

# BARGAINING FOR GENDER EQUITY

BY DR SALOMÉ TEUTEBERG



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# PREFACE

In 2018, the Friedrich Ebert Stiftung Trade Union Competence Centre (FES TUCC) and the Labour Research Service (LRS) published the first in a series of booklets aimed at providing researched-based bargaining support to unions. The first booklet, titled "South African Multinational Corporations in Africa: Bargaining with Multinationals", provides a step-by-step approach to assist Global Union Federations (GUFs) and their affiliates in utilising company information when preparing for bargaining processes. As a follow-up to the first booklet, we published a guide on a series of terms which are used regularly in companies' Annual Reports.

This booklet, the third in the series, takes a look at bargaining for gender equity in the workplace, providing a simple step-by-step approach to including these issues at the bargaining table.

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# HOW CAN THIS GUIDE HELP ME?



This booklet aims to add to your practical knowledge of bargaining for gender equity, how to start and why this is important.

A mutually reinforcing relationship exists between bargaining and organising: when women workers are organised, the union needs to be able to represent the interests of these women. And by representing the interests of these workers, the union is better positioned to recruit and organise. Organisation rights are often set as a threshold of representivity (sometimes stated as 50% plus one). The probability of reaching the threshold is better when all workers are included.

This booklet aims to add to your practical knowledge of bargaining for gender equity, how to start and why this is important. While this booklet is not all-encompassing, it aims to provide you with the tools to understand the basics of bargaining for gender equity.

# WHY IS GENDER EQUITY IMPORTANT?

*Traditionally, trade union bargaining agendas have focused on male-biased priorities. More and more women are entering the labour market, and unions have begun to recognise the importance of engaging with their concerns in the workplace.*

Africa is known for its high rate of female labour force participation. Sub-Saharan Africa has around 60% of women's labour force participation.<sup>1</sup> According to STATS SA, women accounted for 43.8% of total employment in South Africa in the second quarter of 2018.<sup>2</sup>

This means that, over time, more and more women are entering the workplace with a need to be organised and represented. If the union is not representing the interests of these women, the union is not representing almost half of the workforce.

According to the International Labour Organisation (ILO),

closing the gaps in labour force participation (meaning the number of women versus men in the workplace) can increase global GDP (Gross Domestic Product). Simply put, including women in the workforce will help countries to grow economically.<sup>3</sup> Shauna Olney, Chief of the ILO's Gender, Equality and Diversity Branch, says, "Achieving gender equality at work, in line with the 2030 Agenda for Sustainable Development, is an **essential precondition for realising sustainable development that leaves no one behind and ensures that the future of work is decent work for all women and men.**"<sup>4</sup>



1 <https://www.wiego.org/sites/default/files/migrated/publications/files/Chen-Women-Employment-Africa.pdf>

2 <http://www.statssa.gov.za/?p=11375>

3 <https://www.ilo.org/infostories/en-GB/Stories/Employment/barriers-women#gender-gap-matters>

4 [https://www.ilo.org/africa/media-centre/pr/WCMS\\_458102/lang--en/index.htm](https://www.ilo.org/africa/media-centre/pr/WCMS_458102/lang--en/index.htm)

# WHY IS GENDER EQUITY IMPORTANT IN COLLECTIVE BARGAINING?

*The workplace is an important site of human development. Many women and men spend a large part of their lives in the workplace and the conditions of employment have a strong influence on the quality of work and life that they experience.<sup>5</sup>*

Many collective bargaining agendas around the world address women's concerns, but these are often focused mainly on women's reproductive roles. The challenge is not to "add women" to the existing structures, but to radically change the structure of unions for longer term solutions. In order for unions to stay relevant, union

revitalisation strategies are needed.<sup>6</sup>

Collective bargaining must be used as a tool to promote equality in the workplace and address many of the entrenched misconceptions about the role of women workers. Collective bargaining is a powerful tool in addressing the gender pay gap and low pay.

