

# Bargaining for Gender Equity

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INTERNATIONAL  
LAWYERS ASSISTING  
WORKERS NETWORK

## Disclaimer language:

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# 1. Introduction

This guide contains model language, best practices and guidance for union-side lawyers and bargaining committee members to support the adoption of robust, comprehensive measures to address gender discrimination and combat marginalization through collective bargaining. Collective bargaining presents an opportunity to go beyond national law and advance creative, tailored solutions to advance gender equality in different workplaces and sectors.

No model language is going to be perfectly adapted to individual circumstances, the sample language below is intended to serve only as a guide, which will need to be tailored to the specific needs of the union's members, and the dynamics of individual workplaces or sectors. Bargaining will necessarily be shaped by the existing legal framework, including how equality and non-discrimination is addressed and how (and indeed whether) bargaining is protected.

The first section of this guide contains issue areas with model language and guidance. The model language is intended to be used as a draft or inspiration for more specific language tailored to the needs of the workers negotiating. The guide aims to capture broad principles and concepts that are transferable, as well as a range of examples and models that may be relevant to various contexts.

The second section addresses internal union policies and practices. A critical first step for effective bargaining around gender equality is ensuring that internal union structures and collective bargaining processes themselves are inclusive and transparent. Women, LGTBQ+ persons, and other workers marginalized due to gender discrimination are in the best position to identify issues related to gender equality at work and craft solutions. Unions can provide a critical space to incubate and execute these ideas – but historically have often failed to do so. While this guide does not offer holistic guidance on building demo-

cratic internal structures, it highlights some key best practices and examples.

Confronting gender discrimination at work is critical to ensuring access to fair wages, and safe, respectful working conditions. In a time where oligarchic corporate power exploits how discrimination legitimates oppressive working conditions, and where many countries are experiencing backsliding on rights, trade unions have an even more critical role to play in the struggle for decent work for all workers.

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# PART 1: ISSUE AREAS FOR BARGAINING

Part 1 covers different topics unions can address through bargaining to advance the rights of women, LGBTIQ+ workers, and other workers marginalized due to gender discrimination.

Bargaining strategies will be heavily dependent on the laws and policies on the right to association in the locality. Unfortunately, many states fail to fully protect and realize the right to freedom of association and collective bargaining,<sup>1</sup> whether through inadequate legal frameworks, poor enforcement, or both. This constitutes not just a failure to ensure trade union rights, but a failure to protect the right to equality. Collective bargaining has been repeatedly shown to be an effective mechanism for women and other marginalized workers to address historic economic and social discrimination and demand safe working conditions, equal pay and other core rights on the job.<sup>2</sup>

Enterprise-based bargaining can deliver important advances with respect to equality.<sup>3</sup> However, many

researchers have concluded that the most impactful gains in terms of gender equality result where there are centralized bargaining mechanisms at the national and/or sectoral level, complemented by enterprise-based agreements.<sup>4</sup> Sectoral bargaining is an opportunity to address systemic issues, including historic undervaluation of feminized work and patterns of discrimination. Unfortunately, many countries do not provide the necessary legal or policy infrastructure to support negotiations at the national or sectoral level. Absent such regulations, it is extremely challenging for unions to gain the necessary leverage on employers for voluntary sectoral bargaining. Failing to protect the right to collective bargaining at all levels is a failure to protect the right to gender inequality.

Laws protecting the right to organize and bargain often exclude precarious forms of work, including work in the informal economy and non-standard work arrangements such as casual work, subcontracting, temporary work and gig work. Failure to fully protect the rights of workers in informal and non-standard work has a discriminatory impact on marginalized workers, who are disproportionately present in these forms of work.<sup>5</sup>

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1 See, e.g. International Trade Union Confederation (ITUC) Global Rights Index (2025)

<https://www.ituc-csi.org/global-rights-index>

2 See, e.g. ILO, Social Dialogue Report: Collective bargaining for an inclusive, sustainable and resilient recovery (2022)

[https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40dgreports/%40dcomm/%40publ/documents/publication/wcms\\_842807.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40dgreports/%40dcomm/%40publ/documents/publication/wcms_842807.pdf); Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (2016) <https://www.refworld.org/reference/themreport/unga/2016/en/112993>

3 See, e.g. National Women's Law Center, Union Membership is Critical for Equal Pay (2018)

<https://nwlc.org/resource/union-membership-critical-womens-wage-equality/> (in the United States "[t]he gender wage gap among union women and men is about half the size of the wage gap among non-union workers, and female union members typically earn \$224 more per week than women who are not represented by unions"); Mark Anner and Luis Mendoza, Bargaining for Decent Work and Beyond: Transforming Work and Lives through Collective Bargaining Agreements in the Honduran Maquila Sector at 4 (2022) <https://ler.la.psu.edu/wp-content/uploads/sites/4/2022/06/Honduras-maquila-report.pdf> (female workers in

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Honduras covered by CBAs are more likely to have maternity benefits and "are 119.8% more likely to have a valid mechanism at work for addressing gender-based violence and harassment in the world of work")

4 Jane Pillinger and Nora Wintour, Collective Bargaining and Gender Equality at 10, Columbia University Press (2018); See also, e.g. Andrea Garnerio, The impact of collective bargaining on employment and wage inequality: Evidence from a new taxonomy of bargaining systems, European Journal of Industrial Relations, 27(2)(2021) <https://journals.sagepub.com/doi/10.1177/0959680120920771>

5 Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Advancing the rights of freedom of peaceful assembly and of association of workers in the informal economy, A/HRC/53/38/Add.3 ¶ V at 17-20 (2023) <https://docs.un.org/en/A/HRC/53/38/Add.3> ("SR FOAA 2023"); See also discussion in Application for Leave to Intervene as *Amicus Curiae* in Constitutional Petition No. 24 at 28 - 47 (2022)

This includes women, particularly women with other marginalized identities such as racialized and migrant women, as well as LGBTIQ+ workers, migrant workers and young people.<sup>6</sup> Under international law, governments must ensure the effective exercise of the right to freedom of association for all workers, both as a matter of associational rights and as a matter of social and economic equality.<sup>7</sup> This obligation includes not just eliminating restrictive laws that curtail the ability of precarious workers to organize, but also affirmatively creating an enabling environment for negotiations.<sup>8</sup>

Bargaining will necessarily also be shaped by political, social and economic conditions. This guide offers model language and guidance on how to address various aspects of gender discrimination to raise in bargaining, cognizant of the structural barriers many workers and unions face to realizing the right to col-

lective bargaining and securing agreements with employers.

Part 1 includes model language, which is intended to be used as a starting point to develop bargaining proposals in consultation with workers, and examples from collective bargaining agreements, global framework agreements, binding brand agreements and other resources. These examples are in no way comprehensive. The labour movement involves workers taking on employers with greater wealth and resources, and finding time to document and disseminate wins in the face of ongoing struggles is challenging. The work of many leaders, particularly women leaders from marginalized backgrounds, is not always recognized or recorded. Progress is often incomplete and non-linear. However, the examples hopefully offer ideas and inspiration in constructing campaigns and bargaining proposals for gender justice.

<https://www.ilawnetwork.com/wp-content/uploads/2023/09/Petition-No-24-Draft-Brief-FINAL-Version.pdf>; ILAW Network and Equal Rights Trust, A Promise Not Realised: The Right to Non-Discrimination in Work and Employment Section 4 (2024) <https://www.ilawnetwork.com/wp-content/uploads/2024/03/ISSUE-BRIEF-A-Promise-Not-Realized.pdf>

<sup>6</sup> ILO, Non-Standard Employment Around the World (2016) [https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms\\_534326.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_534326.pdf); Outright International, From Visibility to Economic Power: Building Inclusive Economies for LGBTIQ People (April 2025) <https://outrightinternational.org/insights/visibility-economic-power-building-inclusive-economies-lgbtq-people#:~:text=More%20than%2060%25%20of%20workers,risk%20of%20exploitation%20or%20violence.>

<sup>7</sup> See, e.g. Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 1B), Giving globalization a human face, ¶ 960 - 964 (2012) [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_174846.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_174846.pdf); Inter-American Court of Human Rights, Advisory Opinion OC-27/21 ¶ 193 (2021) [https://www.corteidh.or.cr/docs/opiniones/seriea\\_27\\_ing.pdf](https://www.corteidh.or.cr/docs/opiniones/seriea_27_ing.pdf)

<sup>8</sup> SR FOAA 2023 ¶ 79; See also, e.g. African Court on Human and Peoples' Rights, Advisory Opinion No. 001, The Compatibility of Vagrancy Laws with the African Charter on Human and Peoples' Rights and Other Human Rights Instruments Applicable in Africa, ¶ 137 (December 4, 2020) [http://www.african-court.org/en/images/Cases/Advisory%20Opinion/Advisory%20Opinions/001-2018\\_-\\_PALU-Advisory\\_Opinion.pdf](http://www.african-court.org/en/images/Cases/Advisory%20Opinion/Advisory%20Opinions/001-2018_-_PALU-Advisory_Opinion.pdf) (finding that states have an obligation "to create an environment where poor and marginalised women can fully enjoy all their human rights."); CEDAW Committee, *Elisabeth de Blok et al. v. the Netherlands*, Communication No. 36/2012, CEDAW/C/57/D/36/2012 (March 24, 2014) (challenging a national insurance scheme for workers that excluded individuals who were self-employed)

## I. COVERAGE OF ALL WORKERS AT THE ENTERPRISE

Women are more likely to be in non-standard forms of employment, such as fixed term contracts, part time work, casual work, seasonal work, or working through subcontractors.<sup>9</sup> This is particularly true of women who hold other marginalized identities, such as racialized women or women with disabilities.<sup>10</sup> LGBTIQ+ workers are also more likely to be in precarious forms of work, although there is less data available.<sup>11</sup>

<sup>9</sup> ILO, Non-Standard Employment Around the World (2016) [https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms\\_534326.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_534326.pdf); The brief of the Trade Union Confederation of the Americas (CSA TUC) and ILAW Network, discusses part time work, Memorial de Amicus Curiae en la Revisión de Constitucionalidad del "Piso de Protección Social (2021) <https://www.ilawnetwork.com/wp-content/uploads/2021/05/Amicus-CSA-ILAW-Colombia.-D-13922.pdf>

<sup>10</sup> See, e.g. Urban Institute, Unstable Work is All Too Common, Especially for Black Women (September 12, 2024) <https://www.urban.org/data-tools/black-women-precarious-gig-work>

<sup>11</sup> See, e.g. David J Kinitz, Faraz Vahid Shahid and Lori E Ross, Job quality and precarious employment among lesbian, gay, and bisexual workers: A national study (2023) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10661442/>; Outright International, From Visibility to Economic Power:

Collective bargaining is an opportunity to ensure that all workers are covered in a collective agreement and receive equal treatment under that collective agreement, including in respect of pay and benefits. Negotiators should pay special attention to migrant workers, who are often totally or partially excluded from labour protections under national law.<sup>12</sup>

Moreover, collective bargaining can be used to limit or eliminate precarious forms of work. Ending or limiting precarious work arrangements ensures workers have access to more stability, and eliminates a risk factor for discrimination, harassment and other abuses. Precarious workers, such as informal and casual workers, as well as workers affected by multiple and intersecting forms of discrimination, are more likely to experience GBVH.<sup>13</sup>

### Covering All Workers

*The terms of this collective agreement apply equally to all workers in [the enterprise or sector], regardless of their contractual status.*

*The terms of this collective agreement apply equally to all workers in [the enterprise or sector], regardless of their migration status or nationality.*

*Workers engaged through [part-time contracts, outwork/homework, fixed-term contracts, telework, casual work, seasonal work, or other non-standard work arrangements utilized by the business or common in the sector or jurisdiction] shall be entitled to equal rights and benefits with respect to remuneration, hours, bonuses, and opportunities to apply for vacancies;*

Building Inclusive Economies for LGBTIQ People (April 2025)

<https://outrightinternational.org/insights/visibility-economic-power-building-inclusive-economies-lgbtqi-people#:~:text=More%20than%2060%25%20of%20workers,risk%20of%20exploitation%20or%20violence.>

<sup>12</sup> See, e.g. ILO, Migrant workers' rights to freedom of association and collective bargaining (2023) <https://www.ilo.org/publications/migrant-workers%E2%80%99-rights-freedom-association-and-collective-bargaining>. There may be differences in legal protections between documented versus undocumented migrant workers that the union should also consider.

<sup>13</sup> See, e.g. Pillinger and Wintour at 67.

*as well as proportionate access to leave, benefits and other entitlements.*

### Addressing Precarious Work

*EMPLOYER commits to providing full-time, stable and direct employment whenever possible. UNION shall have the right to review proposals for new hiring, including any [non-standard work arrangements].*

Unions should build on legal protections in the jurisdiction that address precarious work. For example, most jurisdictions restrict the use of fixed term contracts, many have provisions that recognize disguised employment relationships or misclassification and some restrict the use of casual work.<sup>14</sup> An increasing number of jurisdictions, particularly in the Americas, have introduced laws which prohibit employers from outsourcing goods or services linked to the "corporate purpose" or "core business" of the company.<sup>15</sup>

*EMPLOYER shall provide UNION [in writing via email or other agreed method] notice of any proposed new hiring, including the intent to hire utilizing [fixed-term contracts] or an intent to [contract for labour through an independent*

<sup>14</sup> Many jurisdictions place limits on fixed term contracts, such as requiring that employers demonstrate a reason for fixing a contract and/or deem contracts to be ongoing in certain cases. For a global comparison of fixed-term contract regulation, see ILO, Fixed-term Contracts (EPLex) Web Page <https://eplex.ilo.org/fixed-term-contracts-ftcs>; See also Gabrielle Elisabeth Golding, ILAW Future of Labour Law Database on Fixed Term Contracts (March 2023) <https://www.ilawnetwork.com/model-laws/fixed-term-contracts/>. An increasing number have adopted restrictions on casual or zero hours contract, see Rachel Deutsch, ILAW Future of Labour Law Database on Working Time (July 2022) <https://www.ilawnetwork.com/model-laws/working-time/>

<sup>15</sup> Julie R. Ulmet, ILAW Future of Labour Law Database on Labour Intermediaries (June 2024) <https://www.ilawnetwork.com/model-laws/labour-intermediaries-2/>; See also Mexican Decree on Outsourcing of 2021, [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5616745&fecha=23/04/2021](https://www.dof.gob.mx/nota_detalle.php?codigo=5616745&fecha=23/04/2021); Peru Decreto Supremo 001-2022-TR (2022) <https://busquedas.elperuano.pe/normaslegales/decreto-supremo-quemodifica-el-decreto-supremo-n-006-2008-decreto-supremo-n-001-2022-tr-2042220-1/>

*contractor, labour hire agency or other labour intermediary], no less than three weeks prior to any posting. Notice shall include copies of the scope of work, and in the case of [non-standard work] shall also include the duration of the work arrangement, and reasons for why the proposed work arrangement is necessary.*

*EMPLOYER shall only recruit workers for fixed-term positions where there is a genuine and demonstrated need for temporary work. [For more language on how to define temporary see the Future of Labor Law database on fixed term work]. Fixed-term workers shall be utilized for a maximum of [5 months], with longer terms subject to agreement with the Union.*

*EMPLOYER may not use contractors to carry out common, regular and customary tasks, only for extraordinary tasks. EMPLOYER shall only contract with an independent contractor or labour agency to provide services where the work is extraordinary, and there is a demonstrated need for specific, skilled expertise that current workers could not acquire with reasonable training. Such contracts shall be concluded only with consent of UNION. For more language on how to address subcontracting see the Future of Labour Law database on [labour intermediaries](#).*

It may make sense to agree to an emergency clause, either specifying that certain urgent needs such as repair and maintenance fall outside the scope of the contract or creating a more general catch-all such as "In cases where EMPLOYER is contracting for emergency services outside the core competency of the existing workforce or in other situations of extreme urgency, EMPLOYER may request expedited review and approval from UNION, which shall not be unreasonably denied."

## EXAMPLES:

In the Lesotho Agreements, binding brand agreements discussed in more detail in the subsection on [supply chain accountability](#), the garment company Nien Hsing agreed to eliminate the use of short-term contracts, except in limited cases

of genuinely temporary work.<sup>16</sup> The use of short-term contracts was a driving factor in high rates of GBVH in the factories, with the precarity forcing workers to endure harassment and other abuse for fear that their contract would not be renewed.<sup>17</sup>

- In 2008, workers went on strike at a multinational agro-export company in Argentina to demand that the company pay the same wage increases to both directly hired workers, and workers hired through contractors. Uncontracted workers conducted activities like cleaning, loading and unloading, and maintenance.<sup>18</sup> The outsourced workers were paid less than the median wage of the direct workers, had no access to toilets on the job, and many of them could not feed their families. The scale of the conflict forced the company to accept the union's demand. It radically improved the quality of life for hundreds of workers and triggered a process aimed at winning union representation in the entire production complex, with a common and unifying demand: a minimum, mobile living wage. In 2015, there was a collective conflict at the port where grain, oil and by-products were exported. Finally, an inter-union collective wage agreement was concluded with the multinational company where it was agreed that all workers would be paid the most beneficial wage scale that exists among the collective agreements in force, regardless of union membership. In terms of gender equality, these agreements translated into significant wage increases for feminised work, particularly cleaning, which was previously paid much less than the 'productive' work associated with the factory. This bargaining model addressed outsourcing as a mechanism for maintaining occupational segregation and low wages in female-dominated jobs and sectors.

16 This reform was coupled with an extension of the probationary period for new hires from three to four months. Solidarity Center, Agreements to Eliminate Gender-Based Violence and Harassment in Lesotho, Report 2021 - 2022 <https://www.solidaritycenter.org/wp-content/uploads/2023/03/Lesotho-FINAL-2.7.23.pdf>

17 The Global Labour Rights Reporter, A Conversation with Itumeleng Moerane, Forging a Feminist Labour Law at 32 (2024) <https://www.ilawnetwork.com/wp-content/uploads/2024/06/GLLR-Volume-3-Issue-2-English.pdf>

18 Adapted from a case study by Luciana Censi (2024)

- In 2015, a landmark collective agreement in the agricultural sector in Morocco between the Democratic Confederation of Labor (Confédération Démocratique du Travail - CDT) and Domaines Brahim Zniber Diana Holding Group won greater job security for seasonal workers by creating a system for recognizing seniority. Managers at the farm covered under the agreement are required to work with the union to maintain seniority lists and prioritize workers for jobs the following season.<sup>19</sup>
- A study on violence against media workers in Latin American includes a model **Framework Protocol for Action and Prevention** that applies “to all workers who work in the organization, regardless of their gender, under any type of contract, such as collaborators, consultants, employees, freelancers, interns, people who perform management or executive roles, among others, who require assistance in cases of discrimination, harassment or violence occurring in the workplace, whether these behaviours come from other members of the organization or third parties, such as those who are hired, outsourced or under any modality that assumes the hiring and/or third parties with whom they have contact because of their tasks and functions (public, clients, customers, users, suppliers, etc.). Likewise, it is applicable to any person working in the organization, even if he/she does not perform journalistic, communication or technical work, such as administrative, cleaning, transportation, etc.”<sup>20</sup>
- The Spanish Trade Union Confederation of Workers’ Commissions (Confederación Sindical de Comisiones Obreras (CCOO)) **Model Protocol Against Harassment Based on Sexual Orientation, Gender Identity and/or Gender Expression** applies to “persons working ... irrespective of the legal relationship that binds them to the company ... not only to employees but also any other personnel who may have a similar relationship, as long as they carry out their activity within the organizational scope of the company”; and “workers and employees of the companies subcontracted by the company” (with references to relevant Spanish law on outsourcing); as well as third parties.<sup>21</sup>
- The 2015 book **Collective Bargaining and Gender Equality** discusses how the Ugandan Amalgamated Transport and General Workers Union created an Informal Sector Women’s Committee to organize informal transport workers around major hubs, which led to negotiations to improve women’s safety, and access to toilets and other facilities.<sup>22</sup>
- Unions in Denmark and Italy successfully negotiated to include agency workers in provisions on maternity leave.<sup>23</sup> The Australian National Tertiary Education Union won the inclusion of casual employees in maternity leave.<sup>24</sup>
- In Brazil, the CUT’s Confederação Nacional dos Trabalhadores do Ramo do Vestuário (National Confederation of Garment Workers (CNTRV-CUT)) implemented a campaign with affiliated unions to represent outsourced workers in factories, to ensure that collective bargaining generates better working conditions for all.
- The IndustriALL Indonesia Council adopted a “Zero-Tolerance” policy on violence and harassment signed by 38 companies, which covers permanent workers, contract workers, outsourced workers, and others.<sup>25</sup>

19 Solidarity Center, *The Benefits of Collective Bargaining for Women: A Case Study of Morocco* (2019)

20 Cynthia Benzion, *Protocolo Marco de Acción y Prevención ante la Discriminación, el Acoso y la Violencia en el Trabajo Periodístico* (2024) <https://www.dropbox.com/scl/fi/sl5z4ed9eezlojvrt9il9/PROTOCOLO-MARCO-FINAL.pdf?rlkey=si5xvc95k0tqp283v8n2lpadf&e=1&st=lgm6mj93&dl=0>; More information about the Media Without Violence campaign is available at the website of the Asociación Civil Comunicación para la Igualdad <https://comunicarigualdad.com.ar/medios-sin-violencias/>

21 Secretaría de la Dona, *Políticas LGTBI i Institucional CCOO PV, Protocolo frente al acoso por razón de orientación sexual, identidad de género y/o expresión de género* (2018) <https://www.pv.ccoo.es/15acbdad14635bb2c339ab8d97e874b0000053.pdf>

22 Pillinger and Wintour at 95.

23 Pillinger and Wintour at 58.

24 Pillinger and Wintour at 57.

25 Industriall, *Indonesian unions sign zero-tolerance policy on violence and harassment with companies* (August 2022) <https://www.industriall-union.org/indonesian-unions-sign-zero-tolerance-policy-on-violence-and-harassment-with-companies>

## Supply Chain Transparency

Unions may need to investigate and request information to assess workers currently unprotected at the enterprise, particularly workers engaged through homework or other informalized forms of work connected to the enterprise, subcontractors and/or supply chains. In addition to the general right unions hold to obtain relevant information from the employer in bargaining, an affirmative right to receive information about supply chains is an emerging right in international law.<sup>26</sup> For example, the recent EU Directive protects the rights of stakeholders to access “relevant and comprehensive” information.<sup>27</sup>

*UNION shall have the right to request, and receive in a timely manner, information related to the supply chain that EMPLOYER engages or operates within, including agreements with [subsidiaries, subcontractors, clients, suppliers, buyers, investors and/or other business relationships]. This shall include the full text of any contracts or agreements; a clear summary of the products or services provided through these agreements; the full name and address of all entities involved in said agreements and any subcontractors; the full name and addresses of all production units, processing facilities, or other locations and the number of workers engaged in the fulfilment of the contract.*

<sup>26</sup> See, e.g. EU Directive 2024/1760 on corporate sustainability due diligence <https://eur-lex.europa.eu/eli/dir/2024/1760/oj>; ILAW Network, Draft Text for an ILO Convention on Decent Work in Global Supply Chains (April 2024) <https://www.ilawnetwork.com/wp-content/uploads/2024/04/ILAW-Draft-Text-for-an-ILO-Convention-on-Decent-Work-in-Global-Supply-Chains.pdf>

<sup>27</sup> EU Directive 2024/1760 on corporate sustainability due diligence, Article 13 <https://eur-lex.europa.eu/eli/dir/2024/1760/oj>

## EXAMPLES:

- The **Apparel and Footwear Supply Chain Transparency Pledge**, developed by human rights and labour NGOs based on industry best practices regarding supply chains, contains the following core demand: An adhering company “will publish on its website on a regular basis (such as twice a year) a list naming all sites that manufacture its products. The list should provide the following information in English: The full name of all authorized production units and processing facilities; The site addresses; The parent company of the business at the site; Type of products made and Worker numbers at each site.”<sup>28</sup>

## Supply Chain Accountability

Workers in supply chains face a host of challenges to their fundamental labour and human rights, including gender-based discrimination, particularly violence and harassment. This often occurs due to pressure to squeeze costs coming from buyers at the top of the chain,<sup>29</sup> which predictably results in exploitative working conditions.

One important advancement to counteract these ‘race to the bottom’ dynamics is the negotiation of binding brand agreements that create accountability and oversight mechanisms to address rights violations. Binding brand agreements involve buyers, usually multinational corporations, agreeing to a joint program with suppliers, unions and/or worker rights organizations. Suppliers and brands agree to a set of internal policies related to worker rights. There is usually an independent body created to oversee the agreement that includes involvement of the union(s), with consequences for suppliers failing to implement protections, including losing contracts with large buyers. Unions also have the ability to enforce the agreements independently against both suppliers and buyers, generally through binding arbitration.

<sup>28</sup> Transparency Pledge website, <https://transparencypledge.org/the-pledge/>

<sup>29</sup> See, e.g. Jeremy Blasi, Jennifer Bair and Jeffrey Vogt, Bargaining Up the Supply Chain, Global Labour Rights Reporter at 13 (2021) <https://www.ilawnetwork.com/wp-content/uploads/2021/08/GLRR-Volume-1-Issue-2-English.pdf>

Three such agreements have been specifically aimed at addressing GBVH and other forms of harassment in the garment industry. The consistent success of these programs demonstrates that there is a clear path multinational corporations can take to reduce gender discrimination and other abuses in supply chains: bargain enforceable protections with workers and their organizations.

#### EXAMPLES:

- The innovative Fair Food Program is an agreement in the United States between farmworkers, growers and food purchasers - mostly fast-food chains and major supermarkets.<sup>30</sup> The program was launched through farmworker organizing at the Coalition of Immokalee Workers, a worker centre. While the organizing demands of the workers included addressing a range of worker rights issues, the program has proved remarkably effective at reducing rates of GBVH, along with other labour abuses. Growers agree to enforce a Code of Conduct that prohibits sexual harassment, and other types of exploitation such as wage theft. Purchasers are required to end contracts with growers who do not enforce this Code. Workers and growers are regularly trained on the protections in the program through a peer education model.
- In 2019, landmark agreements were signed specifically to prevent and address GBVH in garment factories in Lesotho, following an investigation by an independent auditor that found widespread, egregious sexual assaults in factories. The agreements were signed by Nien Hsing, a major supplier of denim; three large apparel brands that source from Nien Hsing (Levi Strauss & Co., The Children's Place and Kontoor Brands); and a coalition of Lesotho labour unions (Independent Democratic Union of Lesotho; United Textile Employees; National Clothing Textile and Allied Workers Union); women's rights organization (Federation of Women Lawyers in Lesotho; Women and Law in Southern African Research and Education Trust Lesotho), and labour rights organizations (the Solidarity Centre, Workers United and Worker Rights Consortium (WRC)). In the agreements, Nien Hsing committed to a robust Program to Eliminate

GBVH in Lesotho. The Program created and funded an independent body called Workers Rights Watch to investigate worker complaints of GBVH and order appropriate remedial measures, which Nien Hsing was then required to implement. All workers, including managers, had to be trained on GBVH in the world of work, and the Program to address it using a small group, peer education model. The Program also established a toll-free information line staffed by trained counsellors, to answer workers' questions and refer cases of GBVH to Workers Right Watch for investigation. The multinational apparel brands were obligated to fund the program and use their economic power to ensure compliance. The Lesotho Agreements represented the first instance in which brands and a supplier entered into enforceable agreements with worker representatives specifically to stop GBVH in the workplace. The program has proved highly effective at decreasing not just GBVH but other forms of harassment and bullying in the factories.<sup>31</sup> As discussed above, the elimination of defaulting to short-term contracts in particular addressed pressures on workers to accept abuses to maintain their jobs, highlighting the link between structural precarity and GBVH.

- In 2022, the Tamil Nadu Textile and Common Labour Union (TTCU) in India, led by women and Dalit workers, signed a historic agreement with clothing manufacturer Eastman Exports, multinational fashion brands H&M, and the labour rights NGOs Global Labor Justice (GLJ) and Asia Floor Wage Alliance (AFWA). U.S. companies Gap Inc. and PVH also signed similar agreements later the same year.<sup>32</sup> The Dindigul Agreement addresses violence and harassment based on gender, as well as caste, migration status, "or any other protected characteristic under international human rights law."<sup>33</sup> These intersectional protections are an im-

31 Solidarity Center, Agreements to Eliminate Gender-Based Violence and Harassment in Lesotho, Report 2021 - 2022 <https://www.solidaritycenter.org/wp-content/uploads/2023/03/Lesotho-FINAL-2.7.23.pdf>

32 Asia Floor Wage and Global Labor Justice, Fact Sheet: The Dindigul Agreement to End Gender-Based Violence and Harassment (2023) <https://asia.floorwage.org/wp-content/uploads/2023/01/Dindigul-Agreement-Fact-Sheet.pdf>

33 Global Labor Justice, Dindigul Agreement Year One Progress Report at 119 (2023) <https://globallaborjustice.org/media/uploads/2025/04/>

30 Fair Food Program website, [www.fairfoodprogram.org/](http://www.fairfoodprogram.org/)

portant advancement, and the program creates a detailed list of violations and remedies to ensure that specific problematic behaviour is addressed, and that appropriate sanctions are issued proportionate with the gravity of the offense. The program created Shop Floor Monitors, **discussed in more detail below**, which are union members trained to address GBVH on the job who participate in peer education and enforcement of the program. The program has proved highly successful at reducing violence and harassment in the covered garment factories.

- In July 2024, garment workers in Indonesia negotiated a groundbreaking agreement to implement a union-led gender justice program at two factories in Central Java that produce university logo apparel and other products for Fanatics, including Fanatics' own products and under license, Nike branded apparel. The workers are represented by four unions, SPN, SPSI, KASBI, and SPSI, and three global labour partners, the WRC, AFWA, and GLJ, supported the negotiations and are signatories to the agreement. The Agreement provides for a union-led program to address GBVH that includes best practices from the Lesotho and Dindigul Agreements above, including defining GBVH with reference to the ILO Convention 190 on Violence and Harassment; incorporating best practices identified in Convention 190 and the related Recommendation 206; union-appointed worker shop floor monitors on GBVH; a worker-developed list of prohibited practices and available remedies; a multi-channel grievance mechanism; robust training for the full workforce; and global dialogue among local unions, global labour stakeholders, the supplier, and the supply chain buyer. It also complements the existing collective bargaining agreements at both factories.<sup>34</sup>

Another important tactic is the negotiation of global framework agreements between international corporations and global union federations that govern policies across the corporate entity's subsidiaries, and

sometimes also suppliers and subcontractors. Some agreements have specifically aimed to promote gender equality or address issues like gender-based violence and harassment across a corporation's global operations, while others contain provisions on discrimination along with other issues. Global framework agreements are intended to set standards throughout a company's operations. Enforcement mechanisms vary but usually include dialogue between the global union and the company to rectify violations. These agreements are more effective when there is meaningful consultation with unions and workers throughout the supply chain prior to adoption, intentional dissemination to all stakeholders, clear remedial processes and on-going joint monitoring and enforcement by the global unions and the company.<sup>35</sup>

### EXAMPLES:

- Many global unions have negotiated global framework agreements that address issues of gender equality. Examples discussed later in this guide include agreements between UNI Global Union and Orange on workplace gender equality;<sup>36</sup> between IndustriALL, the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) and Unilever on addressing sexual harassment throughout its global operations;<sup>37</sup> and between the International Transport Workers' Federation (ITF) and the International Association of Public Transport to strengthen women's employment in public transport.<sup>38</sup>

35 See, e.g. Marc-Antonin Hennebert, Isabelle Roberge-Maltais and Urwana Coiquaud, The effectiveness of international framework agreements as a tool for the protection of workers' rights: A metanalysis, *Industrial Relations Journal* (2023) <https://onlinelibrary.wiley.com/doi/full/10.1111/irj.12398>; Owen E. Herrnsstadt, Are International Framework Agreements a Path to Corporate Social Responsibility?, *University of Pennsylvania Journal of Business Law* (2007)

<https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1296&context=jbl>

36 UNI Global Union, Global agreement on workplace gender equality within the Orange group (2019) [https://uniglobalunion.org/wp-content/uploads/orange\\_-\\_uni\\_global\\_agreement\\_on\\_workplace\\_gender\\_equality.pdf](https://uniglobalunion.org/wp-content/uploads/orange_-_uni_global_agreement_on_workplace_gender_equality.pdf)

37 IUF- IndustriALL-Unilever Joint Commitment on preventing sexual harassment (2016) <https://www.iuf.org/news/joint-commitment-on-preventing-sexual-harassment-at-unilever/>

38 ITF/UITP Positive Employer Gender Policy (2019) <https://www.itfglobal.org>

[Dindigul-Agreement\\_Year-One\\_Progress-Report-2023\\_compressed.pdf](#)

34 Global Labor Justice, Fact Sheet: Central Java Agreement for Gender Justice (2025) <https://globallaborjustice.org/media/uploads/2025/04/Central-Java-Fact-Sheet-English-Final.pdf>

## Addressing Gendered Language

Another aspect of covering all workers is adopting inclusive language throughout the collective agreement. Existing agreements may use outdated, gendered terms like “workmen” or use masculine pronouns when referring to workers. Languages with masculine and feminine versions of words such as “workers” often default to masculine forms when referring to both sexes, in a reflection of patriarchal norms. It is often optimal to review existing agreements and use gender-neutral terminology throughout. However, in some cases, particularly if employers are uncooperative or looking for opportunities to stall negotiations, a holistic review may simply be infeasible. Some unions have instead used workarounds, such as proposing clarifying language that masculine terms or pronouns include all workers.

### EXAMPLE:

- Many Spanish language agreements have adopted measures to address gendered language. A study by the Trade Union Confederation of the Americas (CSA TUCA) lists several examples, including an agreement between el Sindicato Nacional de Trabajadores de la Aviación Civil y Similares (SIELAS) in Panama, which states that masculine pronouns used in the agreement also refer to the feminine gender, unless otherwise specified, and that the masculine “worker” applies to “all people, regardless of sex, who offer services under conditions of subordination or dependence.”<sup>39</sup>
- In Brazil, the National Confederation of Education Workers (Confederação Nacional dos Trabalhadores da Educação (CNTE)) maintains an ongoing campaign to fight attempts to ban the use of neutral language in public education.<sup>40</sup>

[org/en/resources/itf-uitp-positive-employer-gender-policy](https://en/resources/itf-uitp-positive-employer-gender-policy)

39 Trade Union Confederation of the Americas (CSA TUCA), *Negociación Colectiva y Promoción de la Igualdad de Género en América Latina* at 82 (2020) <https://csa-csi.org/wp-content/uploads/2020/01/07-Negociacion-colectiva-y-Promoci%C3%B3n-de-la-Igualdad-de-G%C3%A9nero-en-Am%C3%A9rica-Latina.pdf> (“CSA TUCA 2020”)

40 Confederação Nacional dos Trabalhadores da Educação, *Abriu espaço para linguagem neutra é fazer da escola um lugar mais acolhedor* (February 17, 2023) <https://cnate.org.br/noticias/abriu-espaco-para-linguagem-neutra-e-fazer-da-escola-um-lugar-mais-acolhedor-82d8>

## II. FRAMEWORK TO PREVENT AND ADDRESS DISCRIMINATION, VIOLENCE AND HARASSMENT

This section contains guidance and model language on an overall framework within an enterprise or sector to identify, prevent and respond to both gender discrimination and gender-based violence and harassment.

The model language below offers separate definitions for discrimination and violence and harassment, as these are distinct concepts. However, the guide suggests language for mechanisms to address both since there are core elements of building a workplace response to discrimination, violence and harassment that are shared. This includes an explicit recognition of the employer duty to prevent discrimination, violence and harassment; a defined role for the union and adequate protections for union representatives to address the issue; joint employer-union structures to adopt and implement workplace policies; risk assessments that recognize structural factors; preventative measures; and internal complaint processes to respond to individual experiences or incidents of discrimination, violence and harassment at work.

Specific measures to address equality in **pay**, and **hiring, promotion and retrenchment**, are addressed in the following two sections. Issues related to the broader right to a safe and healthy working environment, and language to promote equality in OSH management, are addressed in the section on **gender equality and OSH**.

Bargaining will necessarily be influenced by the existing legal framework in the country, which varies widely. Some jurisdictions create affirmative obligations on employers to conduct equality assessments, create policies and/or disclose information related to pay and other issues.<sup>41</sup> Some jurisdictions, including Aus-

41 These measures are often incomplete. For example, many jurisdictions limit obligations to larger employers. See, e.g. discussion in ILAW Network and Equal Rights Trust, *A Promise Not Realized: The Right to Non-Discrimination in Work and Employment* Sections 5 and 6 (2024) <https://www.ilawnetwork.com/wp-content/uploads/2024/03/ISSUE-BRIEF-A-Promise-Not-Realized.pdf>

tria, France, Finland, Italy, Spain and Sweden,<sup>42</sup> have laws that require employers to bargain with unions over gender equity issues. In other jurisdictions, there are only general prohibitions against some categories of discrimination, but little in the way of affirmative, concrete obligations.<sup>43</sup> Collective agreements often incorporate general language prohibiting discrimination; however, these clauses can sometimes also lack specific mechanisms and processes to identify and address discriminatory behaviour and practices.<sup>44</sup>

Most importantly, effective protections against discrimination, violence and harassment require engaged workers and responsive union leadership. While strong language in an agreement can strengthen the fight for equality at work; the reality is that a weak written policy accompanied by education and understanding of rights across the union's membership and robust, enthusiastic enforcement by union officials is far better than perfect language on paper with limited efforts by the union at implementation.

## **A: RIGHT TO EQUALITY AND NON-DISCRIMINATION: DEFINITIONS AND CORE CONCEPTS**

### **GOOD PRACTICE:**

Bargaining committees must be engaged with members to understand how gender discrimination manifests in the workplace. This requires creating an intentional space within the union to surface issues and allowing the workers most impacted by gender discrimination to lead on defining problems and creating solutions, [see further discussion in Part 2](#). Unions often utilize workplace surveys, data and statistics to aid in making arguments during bargaining, and these tools should include questions and information regarding issues of discrimination.

### *Core Elements of Non-discrimination Protections:*

- Broad definition of discrimination that protects an open-ended list of social identities including gender, recognizes intersectional discrimination,

and recognizes both direct and indirect forms of discrimination.

- Recognition of the employer's responsibility to provide an inclusive and equitable working culture and to refrain from discrimination in actions or practices.
- Recognition of discrimination as an OSH issue and the employer obligation to take all practicable steps to eliminate it.
- A clear role for union representatives in the creation and enforcement of provisions related to gender equality and non-discrimination, with paid time, access to information and protections against retaliation.
- Clear policies and procedures for identifying and rectifying workplace discrimination, including both mechanisms for changing policies to address systemic issues and mechanisms for responding to individual experiences of discrimination, with protections for complainants and witnesses, remedies for victims, clearly defined consequences for violations, and training of all workers on these policies.

### **Broad Definition of Discrimination**

Unions should push for broad, inclusive and open-ended definitions of what constitutes discrimination at work. Gender discrimination interacts with other forms of societal discrimination; for example, gendered stereotypes, norms and expectations are often different for men and women of different races or ethnicities, religions, social classes, nationalities, sexualities, and other identities. Recognition of the intersectional nature of systems of oppression is essential to creating holistic, effective protections against gender discrimination, and therefore the model language below includes multiple forms of discrimination.

The model language draws from definitions under international law, as well as comparative best practices. The United Nations Committee on Economic, Cultural and Social Rights defines discrimination as "any distinction, exclusion, restriction or preference or other differential treatment that is directly or indirectly based on the prohibited grounds of discrimination and which has the intention or effect of nullifying or impairing the recognition, enjoyment or exercise,

<sup>42</sup> Pillinger and Wintour at 16.

<sup>43</sup> ILAW Network and Equal Rights Trust at Section 7

<sup>44</sup> CSA TUCA at 81.

on an equal footing, of Covenant rights.”<sup>45</sup> Similarly, ILO Convention 111 calls on states to address “any distinction, exclusion or preference ... which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.”<sup>46</sup>

Protections should recognize both direct discrimination – when an individual or group is treated less favourably than others in the workplace or where workplace policies or practices directly impact one group (such as prohibiting women from engaging in night work); and indirect discrimination – where seemingly neutral rules have unequal impacts and perpetuate pre-existing inequalities.<sup>47</sup> The ILO has specifically emphasized that clearly defining and prohibiting indirect discrimination is critical to achieving gender equality, as it constitutes a “more subtle and less visible form of discrimination” that arises from structural barriers and stereotyping.<sup>48</sup>

*All workers shall be free from discrimination on any arbitrary ground. This includes discrimination rooted in or linked to a person's or groups' actual or perceived gender, sex, sexual orientation, gender identity or expression, race, ethnicity, caste, religion, social and/or economic status, social class, age, nationality, citizenship, migration status, ability, family status including caregiver and marital status, pregnancy, political opinion, language, health status, HIV/AIDS status, birth, personal appearance, union affiliation, participation in union activities, and any other*

*arbitrary ground that affects human dignity or reinforces systems of oppression.*

*Discrimination is any differential treatment or impact that arises in connection with a person's actual or perceived status, identity or belief.*

International law recognizes at least twenty-five specific grounds of discrimination: age; birth; civil, family or carer status; colour; descent, including caste; disability; economic status; ethnicity; gender expression; gender identity; genetic or other predisposition towards illness; health status; indigenous origin; language; marital status; maternity or paternity status; migrant status; minority status; national origin; nationality; place of residence; political or other opinion; pregnancy; property; race; refugee or asylum status; religion or belief; sex; sex characteristics; sexual orientation; social origin; social situation. International law also recognizes that discrimination can arise in connection with a ground which is not explicitly recognized where it is considered to be analogous to those recognised.<sup>49</sup>

## EXAMPLES

- A study on violence against journalists in Latin America includes a model **Framework Protocol** for Action and Prevention in the media sector. The Protocol, drafted by Cynthia Benzion, deals with ‘all behaviours and actions that can be characterised as discrimination, harassment or violence based on gender, ethnicity, religion, disability, age, socio-economic status, trade union or political affiliation, etc., which have the purpose and/or result of excluding, restricting, limiting, degrading, offending or nullifying the recognition, enjoyment or exercise of the right to freedom of expression, which has the purpose and/or the result of excluding, restricting, limiting, degrading, offending or nullifying the recognition, enjoyment or exercise of rights, which is directed against any worker and which comes from any person who works in the same organisation or who is occasionally or regularly linked to it, regardless of the hierarchical relationship between them.”<sup>50</sup>

45 United Nations Committee on Economic, Cultural and Social Rights, General comment No. 20: Non-discrimination in economic, social and cultural rights ¶ 7 (2009) <https://www.refworld.org/legal/general/cescr/2009/en/68520>; See also Convention on the Elimination of All Forms of Discrimination against Women Article 1 (1979) <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>

46 ILO Convention 111 on Discrimination in Employment and Occupation, Article 1 (1958) [https://normlex.ilo.org/dyn/nrmlx\\_en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312256:NO](https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312256:NO)

47 See, e.g. UN CESCR General Comment No. 20 at ¶ 7

48 ILO Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part B) Achieving gender equality at work at 61 (2023) [https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed\\_norm/%40relconf/documents/meetingdocument/wcms\\_870823.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed_norm/%40relconf/documents/meetingdocument/wcms_870823.pdf)

49 ILAW Network and Equal Rights Trust at 6.

50 Cynthia Benzion, Protocolo Marco de Acción y

- The Congress of South Africa Trade Unions (COSATU) [Gender Bargaining Guide](#) includes a section on non-discrimination language building on protections in national law.<sup>51</sup>
- The Canadian Union of Public Employees (CUPE) developed a [checklist and sample collective agreement](#) to guide local unions that include model discrimination language.<sup>52</sup> CUPE recommends that a non-discrimination clause: “covers all grounds of discrimination under human rights legislation in your jurisdiction; covers additional grounds such as social condition and gender identity and expression that are not yet listed in all Canadian human rights laws; [and] protects workers from discrimination by anyone in the workplace – management, co-workers, the public, contractors, and service users.”
- A 2012-2015 collective agreement at the Altigracia project in the Dominican Republic states “the employer through its representatives shall respect human dignity, committing not to retaliate or discriminate for reasons of sex, age, race, nationality, political affiliation, religion and association, physical or health condition such as HIV-AIDS or other diseases, whether in future hiring, promoting equal opportunities and treatment of workers, favouring the incorporation of women in non-traditional jobs under the same conditions that workers perform their duties.”<sup>53</sup>
- An internal protocol regarding “prevention, intervention and action in situations of discrimination, harassment and gender-based violence against women and the LGBTQ+ community” adopted by the Sindicato de Obreros y Empleados Aceiteros de Rosario (Rosario Oil Workers and Employees Union – SOEAR), discussed in [Part 2](#), defines vio-

lence and discrimination together, as “[a]ll situations of violence and discrimination based on the person's gender, sexual orientation, gender identity and gender expression that have the purpose or result of excluding, restricting, limiting, degrading, offending or annulling the recognition, enjoyment or exercise of rights, freedoms and guarantees. The situations indicated can be carried out by any means, including omission, and can be directed at a particular person or refer generally to a group or population based on reasons of gender, gender identity or sexual orientation and that generate an environment of intimidation, humiliation or hostility.”

- The Spanish CCOO [Model Protocol Against Harassment Based on Sexual Orientation, Gender Identity and/or Gender Expression](#) defines direct and indirect discrimination, as well as different forms of discrimination based on workplace hierarchies.<sup>54</sup>

## B: RIGHT TO BE FREE FROM VIOLENCE AND HARASSMENT IN THE WORLD OF WORK – DEFINITIONS AND CORE CONCEPTS

Gender-based violence and harassment (GBVH) in the world of work is an abuse of power, and a prevalent human rights abuse across all countries and sectors.<sup>55</sup> Legal frameworks are often inadequate to address the issue; and even in jurisdictions with relatively robust laws stigma, normalization and fear of reprisal can prevent workers from speaking out. Collective bargaining is a critical tool to both address the systemic and structural issues that facilitate abuse, and to use union solidarity to create a safer space for workers to come forward and demand justice. Bargaining can create mechanisms to address structural workplace issues, promote respectful workplaces and prevent GBVH from occurring.<sup>56</sup>

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Prevención ante la Discriminación, el Acoso y la Violencia en el Trabajo Periodístico (2024) <https://www.dropbox.com/scl/fi/sl5z4ed9eezlojvrt9iI9/PROTOCOLO-MARCO-FINAL.pdf?rlkey=si5xvc95k0tqp283v8n2lpadf&e=1&st=lgm6mj93&dl=0>

51 COSATU Resource Document, Gender Equity and Collective Bargaining (2020) [https://mediadon.co.za/wp-content/uploads/2021/05/COSATU-Resource-document-equity-and-collective-bargaining\\_November-2020.pdf](https://mediadon.co.za/wp-content/uploads/2021/05/COSATU-Resource-document-equity-and-collective-bargaining_November-2020.pdf)

52 CUPE, Discrimination: A checklist and sample collective agreement language (2015) <https://cupe.ca/discrimination-checklist-and-sample-collective-agreement-language>

53 CSA TUCA at 83.

54 Protocolo CCOO Article 2.

55 See, e.g. Cassandra Waters and Robin Runge, Made for this Moment: How ILO Convention 190 Addresses Gender-Based Violence and Harassment in the World of Work During the COVID-19 Pandemic and Beyond, Solidarity Center (2021)

56 Workers not covered by a CBA are 20.3% more likely to face verbal abuse, and female workers who are not covered by a CBA are 10.7% more likely to face sexual harassment on the job when compared to workers who are covered by a CBA. Notably, female workers covered by CBAs are

Protections should interact with and expand on existing protections under law, and should include:

- Broad definitions that expansively define violence and harassment, GBVH, and intersectional forms of violence and harassment. Measures to guard against GBVH should include a general provision on the right to be treated with respect and dignity that applies to all workers. This right should not require the worker to allege or demonstrate discriminatory intent, as this can often be difficult to prove.
- A recognition of violence and harassment as an occupational risk. An incorporation of violence and harassment and psychosocial risks into existing OSH policies, in consultation with the union.
- A requirement for the employer to assess, in consultation with the union, risks and hazards of violence and harassment at the workplace and adopt preventative measures to address risks and eliminate – or where elimination is not possible, mitigate – identified hazards.
- Measures to identify, assess and redress threats posed by third parties, including clients, customers, suppliers, contractors, police and government officials and members of the public
- Internal policies and procedures for identifying violations of said policy that includes but is not limited to gender-responsive complaint mechanisms
- Training for all staff including managers that is developed jointly by management and the union or conducted by the union on the policy
- A confidential and safe reporting mechanism that has a clearly defined role for the union
- Strong measures to prevent retaliation in reporting, such as the prohibition of dismissals or other adverse actions against complainants and witnesses.
- Leave policies that include leave to address work-related injuries that include psychological impact of violence and harassment [see leave section]

- Clear consequences for violations, with clear timelines for implementation, including sanctions for perpetrators and remedies for victims
- Creation of joint bodies to address cases of workplace and gender-based violence and harassment.
- Where multiple employers are involved in the work process, mechanisms for redress across user companies, contractors and intermediaries.

This should all be supplemented by adequate internal measures *within* the union to ensure that the union has its own internal mechanisms to identify risks and hazards and support individual members who experience GBVH. This must include procedures and education to ensure that when member-to-member violence and harassment cases arise they are dealt with appropriately, [see discussion in Part 2 below](#).

### Definition of Violence and Harassment

The below definitions of violence and harassment and GBVH are based on ILO Convention 190 on Violence and Harassment in the World of Work,<sup>57</sup> as well as a definition of intersecting forms of identity-based discrimination based on international and comparative best practices.<sup>58</sup>

### GOOD PRACTICE:

Many agreements name and prohibit **specific examples** of conduct that workers wish to end in the collective agreement, based on the lived experiences of workers and the dynamics of the specific workplaces in question. Bargaining committees should engage with members to understand the specific nature of GBVH and other forms of abuse in the workplace or industry. For more on how to create safer spaces for

119.8% more likely to have a valid mechanism at work for addressing gender-based violence and harassment in the world of work. Most workers covered by CBAs also receive various maternity and paternity benefits, including extended leave time. Anner and Mendoza, Bargaining for Decent Work at 4.

57 ILO Convention 190 on Violence and Harassment in the World of Work (2019) [https://normlex.ilo.org/dyn/nrmlx\\_en/f?p=NORMLEXPUB:12100:0::N::P12100\\_ILO\\_CODE:C190](https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::N::P12100_ILO_CODE:C190)

58 UN CESCR General Comment 20; South Africa Employment Equity Amendment Act 47 of 2013 amending Employment Equity Act (Act No. 55 of 1998) Section 6 [https://www.gov.za/sites/default/files/gcis\\_document/201409/37238act47of2013employequity.pdf](https://www.gov.za/sites/default/files/gcis_document/201409/37238act47of2013employequity.pdf); Chile Código del Trabajo Biblioteca del Congreso Nacional (2024) Ley 21.643 Modifica el Código del Trabajo y otros cuerpos legales, en materia de prevención, investigación y sanción del acoso laboral, sexual o de violencia en el trabajo <https://bcn.cl/3hkc6>

these conversations within the union, see the section on [union internal policies](#).

*Violence and harassment mean unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm. This includes gender-based violence and harassment and other forms of discriminatory violence and harassment, including violence and harassment based on a combination or intersecting forms of discrimination.*

*Gender-based violence and harassment (GBVH) means violence and harassment directed at a person because of their actual or perceived sex or gender, or violence and harassment that affects persons of a particular sex or gender disproportionately. GBVH includes sexual harassment.*

*Discriminatory violence and harassment includes violence and harassment directed at a person because of their actual or perceived gender, sex, sexual orientation, gender identity or expression, race, ethnicity, caste, religion, social and/or economic status, social class, age, nationality, citizenship, migration status, ability, family status including caregiver and marital status, pregnancy, political opinion, language, health status, HIV/AIDS status, birth, personal appearance, union affiliation, participation in union activities, and any other arbitrary ground that affects human dignity or reinforces systems of oppression; or violence and harassment that affects such persons disproportionately.*



many, Indonesia, Italy, Japan, Jordan, Kenya, Malawi, the Philippines, Senegal, South Africa, Spain, Türkiye and the UK.<sup>59</sup>

- The Lesotho Agreements, discussed in more detail [above](#), incorporates ILO C190 definitions of GBVH and world of work.<sup>60</sup> These protections are significantly broader than current protections available under the Lesotho legal system.<sup>61</sup>
- The [Dindigul Agreement](#), also discussed [above](#), incorporates ILO C190 definitions of GBVH, and then lists examples of specific abusive practices identified in the garment factories covered by the agreement, such as “throwing heavy bundles of papers and clothes,” and “corporeal punishment including restrictions on use of bathroom breaks.”<sup>62</sup> Different abusive practices are graded from Categories 1–4 depending on severity.
- In Indonesia, the garment worker union SPN, through the leadership of its Women’s Committee, created template language on the prevention of violence and harassment to be integrated into

## EXAMPLES

- A [2024 ILO ACTRAV report](#) on trade union initiatives, strategies and negotiations since the adoption of C190 lists numerous examples of collective agreements that adopt expansive definitions of violence and harassment in line with C190 from Australia, Bangladesh, Bulgaria, Brazil, Cambodia, Canada, Chile, Cyprus, Ecuador, El Salvador, Ger-

59 Jane Pillinger and Nora Wintour, ILO ACTRAV, Violence and harassment in the world of work—Trade union initiatives, strategies and negotiations since the adoption of the Convention on Violence and Harassment (No. 190) and its Recommendation (No. 206) at 36–38 (2024) <https://www.ilo.org/publications/violence-and-harassment-world-work-trade-union-initiatives-strategies-and>

60 Solidarity Center, Lesotho Report (2021 – 2022).

61 GLRR, A Conversation with Itumeleng Moerane, at 32.

62 Global Labor Justice, Dindigul Agreement Year One Progress Report at 119 – 120 (2023) [https://globallaborjustice.org/media/uploads/2025/04/Dindigul-Agreement\\_Year-One\\_Progress-Report-2023\\_compressed.pdf](https://globallaborjustice.org/media/uploads/2025/04/Dindigul-Agreement_Year-One_Progress-Report-2023_compressed.pdf)

factory-level agreements. The model language requires the employer to prevent violence and harassment and promote a “work culture that respects and upholds human dignity, by prohibiting unacceptable behaviour and/or practices,” including physical, psychological, sexual and economic harm. Psychological violence is defined as “any act that causes fear, loss of confidence, loss of ability to act, helplessness, and/or severe psychological suffering,” while economic violence is defined as any act “threatening or limiting the financial freedom of the Worker/Labourer, such as the immediate supervisor/manager depriving them of the right to overtime, not paying the overtime pay, not increasing their wage as a revenge due to personal issues, and others.” This targeted specific abusive practices in the sector, including a widespread failure to pay overtime, which harmed workers economically and left them more vulnerable to other abuses. The model includes a Joint Monitoring Team, “to identify the forms, dangers and risks of violence and harassment at the workplace in order to take measures to prevent and control them;” a mechanism for “case resolution and victim’s recovery;” and mandates joint training. So far, 14 workplaces have used the template to secure protections in their collective bargaining agreements. This has led to workers getting compensated when they are not properly paid overtime, and the compliant mechanism has been used to hold harassers accountable.