**The ILO lists a number of reasons why gender equality is important. Here are the most crucial reasons:**

- Women's issues are union issues
- Women's contributions at work have been undervalued
- Women are making up a bigger proportion of the paid workforce
- Women's concerns have traditionally been overlooked in collective bargaining
- Women may not be adequately covered by the law, and even where there is legislation, it is not always implemented practically
- 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

<sup>5</sup> Benjamin, N. Bargaining Indicators 2007.

<sup>6</sup> Dickens, Linda. 2000. Collective bargaining and the promotion of gender equality at work: opportunities and challenges for trade unions. Transfer Vol 6 (2).

# HOW TO PUT GENDER EQUITY ON THE BARGAINING AGENDA: A STEP-BY-STEP APPROACH

*The following section provides a step-by-step guide on how to approach bargaining for gender equity in the workplace.*

## STEP 1: ASK THE FOLLOWING QUESTIONS

**This is a call to women workers to convene meetings and discussions around their working conditions to identify issues to rally around. Such meetings and discussions should be for all women, including those who are not union members.**

- Speak to women in the workplace and in the union. What are the issues that affect female workers in your workplace?
- Make a short list of the things that matter most to women workers.
- Are these issues different from those that affect male workers?
- Do they affect a large number of workers?
- Is gender equality supported by collective bargaining in your workplace?



## STEP 2: DETERMINE THE CRITICAL ISSUES FOR CONSIDERATION

### 1. Work-family balance

The issue of women combining work with family responsibilities is critical. Across the board, both women and men report that the biggest barrier for women in paid work is the struggle to balance it with family responsibilities. Many women and men lack access to adequate maternity protection, paid paternity and parental leave and other basic social protection measures.

Childcare and other domestic work (like cleaning and cooking) are often a woman's responsibility. This work is frequently invisible and undervalued. Addition-

ally, maternity protection is seen as a "women's issue". The ILO's C183 Maternity Protection Convention<sup>7</sup> addresses this concern.

It specifically lists a minimum of 14 weeks maternity leave as well as several articles protecting the health and benefits of the mother. However, in Africa, only three countries (Benin, Mali and Morocco) have ratified this convention. In order to ratify this convention, a country must meet the leave requirement of 14 weeks. 20% of countries in Africa do not meet the requirements of the Convention.<sup>8</sup>

#### ISSUES TO CONSIDER:

##### Leave

- Annual leave
- Compassionate leave
- Maternity/paternity/parental leave
- Medical/sick leave

##### Hours of work

- Basic hours and overtime
- Part-time work
- Flexible working time
- Night work
- Expectant and nursing mothers

7 [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:P12100\\_ILO\\_CODE:C183](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:P12100_ILO_CODE:C183)

8 <http://www.industrialunion.org/events/maternity-protection-meeting-on-ratification-of-ilo-convention-183>



## 2. Transport

The lack of safe and accessible transportation is one of the most challenging factors for women. In urban areas of developing countries, particularly in large cities where public transport systems are often inadequate and traffic congestion is increasing, considerable time can be taken commuting and often in uncomfortable conditions. In Zambia, some workers have resorted to walking to work due to the increasing cost of transport. As a result they spend almost four hours a day getting to and from their places of work.

Not only is transport expensive and time consuming, women often risk facing harassment and even sexual assault on their daily commute.<sup>9</sup> In the retail sector this is especially prevalent as late trading hours could mean a lack of transport,

and especially a lack of safe and reliable transport. As part of your bargaining strategy, persuade employers to allocate transport for men and women workers to overcome these issues. Providing safe and reliable transport directly benefits not only workers, but also employers – it means that they can ensure punctuality and regular attendance from workers, and create a stable and motivated workforce.



**Not only is transport expensive and time consuming, women often risk facing harassment and even sexual assault on their daily commute.**

### ISSUES TO CONSIDER:

- Transport provided by employers to and from work
- Safety measures
- Safe and reliable transport for early and night shift workers

9 <https://www.ilo.org/infostories/en-GB/Stories/Employment/barriers-women#persistent-barriers>

## STEP 2: DETERMINE THE CRITICAL ISSUES FOR CONSIDERATION

### 3. Affordable care

Linked to the issue of work-family balance, the issue of affordable care for children and other dependents and doing domestic tasks can be a major handicap in the labour market.