- A three-year anti-bullying campaign by the Minnesota Association of Professional Employees resulted in the adoption of a Respectful Workplace Policy with the state government, announced in April 2015. The policy has a list of what is considered disrespectful conduct, including “[e]xhibiting aggressive behaviours including shouting, abusive language, threats of violence, the use of obscenities or other non-verbal expressions of aggression; “[b]ehavior that a reasonable person would find to be demeaning, humiliating, or bullying;” unwanted physical contact or comments; deliberate misgendering, misnaming or mispronunciation of someone’s name; microaggressions including “comments, behavior, or other interactions that intentionally or unintentionally communicate hostility or bias toward a person who might identify as being a member of a marginalized group or

nonmainstream community;” and “[d]eliberately destroying, damaging, or obstructing someone’s work performance, work product, tools, or materials.”<sup>63</sup>

- A collective agreement from the Dominican Republic states that the Employer commits to “giving orders in a moderate and just manner, avoiding any action that could affect the physical or mental dignity of the workers.”<sup>64</sup>
- The Canadian Union of Public Employees (CUPE) guide on harassment articulates current legal standards and how trade unions can both develop their own protections in bargaining and use existing standards to protect workers.<sup>65</sup>

### GOOD PRACTICE:

Employers often deny or downplay the severity and extent of GBVH present within the worksite or industry. Unions can undertake surveys of members to demonstrate the extent of the problem. Unions can also partner with academic institutions and other allies to engage in research across sectors and industries to bolster arguments at the bargaining table. These can be particularly important in demonstrating that gender-based violence is an occupational risk factor.

### EXAMPLES:

- A 2017 ILO ACTRAV report on *Violence and Harassment Against Women and Men in the World of Work* details numerous case studies of trade unions undertaking surveys and studies to expose the prevalence of GBVH in the world of work.<sup>66</sup>
- The National Confederation of Financial Sector Workers (Confederação Nacional dos Trabalhadores do Ramo Financeiro da CUT (Con-

63 Minnesota State HR/LR Policy #1432, Respectful Workplace (2015, revised 2023) <https://mn.gov/mmb-stat/policies/1432-respectful-workplace-policy.pdf>

64 CSA TUCA a 82.

65 CUPE, Stop Harassment: A Guide for CUPE Locals (2018) <https://cupe.ca/stop-harassment-guide-cupe-locals-1>

66 Jane Pillinger, ILO ACTRAV, Violence and harassment against women and men in the world of work : trade union perspectives and action (2017) [https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed\\_dialogue/@actrav/documents/publication/wcms\\_546645.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_dialogue/@actrav/documents/publication/wcms_546645.pdf)

traf-CUT)) won landmark protections in the financial sector in Brazil, following a campaign to address harassment and violence. The union worked with academics to conduct a national survey of 2,600 bank workers across all regions of the country. The study helped demonstrate how widespread harassment was in the industry, with over 40% of those interviewed experiencing violence in the last 6 months.<sup>67</sup> The union also launched a grassroots campaign aimed at workers to highlight the issue. This helped secure commitments to address the problem, including an agreement by employers to conduct investigations that protect the confidentiality of victims and a protocol to prevent workplace conflict, discussed in more detail below.

- The Canadian Labour Congress partnered with the Western University's Centre for Research and Education on Violence Against Women and Children to develop a report on *Harassment and Violence in Canadian Workplaces* that was used to advocate and educate around better workplace protections for violence and harassment.<sup>68</sup>

## C: POLICIES AND PROCEDURES TO PROTECT RIGHTS TO EQUALITY AND FREEDOM FROM VIOLENCE AND HARASSMENT

### Recognition of Employer Responsibility

Employers have an obligation to refrain from discrimination in actions or practices under virtually all legal systems, although the extent of that obligation differs by jurisdiction. Most also recognize a duty of care to affirmatively prevent at least some forms of discrimination.<sup>69</sup> Under international law, states have an affirmative obligation to pursue not just formal but substantive equality, which requires recognizing historic and persistent prejudice and actively remediating social and economic disadvantages faced by vulnerable groups.<sup>70</sup> In the world of work, implementing substan-

tive equality requires investigating how work impacts social, economic and cultural forms of inequality, and taking steps to make sure the workplace policies and practices do not compound the disadvantages that marginalized groups experience.

Virtually all legal systems recognize obligations under occupational health and safety law to protect workers from harm in the workplace. In some jurisdictions, the physical and psychological impacts of discrimination, particularly discriminatory violence and harassment, is explicitly recognized.<sup>71</sup> In others, the law does not fully address discrimination as an occupational safety and health issue. It is crucial that employers recognize their obligation to prevent discrimination, violence and harassment utilizing an OSH framework. Too often, discrimination, violence and harassment are characterized as issues that arise as the result of behaviour by individual bad actors, rather than systemic issues that are often predictable and arise out of workplace structures.

Bargaining language should reference, and intentionally and clearly expand on, the legal protections that currently exist in the jurisdiction. The below sample language will need to be adapted to local circumstances.

*EMPLOYER recognizes its obligation to prevent discrimination, including gender-based discrimination, and shall provide an inclusive and equitable working culture and ensure processes and practices do not discriminate.*

*The right to [a safe and healthy working environment or the appropriate terminology in national law] is understood to include the right to be free from discrimination, violence and harassment in the world of work. EMPLOYER shall take*

<sup>67</sup> CSA TUCA at 93-94.

<sup>68</sup> Canadian Labour Congress, *Harassment and Violence in Canadian Workplaces: It's [Not] Part of the Job* (April 2022) <https://documents.clcctc.ca/human-rights/Respect-at-Work-Report-EN.pdf>

<sup>69</sup> Many jurisdictions also recognize the responsibility that unions have to prevent discrimination.

<sup>70</sup> See, e.g. UN CESCR General Comment No. 20; UN CESCR General

Comment No 16, Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights at ¶ 7 (2005).

<sup>71</sup> For example, Australia, Canada, Belgium and Lesotho. For discussion of state responses see ILO, Preventing and addressing violence and harassment in the world of work through occupational safety and health measures (2024) <https://www.ilo.org/publications/major-publications/preventing-and-addressing-violence-and-harassment-world-work-through>

*all reasonably practicable steps to remove discrimination, violence and harassment from the working environment.*

It may be helpful to name specific priority topics, such as preventing violence and harassment in the world of work or ensuring equal pay for work of equal value as part of an open-ended list.

#### EXAMPLES:

- The Victorian Trades Hall Council in Australia developed **model clauses** as part of a campaign to address gendered violence at work through an OSH lens.<sup>72</sup> The sample language states that “the employer has an obligation to provide a working environment that is safe and without risk to health. This obligation includes a requirement to take all reasonably practicable steps to remove sexual harassment and gendered violence from the workplace.”
- A collective agreement between the Single Union of Workers of the Peruvian University Cayetano Heredia (Sindicato Único de Trabajadores de la Universidad peruana Cayetano Heredia (SU-TUPCH)) and the Peruvian University Cayetano Heredia (la Universidad Peruana Cayetano Heredia) for 2018–2019 states that “The University commits to the Union to implement prevention policies against sexual and workplace harassment within a period of no more than 10 months, in accordance with the relevant regulations.” This clause was designed to push the university to go beyond typical measures like training and require holistic prevention measures.
- The 2024 ILO report **Preventing and Addressing Violence and Harassment in the World of Work Through Occupational Safety and Health Measures** contains examples of collective agreements that adopt a duty of care, as well as a comparative analysis of legal frameworks that address violence and harassment through an OSH framework. For example, the report notes a Croatian agreement that states “the employer is obliged to protect the

dignity of workers during the performance of their work, so as to ensure working conditions in which they will not be exposed to any form of direct or indirect discrimination, harassment or sexual harassment by the employer, superiors, associates, workers and third parties who come into contact with them during the performance of their work tasks.”<sup>73</sup>

#### Coverage of All Workers

While ideally all provisions of a collective agreement would apply across the entire workforce, **see section I on coverage of all workers**, including workers in non-standard contracts, subcontractors and others in a supply chain, it is particularly critical that protections against discrimination, violence and harassment extend to all workers. This is consistent with ILO Conventions 190 and 155,<sup>74</sup> but often a gap in existing legal protections. To the extent such protections exist, they are sometimes more likely to be in occupational safety and health law.

*EMPLOYER recognizes its responsibility to protect [the safety and health of all workers and those impacted by its operations or other relevant terminology based on the law in the jurisdiction], including by preventing, identifying and addressing discrimination, violence and harassment that occurs in the course of work. This applies to [workers hired through labour intermediaries, casual workers, subcontractors, self-employed workers, supply chain workers - terminology will depend on the jurisdiction and worksite], trainees including interns and appren-*

<sup>72</sup> Victorian Trades Hall Council Model Clause (2019) [https://assets.nationbuilder.com/victorianunions/pages/14816/attachments/original/1654566459/GV\\_ModelClause2019.pdf?1654566459](https://assets.nationbuilder.com/victorianunions/pages/14816/attachments/original/1654566459/GV_ModelClause2019.pdf?1654566459)

<sup>73</sup> ILO, Preventing and addressing violence and harassment in the world of work through occupational safety and health measures at 57 (2024) <https://www.ilo.org/publications/major-publications/preventing-and-addressing-violence-and-harassment-world-work-through>

<sup>74</sup> ILO C190 Article 2, ILO Convention 155 on Occupational Safety and Health, Article 2(1) (1981) [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100::P12100\\_INSTRUMENT\\_ID:312502:NO.](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C155('C155');ILORecommendation164onOccupationalSafetyandHealthRecommendation%11(1981)

*tices, workers who have been dismissed, volunteers, job seekers and job applicants, whether working in the public and private sectors and the formal and informal economy, in both urban and rural areas.*

## Coverage of the World of Work and Third Parties

*EMPLOYER shall take all reasonable measures to prevent discrimination, violence and harassment that arises out of, is linked with or occurs in the course of work.*

*"Work" includes (a) the workplace [including public and private spaces where they are a place of work]; (b) places where workers are paid, take a rest break or a meal, or use sanitary, washing or changing facilities; (c) during work-related trips, travel, training, events or social activities; (d) work-related communications or platforms enabled by information and communication technologies; (e) in employer-provided accommodation; and (f) when commuting to and from work.*

*This includes discrimination, violence and harassment committed by third parties such as [clients, customers, service providers, users, patients, government officials, members of the public and others who workers have contact with due to work - this list should be developed in consultation with workers]<sup>75</sup>*

It is advisable to secure specific protections related to preventing discrimination, violence and harassment, including but not limited to GBVH, in jobs that involve a high degree of exposure to third parties. Appropriate mechanisms will vary depending on the sector involved. Workers in the service industry may want

<sup>75</sup> Many jurisdictions only recognize employer liability with respect to employees, and some only recognize harassment when it is committed by a person with some form of supervisory authority. Policies should be broader and ensure all forms are addressed and remedied, particularly in services and other sectors where workers frequently interact with other clients. ILO C190 Article 4 and Recommendation 206 ¶ 8 recognize the obligation to address violence and harassment from third parties.

to demand protective equipment and mechanisms to clearly set and manage expectations from clients and customers, including the ability to refuse service without consequence. Violence from third parties in the public sector is often addressed through union advocacy for increased funding, which can particularly address issues such as understaffing.<sup>76</sup> In the informal sector, in areas like waste picking and street vending, it is often particularly critical to address violence and harassment committed by state officials.<sup>77</sup>

- Unite Here, a hospitality sector union in the United States, built campaigns for safety focused on violence and harassment committed by guests at hotels and casinos. For example, in the city of Chicago, Unite Here Local 1 surveyed members and found that 58% of hotel workers and 77% of casino workers had been sexually harassed by a guest or customer.<sup>78</sup> The union used this information to advocate for protections in collective agreements, including panic buttons that hotel cleaners could carry on their person, the right to refuse to service rooms where guests had engaged in inappropriate behaviour without consequence or to return with a security escort, and revised hotel policies that required harassing guests to be refused service. Through the #ComeForward campaign, women were encouraged to report incidents and end the culture of silence. The union subsequently pushed for citywide legislation that extended protections to all hotel workers. The campaign was catchily titled "**Hands Off, Pants On.**" Other Unite Here locals, including locals in New York City and Seattle, have won similar protections.
- A **Model Protocol for Action and Prevention Against Discrimination, Violence and Harassment** developed for the media sector states that "in cases of digital violence perpetrated by exter-

<sup>76</sup> See Pillinger and Wintour at 74-75.

<sup>77</sup> See, e.g. The ITF Informal Transport Workers Charter specifically calls for an "[e]nd to harassment, exploitation and corruption" especially "arbitrary harassment and extortion from police, military, border officials and other authorities" as part of the landscape of harassment committed against informal workers. <https://www.itfglobal.org/en/resources/informal-transport-workers-charter>

<sup>78</sup> Unite Here Local 1, Hands Off Pants On: Sexual Harassment in Chicago's Hospitality Industry (July 2016) <https://www.handsoffpantson.org/wp-content/uploads/HandsOffReportWeb.pdf>

nal aggressors or those outside the organization, psychological support and free legal services will be offered to accompany the victim throughout any legal or administrative process that the victim wishes to undertake. Likewise, the company will offer – as far as possible – to pay for forensic computer engineers to safeguard digital evidence of the attacks and to have a complete security review of the computer devices with which the affected person works – whether or not they are owned by the newsroom – to detect possible computer damage or unauthorized access due to malware attacks or the installation of spyware. In the event of anomalies being detected, a solution will be provided involving the replacement or re-configuration of the devices.”<sup>79</sup>

- In 2010, social partners in Europe signed multi sectoral guidelines on violence and harassment by third parties.<sup>80</sup> In 2025, social partners from local and regional governments, central government administrations, education, hospitals and healthcare, and hospitality signed updated guidelines with enhanced guidance on issues like risk assessment.<sup>81</sup> The guidelines outline a range of policy responses to third party violence (TPHV), emphasizing that “employers should take measures to ensure that everyone knows that there is zero tolerance for TPVH. Regular and appropriate communication to relevant third parties about using dignified and appropriate behaviour towards workers should be conveyed, including that, where appropriate, legal action will be taken against perpetrators.” The guidelines outline core elements of risk assessment, including emphasizing the need for employers to “incorporate saf-

er environments into workplace design... aim for a fair distribution of workload and safe staffing levels based on a clear job content, [and] provide clear information regarding the nature and level of service third parties should expect as well as the provision of procedures for third parties to express dissatisfaction and for such complaints to be investigated” and how to ensure appropriate remedies.<sup>82</sup>

- Reports discussing implementation of the Multi-sectoral Guidelines include good practices from across multiple jurisdictions, including Austria, Belgium, Bulgaria, Czech Republic, Denmark, Finland, France, Germany, Ireland, Italy, Netherlands, Spain and the UK. For example, Deutsche Telekom AG adopted “an innovative threat management process that includes “a dedicated Physical & Personnel Security Department in Telekom Security. Two professionally trained and certified Threat Managers handle incidents of violence, threats and stalking involving employees and/or customers. It also covers domestic violence, such as safety, threats and stalking from an ex-partner in the workplace, as well as responses to the recent increase in sexual harassment threats and verbal abuse from callers to Deutsche Telekom’s service centres. Responses are evidence-based, and incidents are recorded and categorised. An immediate assessment of the risk ensures that serious risks are dealt with urgently. Each case is dealt with individually, providing tailored support and prevention. Individualised support is given, including assistance to create boundaries and de-escalation techniques, and support is available from the occupational health service. Where applicable, systems are in place to involve criminal lawyers and the police.”<sup>83</sup>
- The CCOO **Model Protocol Against Harassment Based on Sexual Orientation, Gender Identity and/or Gender Expression** has model language for an agreement with employers that covers persons who do not form part of the company “but who are related to it by reason of its work: customers, suppliers, and persons applying for a job.”<sup>84</sup>

79 Benzion, Protocolo Marco, Part 4.

80 The 2010 Multi-sectoral Guidelines to tackle third-party violence and harassment related to work are available in many languages at <https://www.thirdpartyviolence.com/2010multi-sectoralguidelines>

81 The 2025 Multi-sectoral Guidelines to tackle third-party violence and harassment related to work are currently available in English at [https://www.thirdpartyviolence.com/\\_files/ugd/549202\\_a271e44525994fab89e106bc7881b466.pdf](https://www.thirdpartyviolence.com/_files/ugd/549202_a271e44525994fab89e106bc7881b466.pdf). A 2023 report contains a systematic review of the guidelines to identify recommendations. Summary themes and recommendations can be found in a final report available in English, French, German, Spanish, Italian and Romanian. Jane Pillinger, Summary of key points on TPVH relevant to the updating of the Guidelines (2023) <https://www.thirdpartyviolence.com/updatingmulti-sectorialguidelines2023>

82 2025 Multi-sectoral Guidelines.

83 2025 Multi-sectoral Guidelines, Good Practice Examples, Germany <https://www.thirdpartyviolence.com/germany>

84 CCOO Protocol Article 2.

- The Lesotho Agreements, discussed more [above](#), created a GBVH policy that applied to subcontracted security guards within garment factories as well as workers in the factories. Women garment workers reported experiencing harassment from the guards, and the inclusion was important to create a safe and respectful workplace.
- An agreement negotiated by the National Association of Journalists of Peru (ANP) provides legal and other support on tackling cyber harassment and abuse faced by journalists.<sup>85</sup>
- Following incidents of harassment and violence by police, in 2023 the Zimbabwe Chamber of Informal Economy Associations (ZCIEA) signed Memorandums of Understanding with local authorities to address safety on the job. While not specifically aimed at discrimination or GBVH, the agreements address violence by public authorities generally, which is often a major source of GBVH for women informal workers, particularly those working in public spaces.<sup>86</sup> The Homebased Women Workers Federation in Pakistan negotiated an MOU with public authorities to address increasing GBVH during the pandemic, as well as the need for social protection.<sup>87</sup>



## Union Role and Rights

How best to define the union's role in the creation, monitoring and enforcement of protections against discrimination, violence and harassment at the workplace or within the sector covered by the agreement depends on the size and scope of the workplace(s) being covered, dynamics within the union, existing structures and the legal requirements of the jurisdiction.

The model language below proposes the creation of a workplace level gender equality union representative. This is not because it is the best or only way to struc-

ture the union's response to gender discrimination. It is the responsibility of **all** union officials to advocate for gender equality and remain cognizant of discrimination within the workplace. However, creating a focal point can have important benefits. An individual dedicated to advancing gender equality will cultivate specific expertise including in addressing sensitive issues such as GBVH, it creates a clear accountability structure and ensures that the officer will not be pulled in multiple directions. As discussed in the section on [internal union policies](#), sometimes positions focused on equality are informally devalued and sidelined, particularly if other union officers then perceive gender discrimination to be outside of their purview. There is some risk that creating a stand-alone gender equality representative may isolate the person, especially in the face of indifference from other representatives, or reinforce the notion that gender discrimination is tangential or "women's issue" outside the core work of the union. All union representatives should receive adequate training from the union and/or community allies in non-discrimination and understand it as a core issue for the union as a whole.

While the position proposed below is specific to gender, some unions have created specialty representatives focused on equality more broadly, or a specific issue such as GBVH. At larger worksites, it may be optimal to negotiate for a representative or representatives focused on other prevalent forms of inequality – particularly to ensure proper representation across issues like language barriers and cultural difference. In smaller unions, it may make sense to designate a single representative or pair of representatives to focus on all forms of discrimination. The proposed language

<sup>85</sup> ITUC, Workers Unite For The Right Of Everyone To A World of Work Free From Violence And Harassment: #RatifyC190 (2002) [https://www.ituc-csi.org/IMG/pdf/en\\_c190\\_layout\\_web.pdf](https://www.ituc-csi.org/IMG/pdf/en_c190_layout_web.pdf)

<sup>86</sup> ILAW Network, ZCIEA and Solidarity Center, Paralegal Handbook for the Informal Economy in Zimbabwe (June 2024) <https://www.ilawnetwork.com/wp-content/uploads/2024/06/ILAW-Paralegal-Handbook-for-the-Informal-Economy-in-Zimbabwe.pdf>

<sup>87</sup> ACTRAV 2024 at 36.

below is intended to be negotiated with the employer, so that the employer also recognizes the authority of the individual to address these issues. It would also be possible for the union to internally decide to create a focal point at the workplace or sectoral level, which would not require negotiations with the employer.

At a minimum, it is essential to ensure all union representatives have appropriate recognized institutional authority, paid time off and access to resources, such as training and information to address gender equality. It is important for union representatives and negotiators to understand their representational rights including rights to paid leave, timely information with respect to equality issues such as employer policies and decision-making processes, and protection from retaliation, among others. The agreement should build on existing protections, particularly if the legal mechanisms available are weak or difficult to enforce.

*EMPLOYER recognizes the role of UNION in promoting equality at work. The [gender equality representative(s) or other official(s) designated by the union] shall be compensated by EMPLOYER [at their normal rate or special rate as discussed below] for time spent to address issues of discrimination, diversity and inclusion.*

## EXAMPLES

- Unite the Union in the UK promotes negotiating a specific union position at each worksite, called a Union Equality Representative, whose job is to identify and address equality issues.<sup>88</sup> The mandate of these representatives is broader than gender alone and includes other issues of equality such as racial discrimination. It is proposed that worksite equality representatives are elected and have equal rights with other worksite union representatives, and they are included in negotiating committees. Representatives are expected to

have expertise in equality issues, to play a role in identifying and addressing individual incidents of discrimination and to ensure equality issues are included in negotiation and consultation agendas.<sup>89</sup> Unions are encouraged to negotiate paid time for union equality reps to devote to these activities, and as discussed below in the section on internal union policies these reps are also incorporated into internal union structures around up-lifting equality issues, **discussed more in the section on internal union policies**. This program was inspired in part by learnings from a program of the Canadian union UNIFOR's program, discussed next.

- The Canadian union UNIFOR adopted an innovative program to train union activists to become Women's Advocates. As the name implies, advocates focus specifically on women's rights and particularly GBVH. Representatives are trained by the Women's Department at UNIFOR on responding to workplace harassment, and the impacts of intimate violence and abuse in the workplace.<sup>90</sup> The program in particular focuses on preparing Women's Advocates to support women in accessing community and workplace resources related to intimate partner violence, including designing and advocating for workplace responses such as safety plans.<sup>91</sup> The union provides model bargaining language for a Women's Advocate role,<sup>92</sup> wherein the company agrees to allow the union to select a Women's Advocate, and the company provides a confidential phone line and private office to address reports and agrees to communicate about the services on offer. In the model agreement, the company also agrees to pay "for lost time, including travel time, registration costs, lodging, transportation, meals and other reason-

<sup>88</sup> Unite Equality Strategy (2023) <https://www.unitetheunion.org/media/5725/jn9997-a4-unite-strategy-for-equality-2023-brochure-1.pdf>; See also Unite website, Unite Equalities Reps <https://www.unitetheunion.org/what-we-do/equalities/unite-equalities-reps>

<sup>89</sup> Unite Equality Strategy (2023)

<sup>90</sup> Unifor website, Unifor's groundbreaking Women's Advocate program <https://www.unifor.org/unifors-ground-breaking-womens-advocate-program>

<sup>91</sup> Unifor Women, Bargaining a Domestic Violence Policy & Program Including a Unifor Women's Advocate Frequently asked questions by bargaining committees and the employer [https://www.unifor.org/sites/default/files/legacy/documents/document/bdvpp\\_v.1.pdf](https://www.unifor.org/sites/default/files/legacy/documents/document/bdvpp_v.1.pdf)

<sup>92</sup> Unifor Women, Bargaining a Domestic Violence Policy at 8.

able expenses where necessary" including a basic training program of 40 hours and an annual 3-day refresher offered by the Unifor National Women's Department. In reality, different levels of commitments from the employer exist across different collective agreements: "some Women's Advocates have regular, paid time off, some work 'time as required', others work after hours in a volunteer capacity."<sup>93</sup>

- Unifor's women's advocates program also informed a Women's Advocates Programme created by the International Transport Workers' Federation (ITF), which was contextualized for the transport sector and implemented across many affiliate unions, including Brazil, Ghana, India, and Nepal.<sup>94</sup> Women's Advocates are trained in "early intervention, providing confidential support and help to access community services, and advocating for workplace safety planning and job security. The programme also helps to empower women as individual survivors to collectively lead and shape change."<sup>95</sup> See more discussion in the section on **internal union policies**.

Negotiators should consider demanding a higher rate of pay for certain kinds of representational activities related to discrimination, violence and harassment, such as to support victims in cases of GBVH, which could be conceptualized as a specific form of hazard pay. Negotiating hazard pay recognizes that representational work to confront gender discrimination carries dangers. It puts union officials at risk of retaliation, and it can also cause secondary trauma. There are, however, potential drawbacks, particularly if it makes the employer less likely to approve committees or training or attracts unqualified candidates who are seeking a higher rate of pay.

*Workers shall receive [a specific additional amount or standard hazard pay referencing other dangerous work at the site or sector] for each hour worked [representing or supporting complainants of discrimination, violence and/or*

*harassment at work; participating in workplace committees to address discrimination, violence and harassment; and/or acting as trainers related to non-discrimination policies and/or violence and harassment policies]*

#### EXAMPLE

- The Maine Service Employees Association negotiated a contract with a healthcare provider that includes a pay differential for diversity, equality and inclusion work: "Employees shall receive an additional \$4 per hour for each hour worked participating in committees or as trainers to improve and address diversity, equity and inclusion."

Union rights to information should be protected under national law, but it may be optimal to press for more specific provisions to clarify the right to information as it applies to discrimination, violence and harassment.

*UNION representatives shall be granted timely access to information by EMPLOYER to assist in efforts to further equality at work, including but not limited to demographic data and decision-making on recruitment, hiring and promotions; wage rates and other compensation; internal policies and practices; and decision-making processes to assist in efforts to further equality at work.*

In addition, it may be advisable to create additional official roles for union members with access to training and heightened protections to address workplace discrimination, violence and harassment through an occupational safety and health framework. The language below creates workplace monitors for violence and harassment, inspired by occupational safety and health committees, the language in the Dindigul agreements, and advocates programs implemented by unions like UNIFOR and the ITF. This can also be accomplished through existing occupational safety and health committees, particularly ensuring workplace representatives have appropriate training - but in workplaces with particularly dangerous conditions

93 Unifor Women, Bargaining a Domestic Violence Policy at 6.

94 ITF, ILO C190: A Transport Workers' Toolkit (2021) <https://www.itfglobal.org/en/resources/ilo-c190-transport-workers-toolkit>

95 ITF C190: A Transport Workers' Toolkit at 31.

such measures are advisable. If the employer rejects this language, it may still be optimal to develop an internal, volunteer union program to train worker monitors to help identify issues to the union for action. This can help engage members in creating a culture of safety and respect and enhance oversight.

*EMPLOYER shall provide [funding for training and paid time off] for violence and harassment intervention training to any interested workers. Training shall be [conducted by the union; conducted jointly by the union and employer through a Joint Committee; or conducted with local NGOs with competence in workplace violence and harassment especially sexual violence]. The first shall be held within two months of signing this contract, and yearly thereafter.*

*UNION shall appoint workers who have completed the VH Intervention Training to become workplace VH Monitors. There shall be at least [2 or appropriate number given size of the worksite] VH Monitors [present at the worksite, on shift or otherwise available depending on the nature of the worksite]. VH monitors shall monitor workplace relations, engage in peer education regarding violence and harassment and as necessary identify issues related to violence and harassment with the consent of any individual victims targeted or experiencing violence and harassment, and provide support to workers to engage [internal mechanisms to address violence and harassment]. EMPLOYER shall fully cooperate with the appointment and functioning of VH Monitors, including but not limited to providing an updated list of staff and their positions and duties in order to facilitate the appointment and appropriate locations for VH Monitors.*

*EMPLOYER shall ensure VH Monitors do not face any form of retaliation for exercising their duties and any adverse employment action shall be presumed to be retaliatory.*

#### EXAMPLE:

- This language is adapted from the [Dindigul Agreement](#), discussed in more detail above, a binding brand agreement to address violence and harassment based on gender, as well as caste and migration status, in the garment sector. The oversight mechanisms of the program include the creation

of Shop Floor Monitors, union members who are trained on GBVH and the protections in the agreement to conduct on-going oversight. Each shift must have “at least two monitors for every fifty workers on the shop floor ... distributed at regular intervals.” Shop floor monitors are explicitly empowered to engage in peer education regarding GBVH and to support workers to access the independent grievance mechanism established by the agreement. The agreement requires employers to “fully cooperate with the appointment and functioning of shop floor monitors” and creates a rebuttable presumption of retaliatory intent for “any adverse employment action against shop floor monitors.” This model creates ongoing oversight and monitoring of protections.<sup>96</sup>

Establishing the individuals and structure within the employer responsible for addressing discrimination, violence and harassment is also of critical importance. Many union agreements establish formal joint committees with representation from management and the union to tackle gender equality and/or broader issues of workplace equality. Alternatively, or additionally, gender can be mainstreamed into existing committees on topics such as health and safety, hiring, and discipline, where they exist.<sup>97</sup>

#### Workplace Structures and Policy

Workplace policies regarding discrimination, violence and harassment should be developed with input from the union. Generally, it is advisable to establish a joint union-employer body with equal representation to develop and implement policies, while recognizing that the core responsibility to prevent discrimination, violence and harassment rests with the employer. This guide does not suggest specific language on joint union-management structures for two reasons: (1) the appropriate shape and scope of these entities are highly context specific and (2) while joint committees can be important sites of collaboration, there is a risk these spaces will be dominated by the employer, sidelined or used to stall on critical issues. The union should develop an internal strategy for how to engage with existing or proposed joint-management

<sup>96</sup> GLJ, Dindigul Agreement Year One Progress Report at 113-117.