This restricts options and limits earning capacity. It is usually women who withdraw from work or look for work options such as part-time work, self-employment or home-based work that are more compatible with family responsibilities, even though earnings would be less. The lack of affordable care for children or family members is a global issue, and a major obstacle for women. According to the ILO, this lack of affordable care decreases a woman's participation chances by almost 5 percentage points in developing countries.<sup>10</sup>

Creating policies that are "family-friendly" is good for the company as well as for employee well-being. Smaller, cost efficient initiatives can have a big impact on staff.

### 4. Equal Pay

The principle of equal remuneration for work of equal value is vital – not only in law, but also in practice. By improving wage transparency, it's possible to evaluate pay gaps more clearly and move towards fair remuneration. Many countries have laws in place that provide for equal pay. Whether or not these laws exist, unions can negotiate for equal pay and job evaluation.

#### ISSUES TO CONSIDER:

- Daycare offered by employers
- Affordable care options



The lack of affordable care decreases a woman's work participation chances by almost **5 percentage points** in developing countries.

#### ISSUES TO CONSIDER:

##### Wages and benefits

- Equal pay
- Overtime
- Bonus systems
- Job classification

<sup>10</sup> <https://www.ilo.org/infostories/en-GB/Stories/Employment/barriers-women#persistent-barriers>

## 5. Eliminate Discrimination

Many countries have laws against gender discrimination and harassment at work. Laws are not enough. We need more measures, like sanctions and public awareness campaigns. An example of such an action is the C190 Violence and Harassment Convention, 2019 (No. 190) adopted by the ILO in June 2019.

Where laws do exist, they are often weak, or their related policies, practices and resources are often inadequate. Over 80% of domestic violence victims report that their work performance was negatively affected. Absenteeism and poor work performance can leave victims vulnerable to disciplinary steps taken against them, and some even lose their jobs.<sup>11</sup>

Unions play a key role in putting gender-based violence on the agenda through raising awareness about sexual harassment among their members and negotiating policies and agreements that establish procedures for making and processing complaints and for preventing sexual harassment. Unions must ensure that work is safe for everyone as well as protect the rights of all workers, including young women seeking employment. If one worker is vulnerable, all workers are affected.<sup>12</sup>

### ISSUES TO CONSIDER:

- Workplace safety planning
- Paid leave for victims
- Protection from discrimination or adverse action
- Access to women's advocates and other designated support persons within the workplace
- Discrimination on the basis of gender
- Sexual harassment
- Violence at the workplace

### In the union

- Establish women's committees
- Ensure women representatives at all levels
- Education and training committees

11 Twala, N. 2019. The new proposed standard on ending violence and harassment in the world of work. LRS Bargaining Indicators.

12 Twala, N. 2019. The new proposed standard on ending violence and harassment in the world of work. LRS Bargaining Indicators.

## STEP 3: BARGAIN AND IMPLEMENT

*Union participation is essential to eradicating violence and harassment and in changing the workplace to represent the interests of all workers. Unions should innovate, organise, fortify their structures and bring the labour rights of all workers – men and women – to the collective bargaining table. They should do this from a human rights perspective that guarantees workers' dignity.<sup>13</sup>*

**The ILO suggests some helpful steps in the ongoing fight for equal rights:**

- Promoting gender equality in employment doesn't end with the signing of a collective agreement.
- Follow up to ensure the awarded rights are implemented. Ensure that the negotiated policies, rights and benefits are communicated to all workers, including non-permanent workers.
- Collect data regularly to monitor the number of women and men that are hired, promoted and dismissed, as well as the number of workers in all job categories, salary levels and training programmes.
- Regularly monitor the implementation and effectiveness of collective bargaining policies, rights and benefits. Think forward to what can be achieved during the next round of collective bargaining.
- Deal with equality issues in education and training programmes.
- Publicise the work your union has done on behalf of women as an organising strategy. Also, publicise the union's objectives for bargaining and the strategies for achieving them.

<sup>13</sup> Twala, N. 2019. The new proposed standard on ending violence and harassment in the world of work. LRS Bargaining Indicators.