<sup>97</sup> CSA TUCA at 81.

spaces depending on their historic level of usefulness and the employer's willingness to meaningfully engage in these spaces. The utility of joint spaces can potentially be enhanced by establishing clear mandates, time boundaries for key decisions and/or targeted outcomes regarding specific discrimination issues. There is specific language on creating joint labour-management spaces for the purposes of ensuring equality with respect to pay, recruitment and promotions in the subsequent two sections.

- A 2016 European Trade Union Confederation study, titled "**Safe at Home, Safe at Work**" by Dr. Jane Pillinger, includes 11 country studies on union efforts to address GBVH, as well as an analysis of the legislative frameworks in place in each country.<sup>98</sup> The report discusses the **European Social Partners' Autonomous Framework Agreement on Harassment and Harassment at Work from 2007**, and national-level agreements on the issue reached in multiple countries including Belgium, Bulgaria, France, Italy, the Netherlands, Norway and Slovenia. The report also highlights many agreements across different sectors that creatively address GBVH at work. One of many such examples is a sectoral agreement from Italy in the woodworking sector, which was the result of engaged women leaders and activists within the union.<sup>99</sup> The agreement includes a detailed Code of Conduct on sexual harassment and mobbing, with definitions and procedures for addressing individual cases.<sup>100</sup> The agreement mandates training for workers and managers, establishes workplace committees with union and employer representatives "who are responsible for raising awareness amongst employers and workers," and creates "an informal procedure and arbitration by mutual consent," as well as formal procedures for responding to sexual harassment and mob-

bing."<sup>101</sup>

- A 2023 agreement between the Peruvian Federation of Social Security Health Workers (Federación Centro Unión de Trabajadores del Seguro Social de Salud (FED-CUT)) and Social Security Health Conditions (Condiciones de Trabajo del Seguro Social de Salud (ESSALUD)) states that "ESSALUD agrees to establish a committee for the prevention of violence and harassment in the workplace with FED CUT, which will include two (02) representatives from FED CUT, which will implement a protocol for prevention and response to cases of discrimination, violence, and harassment."
- In Argentina, a 2006 general collective agreement in the public sector included a chapter on equal opportunities, with the aim to "avoid and eliminate gender discrimination in all its forms and manifestations, and to promote gender equity in employment as an active part of the principle of equal opportunity."<sup>102</sup> The agreement created an Equal Opportunity Commission to promote equality throughout the public sector.
- UNI Global Union has negotiated a series of global framework agreements that address issues of gender equality, including a 2018 agreement focused specifically on three issues : workplace gender equality, work-life balance, and combating discrimination and violence.<sup>103</sup> The agreement establishes that companies under Orange's control and the local unions at those companies will establish Joint Committees specifically focused on gender equality, along with a focal point representative at larger companies, or a regional focal point for smaller companies, where issues and complaints can be raised.
- An agreement between a hospital and the Massachusetts Nursing Association created a violence response team, to address all forms of workplace violence. The agreement states "[t]he Medical center will endeavor to form a trained Response Team, available 24 hours a day and 7 days a week that, similar to a code team, can be immediately called to assist a nurse in any situation that in-

98 Jane Pillinger, European Trade Union Confederation, *Safe at Home, Safe at Work* (2017) <https://www.etuc.org/en/document/safe-home-safe-work-final-report-national-country-studies#:~:text=This%20report%20%E2%80%93%20produced%20as%20part,viole%20and%20harassment%20at%20work%20>

99 Pillinger and Wintour at 68.

100 ETUC *Safe at Home, Safe at Work Italy Country Case Study* (2017) [https://www.etuc.org/sites/default/files/document/files/italy\\_etuc\\_safe\\_at\\_home\\_safe\\_at\\_work\\_final\\_2017\\_0.pdf](https://www.etuc.org/sites/default/files/document/files/italy_etuc_safe_at_home_safe_at_work_final_2017_0.pdf)

101 ETUC *Safe at Home, Safe at Work* at 30.

102 CSA TUCA at 81.

103 UNI Orange GFA Article 1, Chapter 2.

volves violence.”<sup>104</sup>

- The Nigerian Labour Congress led an organizing campaign with informal traders at the Mile 12 market in Lagos. Many traders are migrant workers that work with their children in the markets. A majority of women and girls in the market have been repeatedly subjected to GBVH, including rape and sexual assault. Market traders developed a Code of Conduct to address GBVH and created a task force to adopt preventative measures and address individual incidents. This effort led to criminal charges being filed against several perpetrators of rapes against minors within market spaces.<sup>105</sup>

## Risk Assessments

It is essential that discrimination, violence and harassment be understood as structural problems that are often *predictable*. Too often, employers seek to minimize their responsibility and characterize discrimination, violence and harassment, particularly GBVH, as the actions of individual bad actors, rather than systemic problems that can be eliminated or mitigated through a critical analysis of working structures and arrangements. For further discussion, [see the section on OSH](#).

Workers should develop their own internal assessment of risks and hazards related to discrimination, violence and harassment at work, including a specific discussion of GBVH. GBVH has specific dynamics that require tailored solutions. Since the risks and hazards will be highly dependent on the context – the dynamics of the worksite or the industry, along with social and cultural factors – this guide does not propose model language, but it does offer some guidance on aspects to consider in developing a list of risk factors specific to the worksite.

Risk Factors for Gender-based Discrimination, Violence and Harassment at Work Include:

- Cultural norms, expectations and stereotypes

about gender and about the work involved

- Sexism, misogyny and/or homophobia within the sector, workplace and/or community
- Exposure to third parties, such as clients or customers, particularly where customer interaction affects compensation through mechanisms like sales commissions or tips, where success on the job is partly or wholly determined by customer satisfaction through mechanisms like ratings and/or when workers have limited ability to refuse or modify service
- Working alone and/or in isolation, particularly without adequate protocols to address potential safety situations
- Women working in a sector or position that is male-dominated or traditionally masculinized
- A largely homogenous workforce with respect to other social identities such as race, ethnicity, nationality, citizenship, religion, age, race, particularly where the majority is from relatively more privileged social groups
- High levels of hierarchy within the organization, particularly if managers, supervisors or others in authority have high amounts of discretion in assigning work responsibilities and roles, and especially when power is concentrated in single individuals or small groups with limited oversight
- Low levels of worker autonomy wherein workers have little input or control into how, when and where their job is done, particularly if that extends to rigid controls over access to physical needs such as bathroom and/or food breaks
- Lack of clear protocols for refusing dangerous or unreasonable working conditions
- High levels of workplace psychosocial stress, including high expectations regarding the speed or volume of work product, high levels of urgency and/or working environments where workers are forced into competition with one another
- Inadequate and unclear policies and reporting procedures regarding gender-based violence and harassment, and/or low awareness of mechanisms among the workforce
- Unclear chains of authority, particularly in supply chains or workplaces with high levels of outsourcing where multiple employers are present at a worksite and/or workers receive instructions from one entity but are technically employed by another

<sup>104</sup> Massachusetts Nursing Association, Workplace Violence Prevention Materials Booklet (2008) [https://www.massnurses.org/files/file/Health-and-Safety/Workplace-Violence/Workplace\\_Violence\\_booklet.pdf](https://www.massnurses.org/files/file/Health-and-Safety/Workplace-Violence/Workplace_Violence_booklet.pdf)

<sup>105</sup> Solidarity Center, Global Impact Report

- Work areas that present physical safety risks such as areas that are accessible to the public, isolated spaces, small spaces where physical contact is difficult to avoid, poor visibility, inadequate lighting, areas with reduced communication infrastructure such as areas that lack cell phone reception or equipment such as intercoms, radios, or panic buttons, lack of protective screens or other barriers, etc
- Understaffing
- Normalization of abusive or disrespectful workplace practices and/or behaviours
- Insecure employment structures, such as limited guarantees of future work, unpredictable hours or variance in pay, especially when it involves low wage work and/or when decisions about how to allocate ongoing work, shifts, overtime, bonuses or opportunities for advancement are informal or at individual managerial discretion
- The North American Steelworkers' Women of Steel [guide on OSH](#) lists risk factors for harassment,<sup>108</sup> and notes union investment in bystander training as a preventative measure.
- The University of California Berkeley has a collection of clauses from contracts designed to address workplace violence from an OSH perspective,<sup>109</sup> focusing on language that "interprets the workplace as an environment that the employer has the agency and duty to alter to reduce risk factors known to contribute to workplace violence. The sample language is divided into the following sections: prevention; staffing; information and training; follow up support; and committees."
- The TUC UK developed a model [anonymous climate survey](#) and [risk assessment guide](#) to prevent sexual harassment. "The model of change is based on a participatory strategy that engages workers, including freelance and self-employed workers, from the start of the process."<sup>110</sup>

Proposed language could include an open-ended list of risk factors that both parties acknowledge exist in the workplace, with the employer agreeing to specific remedial measures based on the risks identified, or agreeing to develop a joint plan to apply the hierarchy of controls (elimination, substitution, engineering controls, administrative controls and PPE) with respect to identified workplace risk related to discrimination, violence and harassment. The [section on OSH](#) discusses addressing work in isolation, night work, commuting and other risks. An ILO [study](#) lists risk factors specific to more generalized violence and harassment at work, and discuss studies and findings on how internal organizational dynamics shape psychosocial risks that may be useful to support bargaining.<sup>106</sup>

#### EXAMPLES:

- The ITF developed a [list of risk factors](#) for violence and harassment in the transport sector in a guide developed on implementation of ILO Convention 190.<sup>107</sup>

<sup>106</sup> ILO, Preventing and addressing violence and harassment in the world of work through occupational safety and health measures (2024) <https://www.ilo.org/publications/major-publications/preventing-and-addressing-violence-and-harassment-world-work-through>

<sup>107</sup> ITF, ILO C190: A Transport Workers' Toolkit (2021)

#### Internal Response Mechanism

The employer's core duty to provide a safe and healthy work environment and to refrain from discrimination necessarily includes the adoption of processes to address instances of discrimination. Often this is only focused on creating individualized complaint procedures, but the union should think creatively about how to develop mechanisms for challenging practices and policies that do not rely on individual complaints.<sup>111</sup> This could include negotiating a specific procedure along the lines of:

<https://www.itfglobal.org/en/resources/ilo-c190-transport-workers-toolkit>

<sup>108</sup> United Steelworkers, Raising the Bar on Women's Safety and Health (2024) [https://usw.org/wp-content/uploads/2024/10/Raising\\_the\\_Bar\\_rev\\_aa\\_4-15\\_web.pdf](https://usw.org/wp-content/uploads/2024/10/Raising_the_Bar_rev_aa_4-15_web.pdf)

<sup>109</sup> University of California Berkeley, Bargaining Language Database, Workplace Violence [https://lohp.berkeley.edu/collective-bargaining/bargaining-language-2/#Workplace\\_Violence](https://lohp.berkeley.edu/collective-bargaining/bargaining-language-2/#Workplace_Violence)

<sup>110</sup> TUC, Preventing Sexual Harassment: An implementation framework for union reps (2021) <https://www.tuc.org.uk/resource/preventing-sexual-harassment>

<sup>111</sup> For a discussion of why individual complaints are insufficient to realize the right to non-discrimination in the context of the law, see, e.g. ILAW Network and Equal Rights Trust.

*Where EMPLOYER policies or practices create or result in a discriminatory impact on a worker or workers, the union and/or individual workers have the right to request reasonable remunerative measures to address the inequity. The employer shall review and implement said measures within three weeks or a mutually agreed timeframe, unless there is a legitimate business reason that would render the proposed measures unreasonable, in which case the employer shall issue a counterproposal within three weeks.*

Creating processes that are driven by the union and conceptualized collectively are particularly critical.

#### EXAMPLES:

- As discussed in the report **Stop Gendered Violence at Work** by Lisa Heap, the Australian Nursing and Midwifery Federation (ANMF) Victoria Branch developed a ten point plan to end violence in health care settings, specifically aiming to move away from a system that reacted to violence after the fact to “implementing preventative strategies before violence happens.” The ANMF created “an on-line system where members can log in detail the violent incidents they have experienced after they have made a formal report in their workplace. The ANMF identified that workplace-based reporting systems were convoluted and inefficient. In contrast, the union’s reporting mechanism provided comprehensive system wide data that the union can use as evidence when lobbying for change and as a diagnostic tool when developing policies and strategies to prevent violence. The ANMF’s approach empowers members to expect a safe work environment free of violence.”<sup>112</sup>
- The National Confederation of Financial Sector Workers of the CUT Brazil (Confederação Nacional dos Trabalhadores do Ramo Financeiro da CUT (Contraf-CUT)) won landmark protections in the financial sector, following a campaign to address

harassment and violence. As discussed above, the union conducted a national survey and supported a grassroots campaign with workers.<sup>113</sup> This helped secure an agreement with employers to adopt a Protocol to prevent workplace conflict. The aim of the Protocol “is to promote the practice of appropriate actions and behaviors by the employees of the adhering banks, which can prevent undesirable conflicts in the workplace,” promote “respect for diversity, cooperation and teamwork” and recognize the core employer responsibility “to ensure that the monitoring of results takes place with balance, respect and in a positive way to prevent conflicts in working relationships.”

- The Danish Trade Union Confederation (FH) negotiated a Tripartite Agreement on Initiatives to Counter Sexual Harassment in the Workplace with employers and government. The agreement aims to promote prevention and cultural change in the workplace. This includes increases in compensation for sexual harassment, prevention policies that particularly focus on health and safety risks, coverage of trainees and apprentices and an alliance with civil society organizations.<sup>114</sup>
- In Ukraine, the union at the private logistics and parcel delivery company, Nova Poshta negotiated a 2020 collective agreement that included language prohibiting gender-based violence and harassment at all workplaces by conducting audits, training workers and managers, and creating awareness of GBVH at the company level.<sup>115</sup>
- The Secretaria Nacional Sobre a Mulher Trabalhadora da CUT SNMT/CUT developed model collective clauses to address gender discrimination, structured around 4 central objectives: a) equal access to employment, promotion and trainings, b) reproductive rights including the right to paternity and maternity protections; c) parenting rights including access to daycare, job security

<sup>113</sup> CSA TUCA at 93-94.

<sup>114</sup> Global Deal Flagship Report, The contribution of tripartite social dialogue to prevent sexual harassment and promote gender equality in Denmark (2024) <https://flagship-report.theglobaldeal.com/case-study/promoting-gender-equality-in-denmark>

<sup>115</sup> Solidarity Center, Global Impact Report (June 2023) <https://www.solidaritycenter.org/wp-content/uploads/2023/06/Publications.Global-Impact-Report.June-2023.pdf>

<sup>112</sup> Lisa Heap, Australian Nursing and Midwifery Federation Victoria Branch, Stop Gendered Violence at Work at 13 [https://d3n8a8apro7vhmx.cloudfront.net/victorianunions/pages/2370/attachments/original/1479964725/Stop\\_GV\\_At\\_Work\\_Report.pdf?1479964725](https://d3n8a8apro7vhmx.cloudfront.net/victorianunions/pages/2370/attachments/original/1479964725/Stop_GV_At_Work_Report.pdf?1479964725)

for mothers and fathers and d) mental and physical health of women workers.<sup>116</sup> More about the internal organizing that supported the creation of these clauses is below in the discussion on **internal union policies**.

- A study from the EU examines examples of collective agreements related to gender equality, including an agreement from Spain in the cleaning sector which includes a comprehensive Equality Plan that addresses “occupational non-segregation, promotion, training, equal wages, reconciliation of personal, family and working life, and specific training concerning equality among workers and prevention of sexual harassment.”<sup>117</sup> Additional measures also address promotions and the use of fixed term contracts.

## Complaint Mechanism

A complaint mechanism to raise specific instances of discrimination, violence and harassment should not be the primary vehicle for addressing these issues in the workplace. The employer should be identifying risks and adopting measures to prevent violations from occurring, and building collective responses, rather than relying on individual workers to raise issues and responding to instances after the fact. Of course, creating a path to raise specific instances and have them addressed safely and fairly does remain a critical part of an overall workplace response. Reporting GBVH (and other discriminatory violence and harassment) carries a particularly high risk of causing further psychological harm. Speaking out is often highly stigmatized, and workers fear that they won’t be believed. Indeed, too often the experiences of women, LGBTIQ+ persons and others are discounted or minimized. It is therefore particularly critical to have an individual complaint process that is cognizant of the dynamics of oppression and the risks of re-traumatization.

How the union shapes demands in bargaining around employer complaint processes should be informed

by union efforts to develop internal processes and mechanisms to address discrimination, violence and harassment within the union, see section on **internal policies and practices**. The union must develop internal processes to support complainants and address the retraumatization, retaliation and isolation that those who speak out too often experience through solidarity.

In some countries, employers (often only larger employers) are required by law to develop internal complaints mechanisms, and in those jurisdictions union protections should build on the existing legal requirements.

An individual complaint mechanism should:

- Have a clearly defined process, including ideally multiple individuals who a person can report to. This should include union representatives, as well as company representatives, who should all receive training in trauma-informed case management. Contain transparent procedures with timelines, and ensure complainants understand the process and potential outcomes
- Ensure the confidentiality of complainants, and the ability to discuss and consider a range of options including formal complaints at the workplace, as well as legal complaints
- Provide urgent protective measures to safeguard the psychophysical integrity of the complainant
- Include protective measures for complainants, witnesses and other individuals involved
- Envision a range of remedies that focus on the needs of the person experiencing the harm, including access to compensation, leave and psychosocial support mechanisms, and changes to policies and practices
- Sanctions for both perpetrators and people with authority in the management structure who fail to respond appropriately to ensure accountability
- Mechanisms to prevent recurrence

<sup>116</sup> CSA TUCA at 70.

<sup>117</sup> Szilvia Borbély, 10 GPG clauses in collective agreements, With Innovative Tools Against Gender Pay Gap Project, European Commission (August 2015) <https://wageindicator.org/documents/wita-gpg/10-gender-pay-gap-clauses-in-collective-agreements.pdf>;

*Individual workers or UNION may bring complaints regarding discrimination, violence or harassment to [specifically enumerated individuals including union officers].*

*[EMPLOYER, specifically mandated committee or body, independent mechanism where possible or other designed authority] shall conduct a fair, transparent and timely investigation of any complaint and undertake appropriate remedial measures. EMPLOYER shall ensure that all complaints receive an initial response within two weeks, and that investigations are conducted within three months.*

*Use of the complaint mechanism shall not prejudice the right to bring a claim [under applicable national or regional law].*

*EMPLOYER shall provide paid time and funding for training for [certain number of managerial staff and union staff] in trauma-informed case management [provided by local NGO or other identified independent entity with relevant expertise].*

*Investigations shall be conducted by individuals not personally involved, interested, or implicated in the complaint.*

*which shall be implemented when feasible.*

*Complainants have the right to report gender-based discrimination, violence and harassment to a person of their preferred gender identity [and have any investigation led by a person of their preferred gender identity.]*

*Complainants and witnesses have the right to confidentiality in proceedings, and the right to be accompanied by a union representative or a support person of their choosing at any time during the complaint process.*

*Workers who present an individual complaint of discrimination, violence or harassment at work shall have the right to protective and remedial measures. This shall include the right to access medical and mental health providers selected by the worker; and workplace accommodations during the investigation to ensure safety, as well as other appropriate mechanisms. Accommodations can include access to paid leave and/or adjustments to work schedules, locations or duties. Any adjustments shall not result in a lowering of pay or access to entitlements or benefits.*

*Where appropriate, particularly in cases of violence or harassment, complainant(s) and alleged perpetrator(s) shall be separated for the duration of the investigation. The alleged perpetrator(s) shall be redeployed, unless complainant(s) affirmatively prefer redeployment.*

*Use of the complaint mechanism shall not prejudice the right of complainant(s) to access other legal procedures or processes, including civil or criminal cases.*

## Complainant Rights

*Complainants have the right to a fair, timely and trauma-informed investigation.*

*EMPLOYER shall adopt appropriate measures to prevent re-traumatization and ensure processes and procedures prioritize the safety and wellbeing of complainants, in line with the duty to [protect worker health and safety or appropriate terminology based on the language in the jurisdiction], particularly in cases of violence and harassment. Complainants and UNION have the right to propose tailored measures to create safe, gender-sensitive and trauma-informed processes and procedures in individual cases,*

## Prevention of Reprisals

*EMPLOYER shall ensure the safety of complainants, witnesses, and anyone else associated or perceived to be associated with a complaint or complainant during the complaint process and prevent reprisals.*

*Workers who present a good faith complaint, provide information during a complaint process, or are otherwise connected or perceived to be connected with a complainant regarding discrimination, violence and harassment have the right to stability in employment. Any adverse actions taken against such worker(s) shall be presumed to be retaliatory.*

*[as defined under applicable national law or with reference to international law] shall be subject to dismissal for cause.*

*Supervisors or others within the management structure who knew or should have known about specific instances or risks or hazards of discrimination, violence and harassment and failed to take appropriate action to address it shall be subject to appropriate discipline.*

## Remedies

*Workers who experience discrimination, violence and harassment have the right to appropriate remedies, including compensation for harm, reinstatement, restitution, access to health services, paid leave, and changes to workplace policies and practices to prevent recurrence.*

*The needs and preferences of the complainant with respect to remedies, sanctions and measures to prevent recurrence shall be given due consideration. Impacted workers and UNION have the right to propose remedies, which shall not be unreasonably denied and shall be implemented where feasible.*

*Access to workplace remedies shall not prejudice the right to seek legal remedies.*

It may be useful to clarify that the existence of complaints within a supervisor's sphere of control does not, in itself, implicate a problem – indeed, good supervisors should be surfacing and responding to issues.

## Prevention of Recurrence

*[Specifically mandated committee or body with equal representation or EMPLOYER and UNION jointly] shall review applicable policies and practices to prevent recurrence of discrimination, violence and harassment following any individual complaints to determine appropriate measures to prevent recurrence, within two months of the conclusion of a complaint. EMPLOYER shall implement agreed preventative remedial measures within three months of the conclusion of a complaint wherever possible, or within a mutually agreed, prompt timeframe.*

## Appropriate Sanctions for Perpetrators

*Perpetrators of discrimination, violence or harassment shall be subjected to discipline commensurate with the gravity of the offense.*

It may be advisable to name certain practices that are common to merit specified responses, and/or outline some forms of severe conduct that merit dismissal.

- *Anyone who solicits or implies a solicitation for sexual favours in order to obtain or keep a job or access any work benefit or privilege shall be subject to dismissal for cause.*
- *Anyone who commits rape or sexual assault*

## EXAMPLES:

- A **global framework agreement** between UNI Global Union and Orange on workplace gender equality, work-life balance, combatting discrimination and violence contains a detailed section on how individual complaints of discrimination and violence must be handled at the enterprise level. This includes specifying that “[a]ny harassment or violence in the workplace may be reported by the presumed victim or by one or more witnesses to HR, line management, the occupational doctor or an employee representative, either in person at a

meeting or in writing (letter or email). HR and management are responsible for not leaving any such report unanswered and for ensuring that concrete action is taken, within a maximum of two months, to find an appropriate solution to the situation and put an end to it. It is also their responsibility to put an end to any form of sexist behaviour, which can in no way be tolerated. The victim must also be offered support.”<sup>118</sup>

- Model collective clauses by the National Women Workers Secretariat of the CUT Brazil (Secretaria Nacional Sobre a Mulher Trabalhadora SNMT/CUT) developed model collective clauses that include job and wage protections for 12 months after workers file a complaint for sexual harassment.<sup>119</sup>
- In 2016, IndustriALL and the IUF reached a **global framework agreement** with Unilever on addressing sexual harassment throughout its global operations. The agreement states that “[i]n cases of sexual harassment it is the perpetrator and not the person making the complaint who will, where necessary, be redeployed.”<sup>120</sup>
- An International Trade Union Confederation (ITUC) **report** on union efforts to address violence and harassment discusses numerous examples, including a case study of the Pakistan Workers Federation which engaged in a coordinated campaign to secure a redress mechanism against GBVH which resulted in agreements with factories supplying to multi-national companies covering some 4,600 workers.<sup>121</sup>
- A **TUCA report** discusses collective agreements from across the Americas, including examples from Brazil, the Dominican Republic, Mexico, Panama and Paraguay that contain clauses that outline employer obligations with respect to complaints. This includes agreements that provide victims with the right to be accompanied during the complaint process, guarantees that complaints will be investigated within 30 days, access to appropriate counselling and sanctions for per-

petrators, and the ability of the union to bring cases.<sup>122</sup> In an agreement from Dominican Republic in the hospitality sector the employer agrees to “adopt relevant measures to create an environment that effectively prevents and combats sexual harassment, including the immediate dismissal and prosecution of a person who is proven to have sexually harassed any employee of the company.” Sexual harassment is defined narrowly, to mean “any order, threat, coercion or offer to obtain favors of a sexual nature made by a person (man or woman) who abuses the authority conferred by his or her position.” The agreement also contains a more general prohibition on labour violence and harassment, which has a broader definition. The agreement creates a Commission for the Prevention and Solution of Conflicts, and the employer agrees to not commit reprisals.<sup>123</sup>

## Education and Training

All workers, including managers, need to be trained on their rights under law and the existing mechanisms at the worksite to address discrimination, violence and harassment. The best training has content that is tailored to the specific industry or worksite as well as the local culture, is led by peer facilitators, is interactive, and conducted in smaller groups to allow for discussion. Unions with strong internal capacity and understanding on this issue can push to have the employer pay for training led by the union. Unions can also develop strategic relationships with organizations focused on gender equality, GBVH or sexual violence, as discussed in more detail in the section on **internal union policies**. Not all such organizations will have cultural and class competency to provide strong training to workers, but where fruitful relationships are developed, bargainers can consider pushing for the employer to pay for training developed in collaboration with outside experts.

*EMPLOYER shall [provide funding and paid time for the union to develop and implement training or shall develop joint training in cooperation with*

118 UNI Orange GFA at 19.

119 CSA TUCA at 70.

120 IUF- IndustriALL-Unilever Joint Commitment on preventing sexual harassment at 2 (2016) <https://www.iuf.org/news/joint-commitment-on-preventing-sexual-harassment-at-unilever/>

121 ITUC, Workers Unite Report at 18.

122 CSA TUCA at 81, 95-97.

123 CSA TUCA at 92.

*the union] for all workers, including managers, on discrimination, violence and harassment in the world of work. Training will take place within 6 months of the enactment of this agreement, and annually thereafter. New staff including managers shall be trained within 2 months of hire. Training will address rights under law and workplace measures to address discrimination, violence and harassment in the world of work, including gender-based violence and harassment.*

### EXAMPLES:

- In the United States, SEIU United Service Workers West supported the creation of a “*promotoras*” (advocates) program to address sexual harassment in the cleaning industry through peer exchange and education among workers.<sup>124</sup> The program trained workers, generally survivors of GBVH themselves, to become workplace leaders on GBVH prevention, who were then empowered to train fellow workers.<sup>125</sup> The *promotoras* developed a partnership with local organizations dedicated to ending sexual violence and academic institutions to create a trauma-informed, peer-to-peer education curriculum. The union first negotiated with employers to require peer-to-peer training, then successfully pushed for regional legislation that covered non-union workplaces as well. The resulting Janitor Survivor Empowerment Act requires that all building service companies operating in California fund sexual violence prevention training conducted by fellow janitors using this peer education model.<sup>126</sup> The peer education element is particularly critical, as workers are in the best position to understand workplace dynamics

and how to shift behavioural norms. As SEIU leader Alejandra Valles explained “[t]he hardest part of getting this law passed was to convince the world that janitors are the experts.”<sup>127</sup>

- The Ceará footwear workers’ union in Brazil (Sindicato dos Trabalhadores da Indústria de Calçados do Ceará) negotiated a guarantee that the union can carry out campaigns in the workplace on discrimination based on race, gender, sexual orientation and other categories: “It is agreed between the parties that the workers’ union, in partnership with the company, may carry out campaigns (with publicity materials to be displayed on the company’s premises), lectures and seminars, without any detriment to the fulfilment of the working day, preferably during the SIPAT week, on topics that are relevant to the category and that are associated with the context of combating prejudice and oppression, under the most varied prisms, among them: racial prejudice, gender prejudice, sexual orientation prejudice and others. The campaigns must be educational in nature. To this end, the union must give the company at least seven calendar days’ notice of the campaign’s theme, format and methodology.”
- The Union of Workers in the Clothing and Embroidery Industries of Ibatinga and Region (Sindicato dos Trabalhadores nas Indústrias de Confecções e Bordados de Ibatinga e Região) in Brazil negotiated an agreement that included clauses promoting equality and workplace training programs, with participation from the union in the design and execution of the program, as well as means of communication for the union like bulletin boards and leave to realize union functions, including to visit worksites to engage on this issue.<sup>128</sup> The union campaign to achieve these clauses included internal measures to mainstream gender throughout the union and support women leaders, discussed [below](#).
- The Lesotho Agreements in the garment section, [discussed in more detail above](#), included funding for a peer education program, with two full days of paid time for all workers and managers to attend workshops about GBVH and the protections of the program. The workshops were co-devel-

<sup>124</sup> SEIU USWW website, [www.seiu-usww.org/janitors/](http://www.seiu-usww.org/janitors/)

<sup>125</sup> Sanjay Pinto, Zoë West and KC Wagner, *Healing into Power: An Approach for Confronting Workplace Sexual Violence* (May 2021) <https://newlaborforum.cuny.edu/2021/05/05/healing-into-power-an-approach-for-confronting-workplace-sexual-violence/>; Ana Avendaño, *Solidarity Betrayed: How Unions Enable Sexual Harassment - And How They Can Do Better* (2025) <https://www.plutobooks.com/9780745349176/solidarity-betrayed/>

<sup>126</sup> Janitor Survivor Empowerment Act, AB 547 (2019) See <https://policyhub.equalrights.org/resources/ca-ab-547/>

<sup>127</sup> Avendaño, *Solidarity Betrayed*.

<sup>128</sup> CSA TUCA at 76.

oped and led by the unions and women's rights organizations. The workshops provided "a space to discuss gender equality and GBVH—what it is, its impacts and root causes—and for employees to recognize their role in changing the culture in the factories to one that is anti-GBVH,"<sup>129</sup> as well as detailing the protections in the program and how to report violations. Separate curricula were developed for workers and managers to recognize their different positions. Subcontracted security guards, hired by the employer to guard the factories, were also trained under the program.

### III. ENSURING EQUAL PAY

There is a long-standing recognition in international law of the State's obligation to ensure equal pay for work of equal value.<sup>130</sup> However, around the world, women and other marginalized workers continue to experience inequality in wages due to structural discrimination. According to the ILO Global Wage Report of 2018/19, women earn on average about 20 per cent less than men, with wide variations across countries.<sup>131</sup> Women with other marginalized identities, such as racialized women, migrant women or women from ethnic or religious minorities often have significantly higher disparities in earnings.<sup>132</sup> Motherhood brings a wage penalty that can persist across a woman's working life.<sup>133</sup>

ILO Convention 100 calls on states to ensure equal remuneration for work of equal value for men and women. This is intended to address not just where

women and men are paid differently for jobs that are the same or very similar but also to ensure equal remuneration for jobs that are distinct but of equal value. This second analysis accounts for the way work performed by women is systematically devalued within organizations, sectors and societies.

Bargaining can be a potent tool to address pay disparity, particularly when it is supported at the sectoral level.<sup>134</sup> Unfortunately, as discussed [above](#), many legal systems lack a framework to support sectoral bargaining, a failing that is both a violation of trade union rights and the right to equality.

Disparity in earnings is multi-faceted and requires a holistic response in bargaining. In considering the issue, the union should examine pay and all other forms of remuneration, horizontal segregation (where women are concentrated in certain occupations or sectors) and vertical segregation (where women are concentrated in positions of lower authority within an organization or sector), the use of non-standard contracts and outsourcing, job classification and valuation systems, access to trainings, advancement and promotion (discussed in the next [section](#)) and the impact of caregiving responsibilities.

Many unions have developed toolkits on how to address pay equality. These include:

- Joint [Industrial](#) and [IUF](#) toolkits on bargaining for pay equity<sup>135</sup> with similar introductory information, followed by sector-specific examples. Industrial also has training modules available to support affiliates<sup>136</sup>
- An [equal pay pack](#) from Unite the Union in the UK that includes guidance for negotiators, a checklist and a model agreement<sup>137</sup>

<sup>129</sup> Solidarity Center, Lesotho Report at 3.2.

<sup>130</sup> See, e.g. ILO Convention 100 on Equal Remuneration (1951) [https://normlex.ilo.org/dyn/nrmlx\\_en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312245:NO](https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312245:NO); ILO C111 Article 1; ICESCR Article 7(i)

<sup>131</sup> ILO, Global Wage Report 2018/19: What lies behind gender pay gaps (2018) [https://www.ilo.org/global/publications/books/WCMS\\_650553/lang--en/index.htm](https://www.ilo.org/global/publications/books/WCMS_650553/lang--en/index.htm)

<sup>132</sup> Jane Pillinger, Pay Equity Toolkit, Industrial Global Union (2023) <https://admin.industrial-union.org/sites/default/files/uploads/images/publications/GenderPayGap/UPDATED/englishpayequity.pdf>

<sup>133</sup> ILO, Global Wage Report 2018/19.

<sup>134</sup> See, e.g. Wintour and Pillinger at 38, finding that in Norway bargaining is primarily responsible for narrowing gender gap since 2008.

<sup>135</sup> Pillinger, Industrial Pay Equity Toolkit; <https://admin.industrial-union.org/sites/default/files/uploads/images/publications/GenderPayGap/UPDATED/englishpayequity.pdf>; IUF Pay Equity Toolkit <https://www.iuf.org/wp-content/uploads/2023/06/2023-Pay-Equity-Toolkit.pdf>

<sup>136</sup> Industrial, A new tool for trade unions to fight the gender pay gap (March 7, 2025) <https://www.industrial-union.org/a-new-tool-for-trade-unions-to-fight-the-gender-pay-gap>

<sup>137</sup> Unite the Union, Pay Up Campaign, <https://www.unitetheunion.org/>

- A 2022 guide from the Irish Congress of Trade Unions on **Gender Pay Gap Reporting**
- The European Public Service Union guide on **Pay transparency and role of gender-neutral job evaluation and job classification in the public services**<sup>138</sup>
- A 2014 guide from European Trade Union Congress on **Bargaining for Equality** that discusses core issues and contains examples from the European Union<sup>139</sup>
- The Australian Council of Trade Unions' 2022 report on **Reducing the Gender Pay Gap with multi-employer bargaining**
- Close the Gap Scotland report on union responses to occupational segregation **Shifting the Balance? Exploring the trade union responses to tackling gendered occupational segregation**
- Equality Trust **Toolkit** on equal pay that includes sample survey questions (many specific to UK law)

The ILO has also released helpful resources, including a **Step by Step Guide on Gender-Neutral Job Evaluation for Equal Pay** from 2008,<sup>140</sup> and a 2023 **Review of Wage-Setting Through Collective Bargaining**<sup>141</sup> that can provide helpful guidance in developing bargaining demands.

## Union Role and Process

The union should have a right to access information relevant to bargaining under law and should utilize that right along with surveys and discussions with workers to conduct an internal assessment of equality

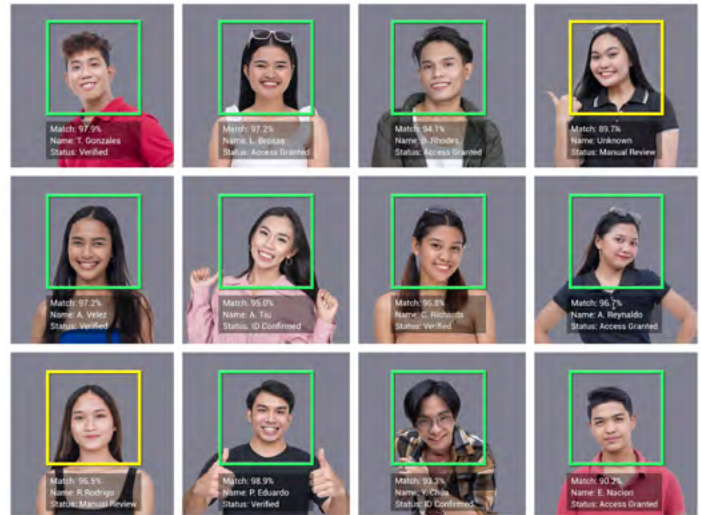
[media/1477/equal-pay-pack.pdf](#)

<sup>138</sup> Jane Pillinger, Pay transparency and role of gender-neutral job evaluation and job classification in the public services (2021) [https://www.epsu.org/sites/default/files/article/files/GP\\_Pay%20transparency%20and%20role%20of%20gender%20EPSU-ETUI%20report%20June%202021.pdf](https://www.epsu.org/sites/default/files/article/files/GP_Pay%20transparency%20and%20role%20of%20gender%20EPSU-ETUI%20report%20June%202021.pdf)

<sup>139</sup> Jane Pillinger, Bargaining for Equality (2014) [https://www.etuc.org/sites/default/files/publication/files/bargaining\\_equality\\_en.pdf](https://www.etuc.org/sites/default/files/publication/files/bargaining_equality_en.pdf)

<sup>140</sup> ILO, Gender-Neutral Job Evaluation for Equal Pay: A Step by Step Guide (2008) [https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed\\_norm/@declaration/documents/publication/wcms\\_122372.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_122372.pdf)

<sup>141</sup> ILO, A Review of Wage Setting through Collective Bargaining (2023) [https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed\\_protect/@protrav/@travail/documents/publication/wcms\\_883353.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_protect/@protrav/@travail/documents/publication/wcms_883353.pdf)



ty within the organization or sector, including in terms of pay across different jobs and job classes, access to advancement, and positions of leadership or higher responsibility. This can then inform bargaining with the employer. An increasing number of jurisdictions are adopting legal requirements regarding pay transparency,<sup>142</sup> at least for larger organizations, which are an important source of information and leverage where they exist.

Unions and confederations should develop internal structures to support local representatives in critically assessing pay structures and job classifications, including how to identify and address bias. As discussed above in the section on **discrimination, violence and harassment**, ensuring paid leave for union representatives to assess pay structures is critical, and it may make sense to negotiate for gender equity advocates or other specialized roles. This is particularly true if the union decides to negotiate a formalized pay audit, job evaluation system or other process to revise wage scales.

The union may wish to negotiate a formalized labour-management space to assess and redress pay inequality.<sup>143</sup> These bodies should have equal representation from the union and management, rele-

<sup>142</sup> See discussion in Ana Avendaño, ILAW Future of Labour Law Database on Pay Equity (2025)

<sup>143</sup> See, e.g. discussion in California Commission on the Status of Women and Girls, Best Practices for Establishing Pay Equity in Collective Bargaining <https://women.ca.gov/californiapayequity/unions-resources/best-practices-for-establishing-pay-equity-in-collective-bargaining/>

vant expertise and/or access to appropriate training, a clearly defined mandate, time-bound objectives, appropriate investigative and decision-making authority to issue individual and collective pay increases where work has been undervalued, and mechanisms to ensure transparency and equity going forward.

#### EXAMPLE:

- The National Confederation of Financial Workers (Confederação Nacional dos Trabalhadores do Ramo Financeiro da CUT (Contraf-CUT)) first negotiated protections for the right to equal opportunities in 2000. The sector was among the first to do this in Brazil and helped “open the way” for workers in less organized sectors.<sup>144</sup> The union created an Equal Opportunities Roundtable (*Mesa Temática de Igualdad de Oportunidades*) and worker activists pushed the union to prioritize equal pay in bargaining. As a result, the union undertook a Diversity Census to identify discrimination based on sex, gender, race, ethnicity, sexual orientation or disability in pay, promotions and occupation of senior leadership positions. Women activists adopted a range of strategies that led to success, including raising the issue at board meetings, assemblies, and forums, convincing leaders to prioritize the issue, strengthening gender groups to empower women workers to discuss the issue and “convincing union bodies to invest in activities to deepen the debate from a material, political, financial, and human perspective.”<sup>145</sup> Over the next decade, this resulted in a reduction in the wage gap of 1.5 points (3.7 in the case of black women).<sup>146</sup>

#### Right to Equal Pay for Work of Equal Value

The union should enshrine a broad right to equal pay for work of equal value for all workers. While C100

has a high rate of ratification, many legal systems narrow the understanding of “work of equal value” to apply only to “equal work.”<sup>147</sup> This narrower construction makes it more difficult to challenge devaluation. Moreover, often women are required to find male comparators to demonstrate pay inequality, which can pose particular challenges in feminized occupations and sectors.<sup>148</sup> Bargaining language should be broad, cover gender and other forms of discrimination workers deem relevant, and allow for hypothetical comparators to address occupational segregation.

*All workers have the right to equal remuneration for work of equal value, and the right to equality in all aspects of work, including remuneration, recruitment, hiring, promotions, trainings, transfers and retrenchment.*

*“Remuneration” means any form of remuneration payable for work performed by an individual and includes wages, overtime, commissions, vacation pay, severance pay, bonuses, performance payments, seniority increments, family or dependency allowances, tips and gratuities, expense reimbursements for costs such as travel, accommodations, housing, and clothing, payments in cash or in kind, employer contributions to pension funds or plans, long-term disability plans and all forms of health insurance plans, company shares or profits, food provided or an allowance and any other advantage received directly or indirectly.*

*“Work of equal value” shall be measured by the composite of skill, effort, responsibility, and working conditions normally required in the performance of work. Assessment shall take into account the role of gender discrimination, stereotypes and biases in the criteria and assessment of equal value. Assessment may be based on actual or hypothetical comparators.*

144 Juçara Portilho Lins, Trade union leadership and gender: Brazilian banking workers' inequalities, Visibility and Voice for Union Women: Country case studies from Global Labour University researchers,

Global Labor University at 18 (2014) [https://www.researchgate.net/publication/376757281\\_Visibility\\_and\\_Voice\\_for\\_Union\\_Women\\_Country\\_case\\_studies\\_from\\_Global\\_Labour\\_University\\_researchers](https://www.researchgate.net/publication/376757281_Visibility_and_Voice_for_Union_Women_Country_case_studies_from_Global_Labour_University_researchers)

145 CSA TUCA at 76.

146 *Id.*

147 See, e.g. Avendaño, ILAW Future of Labour Law Database on Pay Equity.

148 See, e.g. discussion in CSA TUCA at 87-89; See also Pillinger, Industrial Pay Equity Toolkit at 26 discussing a case wherein unions won a legal case to ensure the right to use “proxy” comparators - male jobs in other sectors - so that women in female-dominated sectors can properly compare remuneration for purposes of equal pay claims.

The section on coverage of all workers, above, discusses the importance of ensuring that workers on non-standard contracts and outsourced workers are covered under the collective agreement. Pay is an area where it is particularly important to ensure equitable treatment. Creating a right for the union to refuse non-standard work outside of genuine need can be a potent tool to prevent more precarious work, which is usually lower paid.

The union should, by virtue of its rights to access to information, have access to pay information that can be verified with members. Any efforts by employers to block access to information should be pushed back against heavily as a violation of both trade union rights and the right to non-discrimination.

Some jurisdictions - but not all - enshrine the right to discuss wages.<sup>149</sup> However, even in jurisdictions where protections exist, employers often prohibit or dissuade workers from comparing earnings. The union should educate workers on their rights under law, and it may be useful to negotiate explicit protections. Some jurisdictions protect discussing wages specifically when done to identify pay inequality.<sup>150</sup> Such a qualifier could be agreed to as a compromise, but it is advantageous to push for the broadest protection possible.

*Workers may freely discuss all aspects of remuneration, including wages, for any reason, and shall not be subjected to any adverse job consequences in connection with such discussions.*

## Remuneration System

The union should assess both base pay rates across different jobs and job classes and other forms of remuneration to determine whether men and women benefit equally from different forms of pay. Research has found that the greatest part of the gender pay gap is often not a base wage, but supplements to that base wage, for example allowances related to availa-

bility outside normal working hours such as working night shifts and weekends, being on-call, or bonuses based on attendance. Such practices often disparately impact women who are less likely to have flexibility due to caregiving obligations.<sup>151</sup> The union should also critically examine areas where the employer has a high amount of discretion, as this has been shown to disadvantage women.<sup>152</sup> Pay disparity is also linked to other forms of discrimination, in particular violence and harassment. Research demonstrates that sexual harassment is "more likely to take place when pay and incentives [are] linked to production targets and the awarding of bonuses," in particular in systems where workers are paid a piece rate.<sup>153</sup>

## Gender Neutral Job Evaluation and Classification

Many workplaces will already have a job classification system, where different job tasks and functions are catalogued. If one does not currently exist, the union can propose developing one for the purposes of ensuring equal pay, as well as ensuring fair and non-arbitrary treatment more generally. Existing systems should be scrutinized to determine whether jobs are being evaluated and classified in a manner free of gender bias.

Gender neutral job evaluation involves an assessment of skills, effort, responsibility and working conditions.<sup>154</sup> Evaluators must be conscious of how these concepts are impacted by gendered biases. For example, physically demanding jobs are often presumed to require more effort than jobs in services that may demand a high degree of mental effort.<sup>155</sup> As Jane Pillinger writes, when done well, job evaluation "can uncover discriminatory assumptions, prejudices and stereotypes leading to the undervaluing of predominantly female jobs, such as skills that women

149 See ILAW Future of Labour Law Database on Equal Pay (2025).

150 See, e.g. Directive (EU) 2023/970 to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms (May 10, 2023) <https://eur-lex.europa.eu/eli/dir/2023/970/oj/eng>

151 See, e.g. OECD, Pay Transparency Tools to Close the Gender Wage Gap, Section 5.1 (2021) [https://www.oecd.org/en/publications/pay-transparency-tools-to-close-the-gender-wage-gap\\_eba5b91d-en/full-report.html](https://www.oecd.org/en/publications/pay-transparency-tools-to-close-the-gender-wage-gap_eba5b91d-en/full-report.html); Pillinger and Wintour at 36-37.

152 Lisa Heap, Equal Pay: An employers' guide to manage the revolution (2018) <https://wellington.scoop.co.nz/?p=113267>

153 Pillinger, Industrial Pay Equity Toolkit at 9.

154 For more information, see, e.g., Industrial and IUF Pay Equity Toolkits.

155 Arlie Russell Hochschild, The Managed Heart, University of California Press (2012) <https://www.ucpress.edu/books/the-managed-heart/paper>

possess ‘naturally’ or acquire through life experience, and which are often left out of job evaluations.”<sup>156</sup>

In some cases, it may be desirable to push for simplification of the wage system, especially if there are high degrees of individuation, which can often disguise bias. The union may also wish to prioritize raising the lowest pay grades, as women and other marginalized workers are often trapped at the bottom of the wage scale (the “sticky floor”).<sup>157</sup>

*Job evaluation and classification shall be based on neutral criteria, free of bias based on gender [and other relevant social categories - see section on discrimination].*

*Job evaluation and job classification systems shall analyse, at a minimum, the following criteria: the type of work; skill and effort required; physical or mental effort required; level of responsibility; working conditions; level of labour market segregation based on gender [and/or other marginalized groups relevant in the jurisdiction] with regard to the type of work; the effect of discrimination, stereotypes and social norms on the work performed and its valuation; and whether the work has historically been performed by women [and/or other marginalized groups] or men [and/or members of historically dominant groups].*

*Individual job evaluations shall be reviewed and verified by the workers performing the job and the union.*

*Job requirements shall be assessed to determine whether they have gendered impacts or other discriminatory impacts, and whether they are essential for job performance.*

## EXAMPLES

- The 2015 book *Collective Bargaining and Gender Equality* discusses numerous examples of union negotiations over job classification systems. For example, the Inter-Union Workers’ Plenary – National Workers’ Convention (*Plenario Intersindical de Trabajadores – Convención Nacional de Trabajadores* PIT-CNT) in Uruguay negotiated a job evaluation system to “eliminate salary differences between men and women.”<sup>158</sup> Landmark agreements in the UK public sector created a gender-neutral evaluation system. Strike actions and negotiations led to a new grading system for public social and childcare workers in Germany to address undervaluation in the sector.<sup>159</sup> In Chile, the National Association of Civil Servants (*Agrupación Nacional de Empleados Fiscales – ANEF*) negotiated a protocol with the government that enshrined the right to equal pay, then pushed for a process to evaluate the job classification system at the Social Security Institute, with the goal of developing a new evaluation instrument to be used across the private sector.
- An ILO [report on wage-setting through collective bargaining](#) includes several examples that tackle gender pay gaps through the creation of equitable job evaluation and classification schemes. In Belgium, a sectoral agreement in the healthcare sector created a new job evaluation and classification scheme to set the wages for the sector, where “each function is described, weighted and subsequently assigned to job categories on the basis of the activities and tasks performed, aiming at a gender-neutral wage payment system.”<sup>160</sup> In Portugal, a collective agreement for the footwear sector restructured and simplified the wage scale, including guaranteeing the same base wage for all professional categories of production.<sup>161</sup>
- In Peru, the Union of Workers in Water Services of Lambayeque (*Sindicato Unico de Trabajadores*

<sup>156</sup> Pillinger, EPSU ETUI Guide on Pay Transparency at 10.

<sup>157</sup> See, e.g. ILO, Social Dialogue Report 2022 at 81 discussing trade union negotiations for “across-the board structural increases, amounting to a flat rate or percentage increase, whichever is greater” in South Africa, “to tackle the apartheid-era wage gap and compress wage scales.”

<sup>158</sup> Pillinger and Wintour at 41; See also CSA TUCA at 87.

<sup>159</sup> Pillinger and Wintour at 46.

<sup>160</sup> ILO, A Review of Wage Setting through Collective Bargaining at 46 (2023) [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---travail/documents/publication/wcms\\_883353.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_883353.pdf)

<sup>161</sup> *Id.* at 47.

de Servicio Agua Potable y Alcantarillado de Lambayeque - SUTSELAM) and the Public Water and Sanitation Board engaged in a process to establish a job classification system, with support from the ILO and PSI.<sup>162</sup> This process grew out of strategic litigation launched by the union challenging the irrationality of job classifications. The union reached an agreement to evaluate jobs using objective criteria, by assessing “skills, responsibility, effort and working conditions, and giving value to work traditionally carried out by women.”<sup>163</sup> This was carried out through an investigative phase, a diagnostic phase and a remediation phase.<sup>164</sup>

*evant policies, procedures or issues]. The audit shall cover all workers [in the enterprise or sector], including [workers in non-standard forms of employment and outsourced workers - see language and discussion in coverage of all workers].*

*[Relevant EMPLOYER-UNION body, or EMPLOYER in consultation with UNION] shall collect demographic data with respect to different jobs and job classes, including information regarding gender [and other relevant social categories]. Collection shall take into account the right to privacy and security of personal information.*

### Pay Equality Audit and Remediation

Union negotiators should arrive at the bargaining table with specific proposals to remediate pay inequality based on existing job types and remuneration, as well as a plan to leverage any existing legal requirements around pay assessments and transparency. An increasing number of jurisdictions have placed duties on employers, usually only larger employers, to conduct internal assessments of their gender pay gap, publish the findings and engage in remedial measures to address inequity.<sup>165</sup> The below language provides a starting point to negotiate an audit to assess and remediate pay inequality within an enterprise or sector.

*Within one year of signing this agreement, [Relevant EMPLOYER-UNION body, or EMPLOYER in consultation with UNION] shall implement an annual pay equality audit to identify and rectify gender [and other forms of] discrimination in remuneration, recruitment and advancement. The audit shall examine and revise job classification and evaluation systems, base pay rates and all other forms of remuneration, processes for recruitment and advancement and [any other rel-*

Systematic pay auditing requires the collection of personal, demographic data. The union should discuss safety and privacy issues with workers, particularly transgender and gender non-conforming individuals, especially if they are in a jurisdiction or locality where protections in law are absent. This may, for example, result in a proposal that data be anonymized, that limitations be placed on who can access data, and/or that gender statistics be collected based on self-identified gender rather than official records. The union should also discuss whether to collect other data, such as age, race, ethnicity, religion, sexuality or ability to assess other forms of discriminatory pay inequality. In some countries, this will have legal implications. For example, some countries in Europe prohibit gathering information with respect to race or religion.<sup>166</sup> In others, there may be safety or privacy considerations, for example in post-conflict societies or in localities where sexuality and gender identity diversity is criminalized. Relevant safeguards may include anonymizing data and/or restricting access to personalized data to a small group of individuals.

*Jobs and job classes shall be assessed to determine whether they are currently undervalued. Job classes that are more than 60% women shall be presumed undervalued. Undervaluation shall be addressed by raising rather than lowering remuneration across job positions and classifications.*

<sup>162</sup> PSI, Achieving pay equity and decent work in Peru's water sector (2018) <https://publicservices.international/resources/news/achieving-pay-equity-and-decent-work-in-perus-water-sector?id=7914&lang=en>

<sup>163</sup> Pillinger and Wintour at 47; See also CSA TUCA at 75.

<sup>164</sup> CSA TUCA at 76.

<sup>165</sup> For example, Brazil, Canada, Chile, and Iceland. See discussion in Avendaño, ILAW Future of Labour Law Database on Equal Pay Article 3.

<sup>166</sup> See discussion in Avendaño, ILAW Future of Labour Law Database on Equal Pay.

## EXAMPLES

- The Finance Sector Union in Australia bargained with the National Australia Group for a pay audit and remediation measures to address gender disparities.<sup>167</sup>
- Textile workers in Argentina negotiated an agreement to review job descriptions and wage scales for workers in the textile industry, with the aim of “simplifying the minimum wage scales.”<sup>168</sup> The agreement created a Special Bipartite Technical Commission (Comisión Técnica Especial Bipartita) to carry out a review and implement remedial measures including the ability to assign higher minimum wages to achieve equal pay.
- Some agreements adopt gendered measures to compensate for inequality in payment systems. For example, a 2007 agreement for energy workers in Argentina, in recognition of the challenges women face in the workforce, adopted standards for seniority pay where women are required to serve less time than men to access the benefit.<sup>169</sup> A collective agreement with the National Autonomous University of Mexico (Universidad Nacional Autónoma de México) both reduces the number of years for women to access seniority bonuses, and applies a different criteria for calculating the bonus amount.<sup>170</sup>
- A European Commission report highlights good practices in collective agreements, including an agreement between the trade union confederation FO and France Telecom SA which requires an annual pay analysis, with a budget and an action plan to implement corrective measures to address wage differentials.<sup>171</sup>
- In 1991, the Canadian Amalgamated Clothing and Textile Workers Union negotiated a process for wage adjustments that addressed both under- and overvalued jobs. Jobs deemed undervalued received a greater wage increase than the negotiated amount. Jobs deemed “correctly valued” re-

ceived the full amount of the negotiated increase, and jobs found to be “overvalued” had a “Maintenance of Earnings” program applied. “Stated simply this means that we will not reduce any earnings... We will, however, apply only a portion of future general increases to these overvalued jobs to bring them into line with all other jobs in the company.”<sup>172</sup>

## Sectoral Bargaining

Sectoral bargaining is a potent tool to address pay equality, particularly disparities that arise out of occupational segregation and the devaluation of feminized work.<sup>173</sup> Where it is possible to engage in sectoral bargaining, unions have adopted creative strategies, including cross-sectoral wage adjustments to address pay disparity across sectors.