## *Clauses from existing Collective Bargaining Agreements*

Below is a list of existing clauses that address some of the issues talked about in the booklet. These clauses have been negotiated during bargaining, and have produced better outcomes for women in the workplace. These can be used as a starting point for bargaining for clauses in your own CBA.

### **Fast and Moving Consumer Goods NBCCI (FMCG) 2015 Collective Bargaining Agreement**



#### **4.3 Maternity leave**

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Females employees covered by this agreement will be entitled to 6 (six) months off work for the reasons of maternity. Maternity will be paid at 35% of the basic rate of pay for the period of 4 (four) months and at 40% for the 5th and 6th month. However maternity leave will not impact on the annual bonus. Employees will be entitled to a full bonus in the year (s) maternity leave is taken.

Should an employee suffer a miscarriage or still born child up to 6 (six) weeks leave will be granted of which a maximum of 1 (one) month's sick leave will be paid. Such leave will be not deducted from normal sick leave benefits. A medical certificate will be required.

Female employees proceeding on maternity leave will be guaranteed a same type of job on the same terms and conditions as before the leave. Females who are entitled to a period of maternity leave will be granted 3 days special leave for ante natal check-ups prior to going on maternity leave. This leave (ante natal check-ups) may be taken as a portion of a day and proof of visit to the doctor or clinic must be provided.

Human Resource will assist employees with their UIF claims from the DOL



### Fast and Moving Consumer Goods NBCCI (FMCG) 2015 Collective Bargaining Agreement



#### 4.4 Childcare leave

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Childcare leave of 3 days per annum (separate from paternity leave) will be granted for illness of a child but on condition that it is not taken together with paternity leave.

### Pharmaceutical (NBCCI) Collective Agreement 2015



#### 3.4 Child's sick leave

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Maximum of 3 days paid leave during each leave cycle when employee's child is sick provided employee has been in employment for at least 4 months.

### Table Mountain Aerial Cableway Company Pty Ltd 2014 Collective Bargaining Agreement



#### 11. Maternity leave

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All permanent female employees are entitled to one of two options of maternity leave benefits:

**Option 1:** 6 months maternity leave of which the first four months will be paid at 66% of the basic salary and the remaining two months unpaid. The company will carry the employee's cost of pension and medical aid for the full duration of 6 months.

**Option 2:** 4 months maternity leave paid at 75% of the basic salary. The company will carry the cost of pension and medical aid for the full duration of the 4 months.

**Bargaining Council for the Contract Cleaning Service Industry (KZN)  
2011/2012/2013 Collective Bargaining Agreement**



**12. Maternity Leave**

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A pregnant female employee shall cease working at least 8 weeks prior to the date of confinement and shall return to work no later than 12 weeks after the date of the child's birth.

Rights on return from maternity leave: when a female employee returns to work from maternity leave, such employee shall be entitled to the following:

Payment of one third of one month's wage, calculated at such female employee's rate of pay at time of going on said maternity leave. Placement in the same job as was occupied at the commenced of the said maternity leave, or a job similar thereto.

**South Africa Local Bargaining Council 2015  
Collective Bargaining Agreement**



**8.3 Maternity and Adoption leave**

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An employee, including an employee adopting a child under 3 months shall be entitled to receive 3 months paid maternity leave or adoption leave with no limit to the number of confinements or adoptions. This leave provision shall also apply to an employee whose child is still-born.

Maternity leave may commence 4 weeks before confinement. To qualify for paid maternity leave, an employee must have 1 year's continuous service with the employer.

**Public Service Co-Ordinating Bargaining Council (PSCBC)  
2012/13 – 2014/15**



**15. Pre-Natal Leave**

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An eligible employee will be entitled to 8 working days pre-natal leave per pregnancy, allowing the employee to attend medical examination by a medical practitioner or midwife, and test related to pregnancy

# STORIES FROM THE GROUND

*UNTU's Siphweokuhle Sithole, 31, is among the women unionists fighting to instil cultures of gender equality in workplaces in South Africa. Here's Comrade Sphi's story.*



**Siphweokuhle Sithole**

**Nine years ago** when I joined railway parastatal Transnet, we were just eight women and none of us were in a leadership position. Because all supervisors and shop stewards were men we didn't have a proper gendered lens in union functions such as organising and collective bargaining.