## EXAMPLES

- In national bargaining, LO Sweden prioritized sectors with low pay and high concentrations of women, with the goal of addressing pay disparity.<sup>174</sup> The Iceland Confederation of Labor prioritized pay increases for the lowest paid workers, with particular targeted increases aimed at the health and care sectors, where work is traditionally undervalued.<sup>175</sup>
- In Uruguay, a 2010 framework agreement between the Wage Council and Group 21 of Domestic Workers resulted in proportional wage increases aimed at addressing disparities for the lowest paid. The wage increase was “37.6% for workers with the lowest wages, 26.6% for those with average wages, and 13.7% for those with the highest wages.”<sup>176</sup>
- In their book *Collective Bargaining and Gender Equality*, Pillinger and Wintour discuss “equality allowances,” where unions have negotiated an addi-

<sup>167</sup> Wintour and Pillinger at 44.

<sup>168</sup> CSA TUCA at 88.

<sup>169</sup> CSA TUCA at 98.

<sup>170</sup> *Id.*

<sup>171</sup> Borbély, 10 GPG clauses at 8.

<sup>172</sup> ILO, *Gender Equality Bargaining: An Overview* at 13 (1998) [https://www.ilo.org/wcmsp5/groups/public/@ed\\_dialogue/@actrav/documents/publication/wcms\\_113700.pdf](https://www.ilo.org/wcmsp5/groups/public/@ed_dialogue/@actrav/documents/publication/wcms_113700.pdf)

<sup>173</sup> See discussion in the [introduction](#) to Part 1.

<sup>174</sup> Borbély, 10 GPG clauses at 5.

<sup>175</sup> Wintour and Pillinger at 53.

<sup>176</sup> CSA TUCA at 87.

tional budget to increase wages in feminized sectors or where pay discrepancies based on gender exist. These have been used in collective agreements in Sweden, Finland and Norway.<sup>177</sup>

- In Australia, the United Workers Union won significant wage increases for early childhood education and care workers through multi-employer bargaining, utilizing new legal regulations that allowed negotiations between unions, government contractors and the government itself.<sup>178</sup> The 2024-2026 Early Childhood Education and Care agreement includes a 15% wage increase for workers. More employers can join the agreement through a 50% vote of the employees. It now covers a third of the sector and is growing.
- As discussed in a 2022 ILO report, in Austria some sectoral collective agreements “grant works councils and management the option of distributing a certain proportion of the yearly wage increase among particular groups of workers. This ‘distributional option’ (*Verteiloption*) is used by employers and works councils to ... improve wage structures by raising the earnings of low-wage workers and addressing the gender pay gap.”<sup>179</sup>

### Addressing Care Obligations

Care demands represent a core, persistent barrier to equal pay and advancement for women workers.<sup>180</sup> The imbalance of unpaid work within the household remains “one of the most resilient features of gender inequality,”<sup>181</sup> with women globally estimated to perform 76.2% of unpaid care work.<sup>182</sup> This needs to be addressed through a range of measures, including

<sup>177</sup> Pillinger y Wintour at 53.

<sup>178</sup> United Workers Union, Educators win first ever right to Multi-Employer Bargaining (September 27, 2023) <https://unitedworkers.org.au/all-updates/educators-win-first-ever-right-to-multi-employer-bargaining/>

<sup>179</sup> ILO, Social Dialogue Report 2022 at 79.

<sup>180</sup> ILO, A quantum leap for gender equality: For a better future of work for all (2019) <https://www.ilo.org/publications/major-publications/quantum-leap-gender-equality-better-future-work-all>

<sup>181</sup> *Id.* at 36.

<sup>182</sup> UNDP, The Missing Piece: Valuing women's unrecognized contribution to the economy (March 8, 2024) <https://www.undp.org/latin-america/blog/missing-piece-valuing-womens-unrecognized-contribution-economy>



flexibility and reasonable expectations around workload, discussed in the section on **personal and family life**; access to leave, discussed in the section on **leave**; and material support, discussed in the section on access to **care**.

## IV. RIGHT TO EQUALITY IN RECRUITMENT, ADVANCEMENT AND RETRENCHMENT

Bargaining can create specific mechanisms to prevent discrimination in hiring, promotions, and retrenchment. In addition to the general language protecting the right to equality in all aspects of work, including remuneration, recruitment, hiring, promotions, training, transfers and retrenchment in the **section on equal pay**, the union can adopt specific mechanisms and guarantees as discussed below. As discussed above in the section on **discrimination**, the union may wish to form a joint labour-management space on equality issues, and where these bodies operate effectively it may be optimal to task them with oversight of decisions regarding hiring and promotion. However, the obligation to ensure equality and prevent discriminatory practices should clearly remain on the employer.

### Recruitment

Bargaining is an opportunity to press for a formalized, transparent process for recruitment and measures to identify and prevent discrimination in hiring.

*EMPLOYER shall ensure that processes for recruitment and promotion create opportunities for women [and other historically marginalized workers], particularly in [job grades/posts] where they are currently underrepresented.*

To assess hiring patterns, the union may wish to bargain a commitment to collect and analyse anonymized demographic data from job applicants. Ideally, data should be collected from individual applicants in a manner where it can be separated out from the application. This ensures the union and the employer can analyse recruitment efforts and hiring practices to determine if they are attracting and advancing diverse candidates, while preventing potential discrimination in the hiring process and protecting privacy. Measures should be put in place to protect data security. Applicants should be informed of the purpose for gathering the information, and measures in place to ensure anonymity. Applicants must have the option to decline to give information without it affecting their application, as marginalized workers may fear that self-identifying will hurt their chances of being hired.

*EMPLOYER shall disclose a salary range in all job postings and shall not inquire into any candidate's salary history.*

*UNION shall have the right to review all job descriptions, hiring notifications, prepared interview questions, examinations and other selection processes in advance and propose modifications to ensure fairness and equality. Modifications shall not be unreasonably denied.*

*Job requirements shall be free from bias or stereotypes based on gender [or other forms of discrimination], directly connected to and necessary for job performance, and recognize transferable and/or nontraditional skills. Job requirements shall be assessed [by joint employer-union committee or UNION] to determine whether they have gendered impacts or other discriminatory impacts.*

*Candidates for hiring, promotions or upgrades shall not be asked questions or subjected to any examination related to their marital status, family situation, or family responsibilities.*

The union may also wish to bargain additional measures, such as ensuring a diverse range of individuals across the organization participate in candidate selection processes, adopting hiring goals or quotas, and/or distributing anonymous surveys to all applicants to identify any issues in the hiring process.

#### EXAMPLES:

- A global framework agreement between UNI and Orange requires Orange subsidiaries to address gender balance in recruitment: “[t]he entities have been asked to ensure that no discriminatory criteria appear in published job offers, both within and outside the Group. The headings and terms used are to be chosen in such a way as to attract female applicants as much as male applicants, whatever the type of employment contract. The way the offers are worded must not depict stereotypes about the functions or their supposed requirements (working hours, mobility). Concerning job offers with a technical element, skills descriptions must not be limited to simply the technical requirements. Job offers are to be open equally to women and men. The local HR teams in the entities must monitor the gender balance of applicants and short lists must include, for the same skill set, at least one female applicant. The selection criteria are to be identical for women and men and are based on skills, qualifications and experience. The fact that a woman is pregnant must not be a reason for refusing to recruit her. In all countries, the entities will put in place training programmes to encourage the promotion or professional retraining of women for technical functions, both internally (advanced training programmes) and externally (internships followed by open-ended employment contracts).”<sup>183</sup>
- In Spain, a collective bargaining agreement in the building service sector includes an Equality Plan that addresses occupational segregation, pro-

<sup>183</sup> UNI Orange GFA at 19.

motion and training. There is a clause on gender neutral selection, promotion and training of staff, as well as quotas “expressed as percentages of women and men” to generate a more balanced distribution in positions of responsibility.<sup>184</sup>

- Some unions have negotiated quotas or goals for hiring women. In a collective agreement at the Universidad Nacional Agraria of Nicaragua, the university and the union agreed to “review permanent positions to ensure that at least 50% are held by women, or else they will be gradually adjusted until this target is achieved.”<sup>185</sup> A 2024 academic article by Susan Hayter and Malena Bastida notes a sectoral agreement in the energy sector in the Netherlands that “provides for an increase in the proportion of women employees from 15 to 25 out of every 100 workers within a period of 5 years.”<sup>186</sup>
- A collective agreement in the media sector in Togo includes a clause to address discrimination in the recruitment of journalists and other media professionals.<sup>187</sup>
- The ITF and the International Association of Public Transport reached a **framework agreement** to strengthen women’s employment in public transport. The agreement includes a list of measures to improve recruitment, including targeted outreach, quotas and “interview panels that include women, gender-neutral interview questions and selection, and training on unconscious bias.”<sup>188</sup>
- The US National Center for Women’s Equity in Apprenticeship and Employment and the Chicago Women in Trades work to increase the presence of women, particularly racialized women, in apprenticeship programs in the construction industry. The website documents **best practices** to address the recruitment of women.

The union should be especially vigilant about discrim-

ination based on assumptions that women are or will become caretakers and examine hiring patterns and practices regarding women of child-bearing age. ILO Convention 156 specifically calls on states to adopt measures to prevent discrimination against persons with family responsibilities,<sup>189</sup> and the union can build on legal protections in the jurisdiction where they exist.

## EXAMPLES

- A comprehensive 2003 study of clauses from Mexican collective agreements lists several agreements that specifically prohibit pregnancy testing as part of the recruitment process.<sup>190</sup> One clause states : “to fill a temporary or permanent vacancy or a newly created position, the joint hiring and promotion committee shall require that the examinations administered adhere to objective criteria that are always appropriate for the respective position or job. Under no circumstances shall the evaluations include requirements relating to psychometric, psychotechnical or psychological tests, or those related to sex, age, height, build or seniority, unless the committee expressly considers that these are required by the nature of the services to be provided, nor shall any impediment be imposed on women on the grounds of pregnancy.”
- A 2024 article cites a collective agreement from a university in Mexico which states that evaluations should not include “pregnancy tests, psychometric, psychotechnical and psychological tests, HIV tests or others related to sex” and a collective agreement in Jordan that prohibits pregnancy tests as a requirement for employment and requires that recruitment agencies “not perform or require pregnancy tests for migrant workers.”<sup>191</sup>
- The 2003 study from Mexico also includes a clause specifically preventing newly hired and temporary workers who are pregnant from termination.<sup>192</sup>

184 Borbély, 10 GPG clauses at 6.

185 CSA TUCA at 84.

186 Susan Hayter and Malena Bastida, Chapter 8: Collective agreements: advancing a transformation agenda for gender equality? Making and Breaking Gender Inequalities in Work, ILERA Publication at 142 (2024) <https://www.elgaronline.com/edcollbook-oa/book/9781035337477/9781035337477.xml>

187 ILO, A Review of Wage Setting through Collective Bargaining at 76.

188 ITF/UITP Positive Employer Gender Policy at 4-5.

189 ILO Convention 156 on Workers with Family Responsibilities Convention (1981) [https://normlex.ilo.org/dyn/nrmlx\\_en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C156](https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C156)

190 ILO Americas, Proyecto Negociación Colectiva y Equidad de Género en América Latina, Anexo Anselmo García Pineda (2003).

191 Hayter and Bastida at 141.

192 García Pineda, Anexo.

The use of algorithmic tools for hiring should be heavily scrutinized or outright banned, as these tools have been shown to replicate human biases, see the section on [gender and technology](#).

### Advancement

The union must analyse the percentage of women relative to men across different roles, particularly in positions of leadership and authority, as women are often concentrated in subordinate positions within organizations and sectors. Where there are gendered discrepancies, the union should push for measures to balance the distribution of men and women to the extent possible. This can include incentives such as targeted recruitment and promotions, and quotas for gender balance. The required qualifications and selection processes for promotion should be assessed to ensure they are transparent, objective and equitable. Some practices, such as penalties for gaps in service, have a demonstrably discriminatory effect on women workers who are more likely to take leave for childbirth and caregiving.

*Decisions regarding advancement and promotion shall be based on transparent, neutral and equitable criteria. EMPLOYER shall ensure equitable access to training and skills development.*

### EXAMPLES

- A 2007 agreement of energy workers in Argentina states that “the parties shall take all necessary measures to ensure that women workers have the same conditions for career guidance and training, with special attention to the learning of new techniques, methodologies, procedures, or processes that are incorporated into the work. They shall also ensure that the same selection criteria are applied in employment matters, such as equal treatment with regard to the evaluation of the quality of their performance.”<sup>193</sup>
- A landmark 2015 agreement in Morocco between the Democratic Confederation of Work (Confédération Démocratique du Travail - CDT) and Domaines Brahim Zniber Diana Holding Group guaranteed equal pay between men and women

workers by establishing new wage rates and salaries, seniority and merit-based payments, and training opportunities, which enabled women to take on roles with higher wage rates and better advancement opportunities.<sup>194</sup> Women workers reported receiving training which enabled them to qualify for higher-skilled, higher-paid jobs previously available only to male workers. However, issues with implementation remain, as training did not always result in actual job changes.

- An enterprise agreement in manufacturing in Bangladesh states that “each year, at least 20 female workers from different positions, i.e. operator/quality control/ironing/folding/cutting assistant etc. shall be promoted to higher posts, such as, of supervisor, line chief, in-charge, APM, PM etc.”<sup>195</sup>

### Retrenchment

The union should be conscious of the tendency to target women and other vulnerable workers during layoffs and downsizing. This is particularly critical as technological advances often impact feminized occupations and sectors, see section on [gender and technology](#). General language on equality, [proposed above in the section on equal pay for work of equal value](#), should include the right to fairness in these processes. The rationale for layoffs should be based on economic realities and conducted in a transparent manner, in consultation with the union.

## V. GENDER EQUALITY IN OCCUPATIONAL SAFETY AND HEALTH

Occupational safety and health law has been built around a patriarchal construction of work, health and safety.<sup>196</sup> Employers often fail to take into account biological, cultural and psychosocial differences, meaning that many workplace risks and hazards faced by women and LGBTIQ+ workers are downplayed or ig-

<sup>193</sup> CSA TUCA at 85.

<sup>194</sup> Solidarity Center, A Case Study of Morocco at 8.

<sup>195</sup> Hayter and Bastida at 142.

<sup>196</sup> See, e.g. María Paula Lozano, Salud, mujeres y disidencias, Derecho Laboral Feminista, Editorial Mil Campanas (2022) <https://milcampanas.com.ar/product/derecho-laboral-feminista/>

nored entirely. Without an active strategy to adopt a holistic and inclusive vision of worker health and safety, based on creating a space within the union where workers can openly discuss the impacts of work and risks faced at work, unions can also replicate these failures.

Studies have consistently shown that work performed by women is assumed to be lighter and safer than work performed by men.<sup>197</sup> The default for everything from determining safe levels of chemical exposure to designing work boots is usually the “average man,” often specifically men from the US or Europe.<sup>198</sup> Workplace hazards such as those related to discrimination, violence and harassment are made invisible. OSH risks and hazards for LGBTIQ+ workers are particularly understudied.<sup>199</sup>

While the OSH model built around industrialized production is particularly poor at recognizing and responding to health and safety concerns of women and LGBTIQ+ workers, as a whole the model is built around homogenizing the vast range of human physical and social diversity. Pushing for a holistic understanding of OSH, one that requires the employer to engage in joint committees with an equal number of workers’ representatives to recognize and redress the actual risks faced by workers, rather than forcing conformity to narrow standards, benefits everyone.

Several unions have developed guides to incorporating a gender perspective into health and safety. These include:

- Unite the Union in the UK developed a **Negotiator’s Guide on Women’s Health, Safety and Well-Being at Work**. The guide outlines how union negotiators can address a range of issues related to women

and OSH. The guide includes a checklist to assess current workplace policies and practices, and guidance on workplace mapping to identify issues, both of which are useful templates for unions to develop their own more specific workplace tools.<sup>200</sup>

- The IUF guide on **Making Women Visible in Occupational Health and Safety** has guidance on different issues, and a detailed guide to different mapping exercises.<sup>201</sup>
- UNI Global Union **Practical Guide** on the Need for a Gender Perspective on Occupational Safety and Health, which outlines critical areas of OSH from a gender perspective.<sup>202</sup>
- The North American United Steelworkers Women of Steel created the resource **Raising the Bar on Women’s Safety and Health**.<sup>203</sup> This includes an **inspection checklist** for trade unionists to assess the current situation of women’s health and safety at the workplace, and a **guide** outlining major issues and how union locals have approached these issues and won change. The guide contains checklists for hazards related to pregnancy and menstruation, as well as a checklist to assess OSH processes.
- Unison UK guide for trade union representatives on **Gender, safety and health** outlines areas of concern and a checklist to assess current workplace practices.<sup>204</sup>
- The UK Trades Union Congress guide on **gender in occupational safety and health** includes a discussion of areas of concern and a checklist.<sup>205</sup>

197 ILO, 10 Keys for Gender Sensitive OSH Practice – Guidelines for Gender Mainstreaming in Occupational Safety and Health at 1.3 [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---safework/documents/publication/wcms\\_324653.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/publication/wcms_324653.pdf)

198 Unite the Union, Negotiator’s Guide on Women’s Health, Safety and Well-Being at Work (2012) <https://www.unitetheunion.org/media/1480/womens-health-safety-well-being-at-work-unite-guide.pdf>

199 Maurizio Curtarelli and Karel Fric, European Agency for Safety and Health at Work, Occupational safety and health of LGBTI workers (2021) <https://oshwiki.osha.europa.eu/en/themes/occupational-safety-and-health-lgbti-workers>

200 Unite the Union, Negotiator’s Guide on Women’s Health, Safety and Well-Being at Work (2012) <https://www.unitetheunion.org/media/1480/womens-health-safety-well-being-at-work-unite-guide.pdf>

201 IUF, Making women visible in occupational health and safety (2020) <https://www.iuf.org/wp-content/uploads/2020/12/3.-Making-women-visible-in-OHS-ENGLISH-def.pdf>

202 UNI Global Union, Practical Guide on the Need for a Gender Perspective on Occupational Safety and Health <https://uniglobalunion.org/wp-content/uploads/Guide-to-OHS-with-a-gender-perspective-EN.pdf>

203 United Steelworkers, Women of Steel, Raising the Bar on Women’s Safety and Health <https://usw.org/get-involved/women-of-steel/usw-action-guide-for-raising-the-bar-on-womens-health-and-safety/>

204 UNISON, Gender, Safety and health: A guide for UNISON safety reps (2013) <https://www.unison.org.uk/content/uploads/2013/06/On-line-Catalogue213613.pdf>

205 UK Trades Union Congress, Guide on gender in occupational

- The ETUI held a two-day conference in 2024 on integrating gender into OSH featuring trade union leaders and academics, which is available online.<sup>206</sup>

The ILO has also developed multiple resources on the topic, including [Guidelines for Gender Mainstreaming in Occupational Safety and Health](#) (2013) and [Occupational Safety and Health with a Gender Perspective: Challenges and Advances in Ibero-America](#) (2024), as well as a guide specific to [Preventing and addressing violence and harassment in the world of work through occupational safety and health measures](#) (2024).

### General Principles and Union Role

In 2022, the ILO recognized the right to a safe and healthy working environment as a fundamental right, one that all ILO member states are obligated to promote and realize.<sup>207</sup> Many workplaces have formal joint labour-management spaces to manage OSH issues. This is sometimes a legal requirement,<sup>208</sup> where not established under law it can be negotiated. The union should also have protected rights built into the collective agreement, including the right to: appoint worker representatives to a workplace OSH body in equal number to management; paid time off for representatives to undertake their functions and attend training (including trade union OSH training); appropriate employer-funded OSH training; perform inspections; investigate their members' OSH concerns,

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safety and health (2017) <https://www.tuc.org.uk/sites/default/files/GenderHS2017.pdf>

206 ETUI OSH Conference, Integrating gender into occupational health and safety (December 2024) <https://www.etui.org/events/integrating-gender-occupational-health-and-safety>

207 ILO, A safe and healthy working environment is a fundamental principle and right at work (2022) <https://www.ilo.org/topics-and-sectors/safety-and-health-work/safe-and-healthy-working-environment-fundamental-principle-and-right-work>

208 See, e.g. UK Safety Representatives and Safety Committees Regulations (1977) (the employer must set up a joint health and safety committee if two union safety representatives request this in writing); Lesotho Occupational Safety and Health Act Article 30 (2024) (requiring employers with over 15 employees to establish health and safety committees with equal representation). See also ILO, Global database on occupational safety and health legislation <https://www.ilo.org/resource/global-database-occupational-safety-and-health-legislation>

specific incidents and potential hazards; participate in government labour inspections of the workplace; receive timely OSH information; be consulted in advance about proposed workplace changes which may affect their members; and protection against retaliation, particularly if there is not sufficient protection under law in the jurisdiction for these rights.

The union can demand that a certain number of the OSH representatives from both the union and management either have existing expertise in gender issues, or that some or all receive specialized training in a gender-inclusive response to OSH. There may be utility in establishing a subcommittee or other body to focus on gender and OSH. The union may wish to negotiate requirements around the representation of women within the OSH committee for both the employer and the union – and could adopt internal policies with respect to union representatives regardless of whether bargaining is successful.

The union should also have its own internal plan to address health and safety,<sup>209</sup> apart from joint spaces which can be dominated by management. The union must create space for marginalized workers to discuss sensitive topics that often carry social stigma, such as menstruation and sexual violence. Women, particularly in male-dominated sectors, may avoid naming pain for fear of appearing weak. LGBTIQ+ workers may not be comfortable being fully out at work due to bigotry and concern for retaliation. The union will need to build trust and confidentiality. The section on [internal union policies](#) contains some additional guidance on how unions can facilitate discussions on these topics and do the internal work necessary to create safer spaces where these conversations can occur.

The union may wish to include an explicit acknowledgement of both social, cultural and biological differences and the role of gender bias and sexist stereotypes directly in the contract.

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209 See, e.g. discussion the USW Women of Steel guide, noting constitution encourages locals to form health and safety committees internal to the union, USW Women of Steel Guide at 27.

*EMPLOYER recognizes that sex and gender differences affect workers' occupational safety and health and shall ensure that OSH management protects the fundamental right to a safe and healthy working environment for all workers.*

*EMPLOYER shall take measures, in consultation with [UNION and OSH COMMITTEE] to identify and correct gender and other biases and ensure work classifications, risk assessments, control measures and policies take into account and address the legacy of discrimination in OSH design and management and adequately address workplace risks and hazards.*

Beyond a general right to a workplace that is safe and healthy, the union may also wish to adopt an explicit, positive requirement that the workplace be inclusive for all. This emphasizes that the right to safety and health goes beyond a negative obligation to avoid harm, but also represents a positive obligation to affirmatively create a safe, inclusive space that guarantees all workers' physical and mental health, and to continually improve on health and safety in the organization.<sup>210</sup> The below suggested language is based on Article 27 of the UN Convention on the Rights of People with Disabilities.<sup>211</sup>

*Workers have the right to a work environment that is open, inclusive and accessible to all people.*

The union may also wish to explore obligations or proposals around the concept of universal design. Universal design is "the design of products, environments, and communication to be usable by all people, to the greatest extent possible, without adaptation or specialized design."<sup>212</sup> The concept was originally de-

veloped with people with disabilities and older people but can benefit everyone. In the workplace, this could mean a commitment to building work tools and processes that work for as many workers as possible, including those of different gender identities and with different abilities.

There is suggested language in the section on **discrimination, violence and harassment** on including union members in monitoring and oversight of violence and harassment at the worksite. Addressing psychosocial risks and work culture is particularly critical to building appropriate safeguards, and having mechanisms geared specifically towards maintaining a respectful, inclusive workplace is essential.

#### EXAMPLES:

- Unite the Union's **Negotiator's Guide on Women's Health, Safety and Well-Being at Work** outlines the legal protections due to OSH reps under UK law, and recommends that workplaces adopt policies that "1. include an equality statement recognising that there are sex and gender differences to be addressed in occupational safety and health, and making a commitment to take action; 2. describe what the employer will do to listen to and address women workers' specific health and safety concerns; 3. make a specific commitment to identify and take action in relation to hazards and risks faced by women workers for example through risk assessments."<sup>213</sup>
- The North American Women of Steel resource **Raising the Bar on Women's Safety and Health** details how activists from the women's committee of Local 5890 pushed the employer to create a joint committee specifically, and won commitments and timelines for action to address priority issues identified by women.<sup>214</sup>

#### Coverage of All Workers

Winning coverage of workers throughout the enterprise across a whole collective agreement is discussed **above in the section on coverage of all workers**. OSH law is one area where the employer's legal

<sup>210</sup> ILO-OSH, Guidelines on occupational safety and health management systems at 3.1 (2001) [https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed\\_protect/@protrav/@safework/documents/normativeinstrument/wcms\\_107727.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_protect/@protrav/@safework/documents/normativeinstrument/wcms_107727.pdf)

<sup>211</sup> UN Convention on the Rights of People with Disabilities Article 27 (2008) <https://social.desa.un.org/issues/disability/crpd/article-27-work-and-employment>

<sup>212</sup> Mobility International, Universal Design as Access to Justice <https://miusa.globaldisabilityrightsnow.org/universal-design-access-justice/>

<sup>213</sup> Unite the Union Guide at 8.

<sup>214</sup> USW Women of Steel at 6.

duty of care often extends beyond direct employees to others exposed to risks or hazards due to business operations more broadly,<sup>215</sup> although laws often fail to reach across the whole supply chain. Workers in non-standard employment often face higher risks of OSH violations, including deaths and injuries on the job.<sup>216</sup> Employers may also deliberately utilize temporary or subcontracted workers to get around exposure limits or other legal protections.<sup>217</sup> If it is not possible to win broad protections on all issues, OSH is an area to push for inclusion of subcontractors, agency workers, homeworkers and others, as well as third parties, including ensuring they are included in risk and hazard mappings and trainings, and that responsibility is attached to the lead employer.

## Risk Assessment

*Risk assessment and response measures shall be designed [by a joint EMPLOYER-UNION OSH Committee with equal representation of UNION and EMPLOYER]. EMPLOYER shall take into account sex and gender in the identification and assessment of work-related risks and hazards. This shall include, but is not limited to, taking into account physical differences between men and women; psychosocial risks, including risks of workplace stress and discrimination, violence*

215 See, e.g. Ontario Occupational Health and Safety Act Article 1 (1990) <https://www.ontario.ca/laws/statute/90o01> (applies to “a person who performs work or supplies services for monetary compensation” as well as students and interns); South Africa Occupational Health and Safety Act 85 Article 9 (1993) [https://www.saflii.org/za/legis/consol\\_act/ohasa1993273/](https://www.saflii.org/za/legis/consol_act/ohasa1993273/) (requires an employer to conduct undertaking to “ensure, as far as is reasonably practicable, that persons other than those in his employment who may be directly affected by his activities are not thereby exposed to hazards to their health or safety”)

216 See, e.g. David Weil, *The Future of Occupational Safety and Health Protection in a Fissured Economy* (2020) <https://pmc.ncbi.nlm.nih.gov/articles/PMC7144433/>; ILAW Future of Labor Law Database on Labor Intermediaries Article 6 <https://www.ilawnetwork.com/model-laws/labour-intermediaries-2/>

217 Katherine Lippel, Ellen MacEachen, Ron Saunders, Natalia Werhun, Agnieszka Kosny, Liz Mansfield, Christine Carrasco and Diana Pugliese, *Legal protections governing the occupational safety and health and workers' compensation of temporary employment agency workers in Canada: reflections on regulatory effectiveness, Policy and Practice in Health and Safety*, Volume 9, Issue 2 (2011) <https://www.tandfonline.com/doi/pdf/10.1080/14774003.2011.11667762>

The union must have an active role in drawing up criteria and tools for risk assessment, conducting risk assessments, and designing related prevention measures - while still making clear that the duty to ensure a safe and healthy working environment remains at all times with the employer. Ideally, as discussed above, a joint employer-union OSH committee with equal representation should be explicitly empowered to design and conduct the risk assessment.