When the facilitators of the Young Women Leadership Development (YWLD) called my union, The United National Transport Union (UNTU), urging for applications to join the programme, I jumped at the opportunity. I work as a train builder, and so I am familiar with the struggles of women workers in male-dominated industries. My motivation to join YWLD spoke to the status quo and the need for working together to change and create environments for women workers to thrive. For that to happen, young women need to be capacitated to gain the tools needed to excel wherever they are located and to challenge the existing gender inequality and patriarchy in our society. Through the YWLD programme, I got the opportunity to meet and learn



from many women who've broken the glass ceiling in their respective fields.

The first day of the programme was quite impactful. We met a lot of powerful women who genuinely desired to share experiences and advise us to empower ourselves as young women workers. I left the meeting elated and with the seed of empowerment firmly planted in me. I wanted to make a difference and multiply the shared knowledge and information. It's important to share knowledge, especially with young girls and women.

The YWLD empowered us to lobby for gender issues, including the workplace issues that affect us directly. For example, my performance is measured by, among other things, good attendance. I found that measurement troublesome because it discriminates against women on maternity leave. So, we put the issue forward as a demand, and as a result they are going to consider it during negotiations.

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I wanted to make a difference and multiply the shared knowledge and information. It's important to share knowledge, especially with young girls and women.

- Siphweokuhle Sithole

# STORIES FROM THE GROUND

*FEDUSA's Babongile Dumani is among the male champions in our work defending the rights of working women in southern Africa.*



**Babongile Dumani**

**I work in the Training and Development portfolio of the Federation of Unions of South Africa (FEDUSA). FEDUSA is the second-largest union federation in South Africa, with a membership of about 21 trade unions representing close to 600,000 workers. Our Training and Development portfolio focuses on young workers and looks at trends in the key areas which we believe to be problematic, such as climate change, gender inequality and gender-based violence (GBV).**

**I joined the LRS/ILO Young Women Leadership Development Programme (YWLDP) in 2017, together with other young, male worker leaders in trade union federations in the SADC region. At that time, I was the general secretary of young workers at FEDUSA. The male champion strategy calls on men to be hands-on and to push the envelope about gender equality in workplaces.**

**In May of 2017, comrades met in eSwatini to launch the programme. The choice of the meeting venue was very deliberate – the conditions for workers are poor and unions in**

the kingdom struggle to organise properly due to specific challenges. We left the meeting with a firm grasp of the programme's objectives and an understanding that patriarchy (and gender-based violence) is real and occurs in all forms and spaces. These issues aren't inherent in our genetic make-up. We are socialised to behave in certain ways, and a shift in attitudes is needed urgently. At a personal level, I experienced an awakening that's making an impact at FEDUSA and in my work.

FEDUSA tasked us with designing a plan of action based on what we learned from this project, which is supported by the Labour Research Service and ILO. The plan of action specified the things we'd do within our spaces to achieve gender equality and address gender-based violence. However, we were responding to the political climate at that time and the opportunities that were available then. That status quo would change. Four months after the eSwatini meeting, FEDUSA was invited by the government to take part in the implementation of the National Youth Policy. Consequently,

a different opportunity presented itself and we decided to change tack about our gender equality plan and how it'd be implemented. We wanted the plan to find expression beyond the trade union/workers space.

The Labour Relations Act defines trade unions as worker-led organisations. Normally, this would mean that we are restricted to operate in the labour space. But, we took a decision not to confine ourselves to the union space. Patriarchy is a social norm that's difficult to change, and such a change requires that we reach as many men as possible, considering that they would be the main catalysts or vehicles of the norm. We thought we'd make more impact if we could penetrate, for instance, government-led spaces, through influencing policy.

Through the National Youth Policy platform, FEDUSA was exposed to males of between ages 14 and 15. Essentially, we had a better chance of addressing patriarchy and gender discrimination if we could access workers of a younger age. The youth policy platform (where I represent FEDUSA) handed us that.



“Knowledge is too important to be left in the hands of the bosses.”