The union must ensure risk assessment tools and outcomes are developed through active consultation with workers, particularly women workers, LG-BTIQ+ workers and other marginalized workers to identify key hazards and risks. This should include allowing space for workers to articulate risks and hazards that carry shame and social stigma. Many unions use mapping exercises, both of the worksite and workers' bodies. The union should examine current processes with respect to reporting accidents, illnesses and near-misses and work-related health issues, including the collection of gender-disaggregated data related to these issues. The union should also make an intentional effort to include any workers on non-standard contracts, including subcontracted workers, part-time workers, casual workers, homeworkers and workers in the supply chain, in the risk assessment process.

The union should ensure that the employer is providing adequate, accurate information with respect to risks and hazards workers may not be fully aware of, particularly regarding issues like chemical exposure, heat and vibration. Understanding and potentially expanding the employer's obligations with respect to disclosure is critical.

Risk assessment must incorporate a gender-based and intersectional approach to highlight differences in risks between different women and men, and be-

tween different groups of women and men, such as racialized women.

Risk assessments should recognize that women and men can be differentially impacted by issues like exposure to chemical agents and heat.<sup>218</sup> There are biological factors, such as the fact that women on average have more fatty tissue and experience different ‘windows of susceptibility,’ times when biological changes mean “the impacts of chemical exposures can have critical effects on development and disease burden,” including pregnancy, lactation and menopause.<sup>219</sup> There are also social factors, for example, “safe” levels for chemical exposures are often determined using male defaults – an issue in both human and animal studies.<sup>220</sup>

Women and LGBTIQ+ workers are more at risk of certain work-related injuries, such as musculoskeletal disorders. OSH regulation has tended to focus on workplace accidents in heavy industry and often ignores the risks of work deemed “safer,” particularly in feminized sectors and sectors linked to care, such as cleaning or services, as well as risks that are the result of chronic or long-term exposure. As María Paula Lozano writes, “jobs traditionally performed by women, such as cleaning, sorting, collecting, manufacturing and assembly, are generally repetitive, involving continuous but moderate effort and forced, monotonous, uncreative, boring postures, far from the centre of decision making. Often these activities generate more fatigue than performing a specific and intense effort,” but this often goes unrecognized.<sup>221</sup> A study from the US found that women’s worker compensation claims for musculoskeletal injuries were approved at half that rate of men’s.<sup>222</sup> Proving musculoskeletal injuries are work-related can be particularly challenging because women’s work activities are often similar to

activities of the “second shift” of unpaid care and domestic labour women shoulder at home.<sup>223</sup>

Women are more likely to experience discrimination, violence and harassment at work, and this is particularly true for women with other marginalized identities such as racialized and migrant women. A specific list of **risk factors for discrimination, violence and harassment is available above**, including a discussion of the importance of assessing the risks posed by **third parties** in the workplace. It is also important to examine workplace stress and mental health issues, which are often interlinked with violence and harassment and other OSH issues such as musculoskeletal disorders. Experiencing workplace discrimination is a significant stressor which can impact marginalized workers. LGBTIQ+ workers in particular are susceptible to stress at work due to discrimination and stigmatisation, which is often compounded, “for those who opt not to disclose their sexual orientation or gender identity to protect themselves from undesired behaviours, by the concealment strategies they feel obliged to adopt.”<sup>224</sup>

The union should emphasize the OSH hierarchy of control for risks and hazards in its own training programmes for members and safety representatives so they are in a better position to challenge employer non-compliance.<sup>225</sup> Risks and hazards that are downplayed or ignored, such as psychosocial risks or hazards based on long-term and/or repeated exposure, are not always subject to rigorous assessment and prevention.

218 See, e.g. USW Women of Steel Guide at 12-15, 19.

219 Alexandra Caterbow and Johanna Hausmann, Women and Chemicals The impact of hazardous chemicals on women, Women in Europe for a Common Future at 10 (2018) [https://www.wecf.org/wp-content/uploads/2018/12/WomenAndChemicals\\_PublicationIWD2016.pdf](https://www.wecf.org/wp-content/uploads/2018/12/WomenAndChemicals_PublicationIWD2016.pdf)

220 *Id.* at 14.

221 María Paula Lozano, Occupational Hazards from a Feminist Approach, Global Labour Rights Reporter, Forging a Feminist Labour Law, Volume 3, Issue 2 at 37 <https://www.ilawnetwork.com/forging-a-feminist-labour-law/>

222 TUC guide at 2.

223 Lozano, Global Labour Rights Reporter at 39.

224 Curtarelli and Fric.

225 The hierarchy of controls is a method for determining the proper response to a workplace hazard. The process calls first for elimination. If the hazard cannot be eliminated, the employer should assess whether a combination of other tactics can be applied, which are ranked as follows from most to least effective: Substitution, Engineering; Controls; Administrative controls; and then as a last resort PPE. See, e.g. US Occupational Safety and Health Administration, Identifying Hazard Control Options: The Hierarchy of Controls (2023) [https://www.osha.gov/sites/default/files/Hierarchy\\_of\\_Controls\\_02.01.23\\_form\\_508\\_2.pdf](https://www.osha.gov/sites/default/files/Hierarchy_of_Controls_02.01.23_form_508_2.pdf)

*EMPLOYER shall at all times apply the hierarchy of controls with respect to management of hazards, seeking first to eliminate hazards wherever possible and to utilize the most effective mechanisms to mitigate risk of harm where elimination is not possible.*

Lastly, risk assessment may be an area where the union wishes to explore and discuss the concept of health, allowing the workers to define for themselves what it means to be safe and healthy at work, and identify solutions. María Paula Lozano explores critiques of the traditional, static definition of health as a “state of total wellbeing,” one that often hinges on a binary consideration of whether or not a person is “productive according to the demands of capitalism.”<sup>226</sup> Scholars have considered alternative definitions, including examining health as a social process of creating networks of care, or even the capacity to resolve conflicts. Engaging workers in such critical discussions may open new ideas in how to conceive of a feminist vision of risk recognition and assessment.

#### EXAMPLE:

- Unite the Union’s [Negotiator’s Guide on Women’s Health, Safety and Well-Being at Work](#) the IUF’s guide [Making Women Visible in Occupational Health and Safety](#) and the North American United Steelworkers’ Women of Steel [Raising the Bar on Women’s Safety and Health](#) contain checklists and body and worksite mapping exercises that unions could use to create their own risk assessment tools. UC Berkeley also has a general [guide](#) on OSH bargaining that includes checklists and mapping.<sup>227</sup> As discussed above, the union should develop risk assessment tools, exercises, and outcomes in conversation with workers.

<sup>226</sup> Lozano, Global Labour Rights Reporter at 39.

<sup>227</sup> Labor Occupational Health Program University of California Berkeley, Preparing for Bargaining [https://lohp.berkeley.edu/collective-bargaining/preparing-for-bargaining/#Activities\\_to\\_find\\_out\\_about\\_member\\_issues\\_and\\_existing\\_hazards](https://lohp.berkeley.edu/collective-bargaining/preparing-for-bargaining/#Activities_to_find_out_about_member_issues_and_existing_hazards)

## Right to Disclosure and Information

The employer must have a clear and unambiguous obligation to disclose all workplace risks and hazards to the workers, in plain and understandable language. Employers will often avoid sharing vital information regarding hazards in the workplace, such as using unmarked chemicals, or failing to properly monitor heat or vibration. In the case of discrimination, violence and harassment, the employer might try to use confidentiality provisions to avoid disclosure. Unions must understand and utilize legal protections with respect to disclosure, as well as the right to information to facilitate bargaining, to press for all relevant information.

**RESOURCE:** The union-supported website Chemical Hazard and Alternatives Toolbox, <https://chemhat.org/en>, allows unions to identify chemicals in the workplace using either the chemical’s name or its Chemical Abstracts Services (CAS) registration number.

## Right to Refuse Unsafe Work

ILO Convention 155 protects the right of workers to remove themselves from work situations where the worker reasonably believes there is “an imminent and serious danger” to life or health, without retaliation from the employer.<sup>228</sup> Most national jurisdictions have incorporated this protection into national law, but not all legal systems include discrimination, violence and/or harassment explicitly in their OSH framework under law. The union may wish to have an explicit agreement.

*Workers have a right to refuse work [they reasonably believe is unsafe / that presents an imminent and serious danger to life and health], which includes work that carries a high risk of exposing the worker to discrimination, violence and harassment based on their gender [or other personal identities such as race, ethnicity, religion, ability, nationality/migration status - see section on the definition of discrimination].*

<sup>228</sup> In a reflection of patriarchal norms, the original English-language version states that the worker has the right to remove “himself” – but the ILO has recognized that this is intended to apply to all workers. ILO C155 at Article 13.

The union may also wish to include a specific right to refuse work that is unsafe due to understaffing or other issues identified in the workplace or sector which pose a risk to the health or life of workers.

### Work Design, Machinery and Equipment

How work is designed and adapted to different workers' physical needs is an important site of struggle. The union can push back against rigid production modalities and invisibilized needs and demand more flexibility and adaptability, including by soliciting and centring workers' ideas to prevent and reduce harm.

Work equipment is often designed based on a male default. The union can enshrine the right to inclusive access that respects human diversity and, as discussed above, may wish to include universal design principles, which aim to make spaces and equipment usable by a diverse range of people.

*All workers have the right to work equipment that fits diverse bodies and needs, including but not limited to appropriate workstations, machinery, tools and instruments. EMPLOYER, in consultation with UNION, will take physical and social differences between men and women into account with respect to the design and functioning of workstations, equipment, machinery, tools, and instruments. Selection and purchasing policies shall aim to identify work equipment that will be usable by all workers, to the greatest extent possible, without adaptation or specialized design. Workers shall be directly involved in identifying suitable work equipment and consulted in the design of workstations.*

Many unions negotiate specifically that menstruation products are considered work tools and ensure that there is an adequate supply of sanitary products on hand for women workers to easily access, as well as ensuring adequate bathroom facilities and breaks, as discussed [below](#).

- A global framework agreement between the Coordinating Body of Latin American Banana and

Agro-industrial Workers Unions (Coordinadora Latinoamericana de Sindicatos Bananeros y Agroindustria - COLSIBA), the multinational Chiquita, and the IUF lists menstruation products in a clause on work tools and equipment.<sup>229</sup>

### Workplace Attire

Flexible dress codes responsive to workers' needs and preferences can be an issue of both physical comfort and safety and non-discrimination. Negotiators should assess and address issues with workplace attire, including whether there are disparate requirements based on gender. In some sectors, uniforms are based on a male default, resulting in poorly fitting clothing that hinders movement and causes injuries.<sup>230</sup> Women have reported resorting to using duct tape to make uniforms fit properly and delaying using the bathroom because of cumbersome designs.<sup>231</sup> Meanwhile, differentiated dress codes often reinforce gender stereotypes. In the service sector, some jobs require or encourage women to wear clothing such as high heels or tight skirts which restrict movement and cause injury. Such standards can increase risks of experiencing discrimination and harassment on the job,<sup>232</sup> and pose a particular challenge to non-binary and gender non-conforming individuals.<sup>233</sup>

- A 2018 agreement between the Canadian Union of Public Employees (CUPE) Local 4029 and Calm Air International lists options for work attire and allows workers to select what to wear on an individual basis from that list. Meanwhile CUPE 4098, representing airplane attendants at Air Canada Rouge, used a human rights complaint to force the employer to change clothing and grooming

229 International Labor Rights Forum, Gender-based violence clause in Chiquita-COLSIBA-IUF agreement

<https://web.archive.org/web/20210618170237/https://laborrights.org/colsiba-gender-based-violence-clauses>

230 See, e.g. TUC UK, Personal protective equipment and women <https://www.tuc.org.uk/sites/default/files/PPEandwomenguidance.pdf>

231 USW Women of Steel at 8.

232 UNI OSH guide at 12.

233 ILO, Inclusion of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ+) persons in the world of work: A learning guide (2022) [https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms\\_846108.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_846108.pdf)

rules that restricted and injured members.<sup>234</sup>

- An agreement between the Asian Pacific American Labor Alliance (APALA) and its staff stated that “[e]mployees are encouraged to express themselves and identify what feels right for them within each category of attire. Management will not prohibit clothing based on someone’s religion, gender, race, disability, size, etc. (e.g., banning hijabs, telling a worker they cannot wear skirts if they are assumed to be a man, requiring specific attire that may not work for all bodies).”
- A **framework agreement** between the ITF and the International Association of Public Transport to strengthen women’s employment in public transport includes guidance on uniforms and other aspects of the work environment and design. The agreement recommends that “[e]stablishment of joint union and company uniform committees with women’s representation in order to test uniforms and make input to their design”<sup>235</sup>
- A guide from the Canadian Union of Public Employees, **Bargaining Beyond the Binary**, discusses the importance of access to gender-neutral bathrooms and includes language from an agreement between CUPE 2626 and the University of Ottawa which requires “a multi-year accessibility plan” consistent with Canadian law “that includes wheelchair-accessible and gender neutral facilities (including but not limited to bathrooms and change rooms).”<sup>237</sup>
- The North American Steelworkers Women of Steel guide details an example from Local 5890, which resulted in an agreement to construct two additional bathrooms and install of code-lock access panels.<sup>238</sup> The guide also includes guidance on exercises unions can use to assess facilities on a worksite.

### Access to safe changing and sanitation facilities

The core employer obligation to ensure a safe and healthy workplace includes providing safe, sanitary and appropriate facilities for using the bathroom, changing, washing and attending to other human needs. This right can be particularly pressing for women and gender non-conforming individuals, especially those in traditionally male-dominated sectors. It is also critical in transport and other jobs where workers do not have a fixed working location.

### EXAMPLES

- The **ITF Sanitation Charter** demands the right to toilet dignity for transport workers. Union victories in this sector include a Canadian longshore workers union winning separate, locking sanitation rooms for women workers, and the local government of Kathmandu, Nepal agreeing “to build 42 additional free to use gender-responsive toilets for informal road transport workers in the city.”<sup>236</sup>

<sup>234</sup> CUPE, *Bargaining Beyond the Binary* at 18 (2022) [https://cupe.ca/sites/default/files/bargaining\\_trans\\_inclusion\\_gender\\_diversity\\_en.pdf](https://cupe.ca/sites/default/files/bargaining_trans_inclusion_gender_diversity_en.pdf)

<sup>235</sup> ITF/UITP Positive Employer Gender Policy at 5.

<sup>236</sup> ITF Sanitation Charter at 15 (2019) <https://www.itfglobal.org/en/resources/itf-sanitation-charter>

- A guide from the Canadian Union of Public Employees, **Bargaining Beyond the Binary**, discusses the importance of access to gender-neutral bathrooms and includes language from an agreement between CUPE 2626 and the University of Ottawa which requires “a multi-year accessibility plan” consistent with Canadian law “that includes wheelchair-accessible and gender neutral facilities (including but not limited to bathrooms and change rooms).”<sup>237</sup>
- The North American Steelworkers Women of Steel guide details an example from Local 5890, which resulted in an agreement to construct two additional bathrooms and install of code-lock access panels.<sup>238</sup> The guide also includes guidance on exercises unions can use to assess facilities on a worksite.

### Reproductive Health

Work has complex and wide-ranging effects on reproductive health. Workplace hazards include “substances, environments, or activities that adversely affect reproductive health or the ability to have healthy reproductive outcomes,” including impacting libido, fertility, pregnancy, childbirth, breastfeeding, menstruation, and the menopause.<sup>239</sup> Exposure to solvents, cold, and certain forms of work can result in menstrual cycles that are shorter, longer or more painful.<sup>240</sup> Exposure to hazardous substances and biological agents can cause infertility, pregnancy loss, or birth defects. There are a range of potential long-term impacts on a worker’s children, for example, exposure to hazards like “pesticides, phthalates, dioxin and nicotine can cause low sperm counts, respiratory problems and obesity in later generations. At very low levels, substances like lead, PCBs, petroleum-based

<sup>237</sup> CUPE *Bargaining Beyond the Binary* at 9-10.

<sup>238</sup> USW *Women of Steel* at 6.

<sup>239</sup> University of Washington, *Protecting Workers from Occupational Reproductive Hazards* (2021) <https://deohs.washington.edu/pehsu/sites/deohs.washington.edu/pehsu/files/Occ%20Repro%20Employer%20Toolkit/reproductive%20health%20booklet%2012-21-21%20for%20web%20copy.pdf>

<sup>240</sup> See, e.g. UNI Global OSH Guide at 14; Karen Messing, *Bent out of Shape: Shame, Solidarity, and Women’s Bodies at Work* at 75 (2021) <https://btllibooks.com/book/bent-out-of-shape>

solvents and methyl mercury can affect the developing brain.”<sup>241</sup> Work hours can impact reproductive health, for example, workers on night shifts, and especially on rotating shifts, may suffer circadian cycle alterations, as well as hormonal imbalances that affect the possibility of gestation.

Most legal systems recognize that employers have a general obligation to protect reproductive health, and there are often specific legal standards regarding the use of hazardous chemicals or biological agents,<sup>242</sup> and protections for pregnant and nursing workers. However, the effects, particularly long-term effects, of many workplace hazards on reproductive health are often not fully recognized, and are understudied – for both genders.<sup>243</sup> Many OSH standards, such as safety ratings regarding issues like chemical exposure levels, are designed using the “average man” as a default – which often means the average US or European man, and the impacts on women, let alone on pregnant people, are unknown.<sup>244</sup> The union may wish to partner with universities, research institutes or local governments to gather data to support bargaining. Union advocacy is also critical to demand national governments support research on OSH and women with a view to establishing gender-sensitive standards on issues such as chemical limits, and train labour inspectors to conduct gender responsive labour inspections. Where data is not available, unions can also consider pushing for funding from the employer for independent studies.

The union should engage in peer education and discussions to ensure workers fully understand their rights under law and known and suspected hazards. Workers need a space to discuss the impacts of work on reproductive health, mindful that shame and stigma about the human body can often accompany these conversations (for more on how to create a safe space for discussion within the union see the section on **internal union policies**). Bargaining can then be used to build out obligations, focused on the specific

risks and hazards in the industry and dynamics at the worksite.

The union should also be mindful to address discriminatory policies and practices in the management of reproductive health risks. Where known or suspected reproductive hazards exist, employers will sometimes respond by prohibiting pregnant workers or even women as a whole from conducting certain work.<sup>245</sup> The employer’s obligation is always to attempt to eliminate the risk first, and then to make appropriate modifications to make the work as safe as possible for all workers. Banning women from performing work, without first attempting elimination or modification, not only reinforces patriarchy and occupational segregation, it implicitly accepts that some work must simply be high risk, rather than emphasizing the employer duty to take all necessary steps to make work safe for everyone.<sup>246</sup> The patriarchal concern with women’s health as mothers may also sometimes result in instances where the effects on men’s reproductive health is entirely ignored. Unions have the opportunity to push for the realization of all workers’ rights to protect their own reproductive health and the health of future generations.

#### EXAMPLES:

- UNI Global Union produced **guides** on the “3Ms” – maternity, menstruation and menopause.<sup>247</sup> The guides, available in English, French, Italian and Spanish, contain information, best practices, checklists and other resources to support trade unions.
- Public Services International produced the guide **Advancing the Enforcement of Reproductive Rights at Work** which highlights good practices adopted by public sector unions related to men-

<sup>241</sup> USW Women of Steel at 17.

<sup>242</sup> The University of Washington study above contains a list of common reproductive hazards at page 8.

<sup>243</sup> Lozano, Global Labour Rights Reporter at 39.

<sup>244</sup> TUC Guide at 3.

<sup>245</sup> See, e.g. case study discussion in Tolle Graham, Nancy Lessin, and Franklin Mirer, A Labor Perspective on Workplace Reproductive Hazards: Past History, Current Concerns, and Positive Directions, Environmental Health Perspectives Supplements 101 (Suppl. 2): 199-204 (1993) [https://www.iaff.org/wp-content/uploads/2019/07/20217\\_A\\_Labor\\_Perspective\\_WorkplaceReproductiveHazards.pdf](https://www.iaff.org/wp-content/uploads/2019/07/20217_A_Labor_Perspective_WorkplaceReproductiveHazards.pdf)

<sup>246</sup> Lozano, Global Labour Rights Reporter at 40.

<sup>247</sup> UNI Global Union, Manuals to address menstruation, maternity and menopause in the workplace (2024) <https://uniglobalunion.org/news/3m-manuals/>

struation, perimenopause, menopause and other reproductive health issues.<sup>248</sup>

## Menstrual Health

Health and safety at work includes the right to safe and dignified menstruation. As discussed above, unions should include menstruation products as part of work tools and ensure adequate bathroom facilities including options for disposal of menstrual products and privacy for changing. Menstruation at work should be destigmatized through inclusion in OSH management and training for supervisors and workers on how to provide appropriate workplace accommodations.

Ideally, all workers should have flexibility in workflow, including access to unlimited, self-selected toilet and movement breaks. This allows workers to address menstrual needs as well as other needs that arise out of having a human body. Menstruation itself is not a barrier to work, “[w]hat is harmful for women and people who menstruate are workplaces designed to ignore physical and psychological needs; jokes and stereotypes that portray women as unstable; and organizational cultures that glamorize overworking and exhaustion.”<sup>249</sup>

In industries or worksites with extremely rigid production modes, it may be necessary to ensure adequate break time specifically to accommodate menstruation, if broader flexibility cannot be fully achieved. This can include the right to longer and more frequent bathroom breaks and breaks to stretch to relieve cramping.<sup>250</sup> This may be particularly critical for those with medical issues such as dysmenorrhea or who are experiencing the menopause. Specific language will need to take into account the identified needs of workers who menstruate, the nature of the work and the structure of the workday. Ideally, protections should be accessible to anyone who needs them. Urination needs can increase for everyone with

age, so the language should be as broad as possible.

Workers experiencing the menopause face specific workplace health risks, such as hot flashes, headaches, more frequent urination, anxiety, and dry skin and eyes. Social stigma and the lack of investment in medical research means that it is often ignored as a broader health issue,<sup>251</sup> including an OSH issue. The union can play a critical role in breaking down stigma and providing a space to name and discuss issues without implying employment discrimination. Many issues of specific concerns around menopause – access to adequate sanitary facilities and breaks, ventilation, clothing that does cause overheating – also benefit all workers.

## EXAMPLES:

- Unite the Union has a **period dignity campaign** demanding sanitary supplies at work, which has resulted in employers providing sanitary products to workers free of charge.<sup>252</sup> Unite also has a **menopause health and safety** briefing,<sup>253</sup> which includes examples of how workers and trade unions have used legal challenges alleging discrimination on the basis of sex/gender, disability and age to protect the rights of workers experiencing the menopause.<sup>254</sup>
- UNI Global's **Manual on Menstruation** has an excellent checklist on how to support menstrual health at work, and examples of union campaigns to destigmatize and win appropriate workplace accommodations. UNI Global's **Manual on Menopause** has information, activities to build understanding of menopause, a model agreement and a checklist.<sup>255</sup>

248 PSI, Advancing the Enforcement of Reproductive Rights at Work (2025) [https://pop-umbrella.s3.amazonaws.com/uploads/17c78d9b-5072-4a4c-abe3-c7b4543ce710\\_EN\\_RH\\_SURVEY\\_8\\_MARCH\\_2025.pdf](https://pop-umbrella.s3.amazonaws.com/uploads/17c78d9b-5072-4a4c-abe3-c7b4543ce710_EN_RH_SURVEY_8_MARCH_2025.pdf)

249 Maria Carmen Punzi, What Is the Future of Menstrual Health at Work?, Future of Work Magazine (November 2023) <https://thefutureofwork.pro/what-is-the-future-of-menstrual-health-at-work/>

250 *Id.*

251 Jennifer Walsh, How Gaps in Research Lead to Gaps in Care for Aging Women, Harvard University website (January 10, 2024) <https://hms.harvard.edu/news/how-gaps-scientific-data-lead-gaps-care-aging-women>

252 Unite the Union Period Dignity Campaign <https://www.unitetheunion.org/campaigns/unite-demands-period-dignity>

253 Unite the Union, Menopause health and safety and the Law <https://www.unitetheunion.org/media/rr3ckak1/menopause-health-and-safety-briefing.pdf>

254 Unite the Union Negotiators Guide at 45–46.

255 UNI Global Union, Manuals to address menstruation, maternity and menopause in the workplace (2024) <https://uniglobalunion.org/news/3m-manuals/>

- Unite the Union's [Negotiator's Guide on Women's Health, Safety and Well-Being at Work](#) includes a menopause risk assessment checklist. There is also a sample agreement on menopause at the workplace that includes a commitment from the employer to "promote a positive attitude towards employees throughout the menopause and endeavour to create a working environment where work and the health effects of the menopause on women workers can be combined," and ensure adequate training and paid time for equality representatives to address the issue. The employer recognises "that some work may be more hazardous for, or endanger the health of, menopausal women and that job adjustments may need to be made to ensure the health, safety and welfare of all the employees," "undertakes to ensure that a flexible approach is adopted towards rotas, shifts and the provision of toilet and rest breaks" and agrees to ensure paid time off for medical appointments and sick leave.<sup>256</sup>
- The Irish Congress of Trade Unions, along with the Equality Commission for Northern Ireland and the Labour Relations Agency produced a guide on [Promoting Equality in Employment for Women Affected by Menopause](#), including information on why employers should address the issue and a checklist.<sup>257</sup>
- The Scottish Trades Union Congress Menopause Report has workplace policy suggestions, such as access to flexible work schedules to address irregular sleep patterns, and access to fans and quiet areas to address fluctuating body temperatures.<sup>258</sup>

## Pregnancy

Pregnant workers require special consideration under OSH, including risks related to physiological changes, and also the risk of discrimination on the basis of

pregnancy. For example, pregnancy prompts changes in the immune system, lung capacity and ligaments, which can alter or increase risks of injury or illness and some chemicals, such as some metals, are absorbed more easily in the bloodstream.<sup>259</sup> As discussed above, workers who wish to become biological parents in the future can be impacted by hazards in the workplace as well. Ideally protections should extend to all workers who wish to have biological children.

Discrimination on the basis of pregnancy is unfortunately common. While sometimes this is based on misunderstanding or misinformation about the risks or realities of pregnancy, it is often informed by social stereotypes about pregnancy or assumptions that the worker will transition to full time motherhood after birth. The union should be on heightened alert for discriminatory treatment, and be prepared to utilize discrimination protections, discussed in the [section on discrimination](#). There is both a very real risk that hazards dangerous to a pregnant workers' health will be downplayed or outright ignored, but conversely also a risk that health will be used as a pretext to remove women from desirable roles or deny opportunities based on the assumption that they will turn to caretaking. The union must be alert to both.

Most jurisdictions protect pregnant workers from having to engage in work with a substantial risk to the worker or their foetus. The precise language differs. ILO Convention 183 on Maternity Protection states that pregnant workers should not be required to carry out work that is a "significant risk" to the health and safety of the worker or their foetus.<sup>260</sup> The corresponding ILO Recommendation 191 provides for specific assessment and management of the following risks during pregnancy: arduous work involving manual lifting, carrying, pushing or pulling of loads; work involving exposure to biological, chemical or physical agents which represent a reproductive health hazard; work requiring special equilibrium; work involving physical strain due to prolonged periods of sitting or

<sup>256</sup> Unite the Union Negotiators' Guide at 60.

<sup>257</sup> Irish Trade Unions Congress, Menopause Guidance for Employers, trade union reps and employees (October 20, 2021) <https://www.ictuni.org/publications/menopause-guidance-employers-trade-union-reps-and-employees>

<sup>258</sup> Scottish Trades Union Congress Womens' Committee, Menopause & the Workplace (January 2018) <https://www.stuc.org.uk/resources/menopausereport.pdf>

<sup>259</sup> US National Institute for Occupational Safety and Health, How Employers Can Reduce Workplace Reproductive Hazards (March 22, 2024) <https://www.cdc.gov/niosh/reproductive-health/about/employers.html>

<sup>260</sup> ILO Convention 183 on Maternity Protection, Article 3 (2000) [https://normlex.ilo.org/dyn/nrmlx\\_en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C183](https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C183)

standing, to extreme temperatures, or to vibration; and night work where a medical certificate declares such work to be incompatible with pregnancy or nursing.<sup>261</sup> The below language is based on R191, but can be adapted to mirror the language in the jurisdiction.<sup>262</sup>

*EMPLOYER shall protect the health and safety of pregnant workers and their fetuses, and workers who wish to become pregnant or have children and their future offspring. EMPLOYER shall take all available measures to eliminate hazards to the health and safety of pregnant workers and their fetuses, and workers who wish to become pregnant or have children and their future offspring. Where elimination is not possible, EMPLOYER shall, in consultation with UNION, adapt work conditions to ensure safety and health. Where it is not possible to adapt work conditions, or where the worker requests it, EMPLOYER and UNION shall agree to a transfer to a suitable post without loss of pay or benefits. The workers' preferences shall be taken into account with respect to determining a suitable transfer option. Where no suitable transfer post is available, EMPLOYER shall provide additional paid leave to avoid exposure, which shall not be deducted from other leave balances. The worker has the right to return to the job or an equivalent job as soon as it is safe to do so.*

It is important to emphasize the core employer responsibility to eliminate risks to health and safety whenever possible. Sometimes, employers attempt to address potential risks to pregnant workers by forbidding pregnant workers or women as a whole from

certain areas of work.<sup>263</sup> This is particularly likely to happen in traditionally male-dominated areas where women have only recently made inroads.<sup>264</sup> As discussed above, this ignores the core employer obligation to take all reasonable steps to eliminate a hazard as the first response, and implicitly accepts that some workers must accept high risk work. The union should focus on trying to address problems holistically where possible. As an example, a Unite the Union guide notes that heavy lifting poses a specific risk for workers who are pregnant or have recently given birth because of physical changes to ligaments and other issues, but heavy lifting is a general danger to all workers. When conducting a risk assessment for a pregnant worker "the employer may be persuaded to alter the task to avoid manual handling for all workers."<sup>265</sup>

The union may also wish to negotiate a clause that empowers workers to self-select their own modifications to ensure that workers have autonomy, for example:

*Pregnant workers and workers who wish to have children have the right to request specific modifications to work assignments and duties to protect their health or the health of their offspring. Such modifications shall not be unreasonably denied.*

261 ILO Recommendation 191 on Maternity Protection, Paragraphs 3 and 4 (2000) [https://normlex.ilo.org/dyn/nrmlx\\_en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312529:NO](https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312529:NO)

262 R191 states that "where a significant risk has been identified" measures should be taken to provide "(a) elimination of risk; (b) an adaptation of her conditions of work; (c) a transfer to another post, without loss of pay, when such an adaptation is not feasible; or (d) paid leave, in accordance with national laws, regulations or practice, when such a transfer is not feasible." *Id.*

263 See, e.g. discussion in Graham, Lessin, and Mirer, 199-204.

264 *Id.*

265 Unite Negotiators' Guide at 37-38.

## EXAMPLES

- Unite the Union's [Negotiator's Guide on Women's Health, Safety and Well-Being at Work](#) includes a pregnant worker risk assessment checklist<sup>266</sup> and the North American Steelworkers [Women of Steel Guide](#) includes a pregnant worker hazard checklist<sup>267</sup>
- A [study](#) by TUCA on gender equality lists several examples of collective agreements that address reproductive health. An agreement from Uruguay's Private Health Sector states "in the interest of protecting pregnant women and ensuring the healthy development of the unborn child, the company undertakes not to expose pregnant workers to work that may in any way affect their health, and agrees to transfer the worker out of work that may be harmful to her health or that of the child, when endorsed by a specialist doctor."<sup>268</sup> In Argentina, the Federación de Sindicatos Unidos Petroleros e Hidrocarbúferos (SUPEH) negotiated "[w]hen, according to medical certification, there are working conditions in the workplace that may have a negative influence on the health of the pregnant woman or the foetus, the working conditions will be modified or the worker will be moved to another job, without detriment to her economic conditions. This will remain in effect until the health of the worker allows her to return to her previous job or role. In the event that there is no compatible job or role, the worker may be assigned to a position that does not correspond to her area or equivalent professional group, retaining the right to the full remuneration of her original position."<sup>269</sup>
- A comprehensive 2003 study of clauses from Mexican collective agreements lists several that protect the health of pregnant workers, including agreements that state workers "shall not perform work that requires considerable effort or represents a danger to health in relation to pregnancy, such as lifting, pulling or pushing heavy weights, that produce trepidation, standing for long peri-

ods of time or that affect or may affect mental health or the nervous system," and clauses that provide the right to additional breaks and the right to adjustments to schedules and duties without affecting pay.<sup>270</sup>

## Lactation

Workers have the right to workplace support to facilitate breastfeeding their children. Lactating workers must be made fully aware of workplace hazards and have access to appropriate modifications to facilitate safe and sanitary lactation. Some substances, including lead, solvents, pesticides, flame retardants, and phthalates can pass into breastmilk and affect nursing babies.<sup>271</sup> Certain postures, work attire or activities may be uncomfortable due to physical changes in the body.

*Lactating workers have the right to modifications to job requirements, including duties, workspaces, equipment, shifts, or other relevant issues, to facilitate safe and sanitary lactation for up to two years postpartum. Lactating workers have the right to request specific modifications. Such modifications shall not be unreasonably denied.*

It may be optimal to include explicit language that the right to nursing modifications extends beyond the early months where children are exclusively fed either breastmilk or formula. The World Health Organization recommends breastfeeding for "two years and beyond," and has a [helpful factsheet](#) outlining why breastmilk is an important nutritional source, which could be helpful in negotiations.

Job modifications will necessarily depend on the nature of the job, including both whether there is exposure to hazards such as chemicals, and whether child-

<sup>266</sup> Unite Negotiators' Guide at 45-46.

<sup>267</sup> USW Women of Steel at 32-35

<sup>268</sup> CSA TUCA at 92.

<sup>269</sup> CSA TUCA at 91.

<sup>270</sup> García Pineda, Anexo.

<sup>271</sup> See, e.g. Northwest Center for Occupational Health and Safety, Reproductive Hazards in the Workplace (November 2021) [https://deohs.washington.edu/pehsu/sites/deohs.washington.edu/pehsu/files/Occ%20Repro%20Employer%20Toolkit/general%20worker%20fact%20sheet%2012-8-21%20for%20web\\_0.pdf](https://deohs.washington.edu/pehsu/sites/deohs.washington.edu/pehsu/files/Occ%20Repro%20Employer%20Toolkit/general%20worker%20fact%20sheet%2012-8-21%20for%20web_0.pdf); USW Women of Steel.

care or care spaces are provided on-site. In instances where nursing mothers will be expressing milk, it is critical to ensure that workers have access to a safe, private and sanitary location to express milk, a refrigerator to store milk and a location to clean and store machinery. For either nursing or pumping, multiple breaks of at least 30 minutes are required. Ideally this would be self-directed by the worker, although more rigid production modes may require bargaining specific language regarding access to adequate breaks, see further discussion and sample language in the section on **right to personal and family life**, as well as the section on **pregnancy, lactation and reproductive rights**.

### Restrictions on Hazardous and/or Night Work

Historically, states have restricted or outright banned women from performing work deemed to be hazardous, working in specific heavy industries such as mining, and/or working at night to 'protect' women. This paternalistic approach was even codified in a 1948 ILO Convention which encouraged states to forbid night work for women. Restricting the ability of women to certain perform work is now widely recognized as discriminatory,<sup>272</sup> and there are concerted efforts to instead ensure that hazardous work is safe for everyone.

The normalization of violence against women and the constriction on women's free movement in public spaces in many societies means that women may face heightened risks at night, but the reality is that men on night shifts often are at risk as well, and measures to ensure safety can benefit all workers. Safety at night is often intricately connected to the right to safety on the commute, discussed next. Risk

<sup>272</sup> See, e.g. discussion in GLU report of a successful effort to repeal a law in the Philippines prohibiting women in night work with new regulations that required employers "to give all night workers adequate and reasonable facilities, such as sleeping or resting quarters in the establishment, and transportation from the work premises to the nearest point of their residence." Melisa R. Serrano and Ramon A. Certeza, Gender, unions and collective bargaining in the Philippines: issues and critical factors, Visibility and Voice for Union Women: Country case studies from Global Labour University researchers, Global Labor University at 63 (2014) [https://www.researchgate.net/publication/376757281\\_Visibility\\_and\\_Voice\\_for\\_Union\\_Women\\_Country\\_case\\_studies\\_from\\_Global\\_Labour\\_University\\_researchers](https://www.researchgate.net/publication/376757281_Visibility_and_Voice_for_Union_Women_Country_case_studies_from_Global_Labour_University_researchers)

management may require the provision of adequate workspaces or tools, such as secure areas and/or adequate, private resting quarters within the establishment. It may require adequate staffing, such as ensuring workers can work in pairs.

UC Berkeley has an online database of union contracts that **address issues with violence at work**, including safety at night. An agreement between the American Federation of Teachers Local 1521 and Los Angeles Community College District states that "[d]uring hours of darkness, or when an employee's workstation is in a remote area, Clerical/Technical unit employees may request that campus police provide a security escort for them. An escort shall be provided upon employee's request." An agreement between AFSCME Local 544-1 and Lucas County Dept. of Job and Family Services, 2021-2022 states "[s]ecurity will be provided for employees who work at night and on weekends." Model language from the Massachusetts Nursing Association states that "Upon request, the hospital will provide escorts to cars and physical protection to workers if necessary."<sup>273</sup>

### Right to a Safe Commute

The right to a safe commute, recognized directly in ILO Convention 190 and linked to other rights including freedom of movement,<sup>274</sup> is critical to women,<sup>275</sup>

<sup>273</sup> University of California Berkeley, Bargaining Language Database, Workplace Violence.

<sup>274</sup> Article 3(f) ILO C190, Article 13 of the Universal Declaration of Human Rights. See also discussion in Salomé Teuteberg, Bargaining for Gender Equity, Freidrich Ebert Stiftung and Labor Research Service at 9 (2021) <https://www.lrs.org.za/wp-content/uploads/2021/01/Bargaining-for-gender-equity.pdf>

<sup>275</sup> See, e.g. James Ladi Williams, Ammar A. Malik, and Sara McTarnaghan, Gender-Based Violence on Public Transportation, Urban Institute (June 30, 2020) [https://urban-links.org/wp-content/uploads/GBV-on-Transportation\\_6-26-2020\\_updated\\_DM.pdf](https://urban-links.org/wp-content/uploads/GBV-on-Transportation_6-26-2020_updated_DM.pdf) ("limited access to and safety on transportation are the most significant barriers to women's labor force participation in developing countries. According to ILO estimates, these factors reduce women's probability of participation by 16.5 percentage points." emphasis added); Asian Development Bank, Policy Brief: A Safe Public Transportation Environment for Women and Girls (2015) <https://www.adb.org/sites/default/files/publication/179182/safe-public-transport-women-girls.pdf> (discussing studies from Asia region on safety on transport)

LGBTIQ+ individuals,<sup>276</sup> and gender non-conforming individuals in particular, as they face significantly higher rates of violence in public spaces. However, safety on transport affects all workers, and all workers should benefit from protections.

It may be appropriate to negotiate for employer-provided transportation for all workers, regardless of their employment status, or for all workers on shifts that begin or end at times where safety is more likely to be compromised (e.g. the employer may only request overtime or night shift work where the employer provides transport between a worker's place of residence and the workplace at the commencement and/or conclusion of the shift). Such transportation must be culturally appropriate, have adequate and suitable seating, conform to vehicle safety standards and be kept in good repair. Workers must be able to use it without fear of overcrowding.

Workers on variable shifts may wish to negotiate a right to refuse shifts without consequence where they present a risk to safety on the commute or include the provision of safety escorts for late dismissal or early arrival. The union can try to negotiate a duty of the employer or right of the union to arrange schedules with an eye to safety so that workers who live close can commute together or push for joint advocacy for better government interventions to address safety on the commute.

Where the right to compensation for injuries sustained during the commute is not covered by national OSH or workers' compensation legislation,<sup>277</sup> bargain-

ing could introduce a right to compensation for injuries sustained on the commute to or from work.

## EXAMPLES

- The UK Union of Shop, Distributive and Allied Workers (USDAW) created a 'Freedom from Fear' campaign to promote safety for women shop workers who commute late at night or early in the morning. As discussed in the report [Safe at Work, Safe at Home](#), the union conducted a survey to demonstrate the extent of the problem and reached an agreement with the employer to improve safety. "Concrete examples of what has been agreed include giving women time to come off the supermarket checkouts, once the store had closed, so that they could move their cars to directly outside it, as car parking for staff was often the furthest away. Another example is fitting a loud bell to the staff entrance, so that when women arrive for their shift in the early hours of the morning they can be heard and let into the store straight away. Previously they could find themselves standing outside for up to twenty minutes as they could not be heard. In one case, reps got a manager to agree to walk to the local train station at night to see the route that women who were finishing at 22.00 hrs had to walk. It was then agreed that women could change their shifts if they were concerned about their safety. Other examples include keeping car park lights on until staff have left the premises and agreeing to finish a shift early to enable staff to catch the last bus home."<sup>278</sup>
- The Federation of Agriculture and the Tunisian General Labor Union (UGTT) advocated for increased safety on the commute for women agricultural workers "through awareness-raising programs that ensure women know their rights on the job and can speak out for safe conditions, especially on the dangerous transport to and from work."<sup>279</sup>
- The European Transport Workers' Federation (ETF) launched a "Get Me Home Safely" campaign to highlight employer and community obligations

<sup>276</sup> See, e.g. A 2015 US study "found that 34 percent of respondents reported being denied equal treatment or service, verbally harassed, or physically attacked while using public transit in the past year because of their gender identity or presentation." JaDee Carathers, Miriam Abelson, Amy Lubitow and Maura Kelly, Gender Minority Transit Riders Experience Violence and Discrimination, University of Minnesota (September 4, 2019) <https://genderpolicyreport.umn.edu/gender-minority-transit-riders/#:~:text=The%202015%20US%20Trans%20Survey,their%20gender%20identity%20or%20presentation.>

<sup>277</sup> See ILO, General Survey concerning the Occupational Safety and Health Convention, 1981 (No. 155), the Occupational Safety and Health Recommendation, 1981 (No. 164), and the Protocol of 2002 to the Occupational Safety and Health Convention, 1981, Paragraphs 235-239 (2009) <https://www.ilo.org/resource/general-survey-concerning-occupational-safety-and-health-convention-1981-no>

<sup>278</sup> Pillinger, *Safe at Home* at 22.

<sup>279</sup> <https://www.solidaritycenter.org/union-women-on-the-covid-19-front-lines-the-road-to-recovery/>

to ensure safety on the commute.<sup>280</sup>

## Domestic Violence

ILO Convention 190 enshrines the critical obligation to address the impacts of domestic violence on the world of work.<sup>281</sup> Domestic and intimate partner violence is often one of the leading causes of death on the job for women workers,<sup>282</sup> and other workers present are often also targeted. The risks are particularly high when victims take steps to leave a perpetrator, as violence often escalates at this time and work often becomes the primary or only place where a victim can be located.

The risks presented by domestic and intimate partner violence at work need to be contemplated in OSH management, and response mechanisms developed. Workers must be ensured the right to a personal safety plan that includes reasonable accommodations, such as shift changes, temporary relocation to different work areas or worksites, or increased security measures. Likewise, the employer has the obligation to mitigate and not aggravate the damage caused by domestic violence in the workplace, even if it takes place outside the establishment, for example, by ensuring paid violence leave, provisions that prevent penalizing those who are absent from work due to violence, and flexible working arrangements. Model language, more information and examples of union efforts to address domestic violence are available in the [section on domestic violence](#).

## Algorithmic Management

The rise of algorithmic management has wide-ranging implications for workers' rights and equality, particularly worker health and safety.<sup>283</sup> This includes in-

tense pressure to meet rigid production quotas and extensive surveillance. See further discussion and model language in the section on [gender and technology in the workplace](#).

## Personal Protective Equipment (PPE)

Most PPE is based on the size and characteristics of males from the United States and a few countries in Europe, meaning that it is inappropriate for many bodies, including particularly many women.<sup>284</sup> A survey conducted by the UK Trades Union Congress found that "[d]espite a legal duty on bosses to provide the correct Personal Protective Equipment (PPE) to their staff free of charge, only 3 in 10 women (29%) wear PPE specifically designed for women; [and] more than half of women (57%) said that their PPE sometimes or significantly hampered their work – including 95% of women working in emergency services."<sup>285</sup> Women workers and gender non-conforming workers should give input into equipment requests to ensure personal comfort and safety.

### EXAMPLES:

- The UK Trade Union Congress (TUC) created a guide [on PPE and women](#).<sup>286</sup>
- The North American Steelworkers Women of Steel [guide](#) discusses a case where a local union developed processes with the company's uniform providers to alter the standard uniform and identified suppliers for smaller gloves. The guide notes that both men and women benefitted from a broader size selection.<sup>287</sup> At Local Union 1944 in Canada, a union representative supported a formal inquiry into the unsafe fall restraint harnesses after it was revealed that multiple women workers had serious incidents due to improper fit.

280 European Transport Workers Federation, *Get Me Home Safely* (March 8, 2023) <https://www.etf-europe.org/get-me-home-safely-unions-demand-safe-commuting-to-work-for-women-transport-workers/>

281 C190 Article 10(f) and R206 Paragraph 18.

282 See, e.g. AFL-CIO, *Death on the Job: The Toll of Neglect* (2022) <https://aflcio.org/reports/death-job-toll-neglect-2022>

283 See, e.g. Veena Dubal and Vitor Araújo Filgueiras, *Digital Labor Platforms as Machines of Production*, *Yale Journal of Law & Technology*, Volume 26, Issue 3 (2024) [https://yjolt.org/sites/default/files/dubal\\_filgueiras\\_26yalejltech560.pdf](https://yjolt.org/sites/default/files/dubal_filgueiras_26yalejltech560.pdf)

284 TUC PPE at 4.

285 TUC PPE at 5.

286 TUC PPE.

287 USW Women of Steel at 6.

## Medical Benefits

Where medical benefits are provided, they should include coverage of gynaecological care, reproductive care including abortion and miscarriage, access to contraceptives, fertility treatment, mammograms, and gender-affirming care.<sup>288</sup> Unfortunately, the right to access to abortion and gender-affirming care for trans workers<sup>289</sup> in particular are under attack in many jurisdictions. The right to determine whether or when to have a child is a fundamental right, well established under international and regional human rights law and recognized by many domestic legal frameworks.<sup>290</sup> It impacts a range of human rights, including the right to freely choose employment and occupation.<sup>291</sup> Medical benefits should address common health concerns in the jobsite, sector or country from a gender-sensitive lens, such as risks of repetitive strain injuries which are common in feminized sectors and not always adequately recognized under law. Worker privacy should be respected, and there should be protection against discrimination based on medical findings. Lastly, spousal benefits should apply to an inclusive range of relationships, including same-sex or domestic partnerships. Unions have successfully argued for these inclusions even where the law has not yet fully recognized same-sex marriage.

Unite the Union's [guide](#) on OSH includes a section on access to abortion, contraception and sexual health.<sup>292</sup> The guide discusses the union's involvement in a national pro-choice campaign, as well as

details how women in different jurisdictions can access care.

The American Federation of Labor - Congress of Industrial Organizations (AFL-CIO) has a hub on [reproductive rights](#), including training on [Reproductive Health and the Economy](#) that discusses how to defend members' right to access abortion in the context of right wing attacks and [model contract language](#).<sup>293</sup>

The Brazilian National Confederation of Financial Sector Workers (Confederação Nacional dos Trabalhadores do Ramo Financeiro da CUT (Contraf-CUT)) started a campaign in the 1990s to have the employer medical plan extended to same sex partners, long before marriage equality was recognized in the country. This led to the successful adoption of language extending medical benefits to same-sex partnerships in 2009 and 2010 agreements.<sup>294</sup>

## Access to Compensation

It is important that the workers compensation systems of every country include coverage for occupational injuries and illnesses that especially affect women and LGBTIQ+ workers, including psychosocial harms, in accordance with the standards established in ILO Conventions 155 and 190. In the event of temporary disability, workers should be able to access paid leave, and in the case of permanent disability, the corresponding compensation should be paid. The union should negotiate to address deficiencies in the national system and ensure equitable coverage, building on existing protections in the jurisdiction.

## VI. GENDER AND TECHNOLOGY IN THE WORKPLACE

The use of technology in the workplace, including algorithmic management and surveillance tools, has wide-ranging implications for worker rights and equal-

288 For discussion of some of the international treaties protecting the right to access reproductive care, see United Nations Office of the Human Rights Commissioner, Sexual and reproductive health and rights <https://www.ohchr.org/en/women/sexual-and-reproductive-health-and-rights>

289 Gender-affirming care for cisgender workers is rarely subject to the same scrutiny. See Theodore Schall and Jacob Moses, Gender-Affirming Care for Cisgender People, Hastings Center Report (June 7, 2023) <https://onlinelibrary.wiley.com/doi/10.1002/hast.1486>

290 UN treaty bodies have established that "states must ensure that legal abortion services are available, accessible (including affordable), acceptable, and of good quality." Johanna B Fine, Katherine Mayall, and Lilian Sepúlveda, The Role of International Human Rights Norms in the Liberalization of Abortion Laws Globally, Health and Human Rights Journal (2017) <https://pmc.ncbi.nlm.nih.gov/articles/PMC5473039/>

291 Asha Banerjee, Abortion rights are economic rights, Economic Policy Institute (May 18, 2022) <https://www.epi.org/blog/abortion-rights/>

292 Unite Negotiators' Guide at 49.

293 AFL-CIO, Reproductive Rights Are Worker Rights, <https://aflcio.org/reproductive-rights>

294 Portilho Lins at 18.

ity.<sup>295</sup> This includes the replication of human biases, particularly gender biases, intrusion into privacy, and intense pressures to meet rigid demands. Technology tools have been repeatedly shown to reflect, “scale and amplify” social discrimination.<sup>296</sup> For example, automated hiring tools have repeatedly demonstrated bias against women and other marginalized workers,<sup>297</sup> including a highly publicized case where Amazon’s hiring algorithm downgraded any mention of “women” in applicants’ resumes.<sup>298</sup> Facial recognition is demonstrably bad at recognizing the faces of women, non-binary and racialized individuals,<sup>299</sup> and workers report losing jobs as a result.<sup>300</sup> Surveillance tools allow employers to access sensitive personal information, such as information related to health or sexuality,<sup>301</sup> and enable new forms of GBVH, including

both virtual harassment and stalking. Time management tools penalize workers for not taking shifts or meeting quotas, regardless of the reason, which can particularly impact workers who have significant care responsibilities.<sup>302</sup> Displacement and downsizing due to new technologies may also have differential impacts. For example, some studies suggest that technology tools and automation will particularly displace workers in sectors and occupations like clerical work where women are disproportionately represented.<sup>303</sup>

The law often struggles to keep pace with changing technology, so bargaining is a critical site to demand workers are fully informed about the impacts of existing and new technology and ensure protections against discriminatory and arbitrary treatment. Some jurisdictions have begun to protect data privacy and place restrictions on the use of surveillance and/or algorithmic management tools.<sup>304</sup> The EU adopted the General Data Protection Regulation in 2018, which requires that algorithmic decision-making be subject to authentic review by humans and enables workers to challenge decisions and demand transparency.<sup>305</sup>

295 Dubal and Araújo Filgueiras.

296 United Nations Educational, Scientific and Cultural Organization (UNESCO) and the International Research Centre on Artificial Intelligence, Challenging systematic prejudices: an investigation into bias against women and girls in large language models at 3 (2024) <https://unesdoc.unesco.org/ark:/48223/pf0000388971>

297 Sophie Kniepkamp, Florian Pethig, and Julia Kroenung, Algorithmic Bias in Job Hiring, University of Minnesota (July 22, 2024) <https://genderpolicyreport.umn.edu/algorithmic-bias-in-job-hiring/>

298 Lori Andrews and Hannah Bucher, Automating Discrimination: AI Hiring Practices and Gender Inequality, Cardozo Law Review, Volume 44 Issue 1 (2022) <https://cardozolawreview.com/automating-discrimination-ai-hiring-practices-and-gender-inequality/>; Reuters, Amazon scraps a secret A.I. recruiting tool that showed bias against women (October 10 2018) <https://www.cnn.com/2018/10/10/amazon-scraps-a-secret-ai-recruiting-tool-that-showed-bias-against-women.html>; Rachel Goodman, Why Amazon’s Automated Hiring Tool Discriminated Against Women, American Civil Liberties Union, (October 12, 2018) <https://www.aclu.org/news/womens-rights/why-amazons-automated-hiring-tool-discriminated-against>; Eleanor Drage and Kerry Mackereth, Does AI Debias Recruitment? Race, Gender, and AI’s “Eradication of Difference,” Philosophy & Technology (2022) <https://link.springer.com/article/10.1007/s13347-022-00543-1>

299 Rachel Fergus, Facial recognition remains largely ungoverned - and dangerous - in Minnesota, American Civil Liberties Union of Minnesota (February 29, 2024) <https://www.aclu-mn.org/en/news/biased-technology-automated-discrimination-facial-recognition#:~:text=Studies%20show%20that%20facial%20recognition,Facial%20recognition%20automates%20discrimination>.

300 Robert Booth, Ex-Uber driver takes legal action over ‘racist’ face-recognition software, the Guardian (October 5 2021) <https://www.theguardian.com/technology/2021/oct/05/ex-uber-driver-takes-legal-action-over-racist-face-recognition-software>

301 Nike Backman, Speculations on the use of menstrual tracking technologies at the workplace: surveillance, privacy, and productivity, KTH

Royal Institute of Technology Masters Degree Project (June 20, 2023) <https://www.diva-portal.org/smash/get/diva2:1800319/FULLTEXT01.pdf>

302 Anna Ginès i Fabrellas, Algorithms are driving inequality, not eliminating it, Ramon Llule University (September 5, 2024) <https://dobetter.esade.edu/en/algorithms-equality>; Barbora Černušáková, Labour Rights and Technology: Mapping Strategic Opportunities for Workers and Trade Unions, ILAW Network (May 2024) <https://www.ilawnetwork.com/wp-content/uploads/2024/05/ISSUE-BRIEF-Labour-Rights-and-Technology.pdf> (discussing cases where Argentine gig workers were deactivated due to absences related to caring for children and ill relatives. “Workers reported a sense of arbitrariness of these forms of dismissals, as well as observing the intense asymmetry of the relationship in other aspects as well; notably, that they were not able to evaluate or rank clients”); Sonia Filipetto, Ariela Micha, Francisca Pereyra, Cecilia Poggi and Martín Trombetta, Platform labour in contexts of high informality: Any improvement for workers? A critical assessment based on the case of Argentina, New Technology Work and Employment, Volume 39 Issue2 (July 2024) <https://doi.org/10.1111/ntwe.12283>

303 Organisation for Economic Co-operation and Development (OECD), Algorithm and Eve: How AI will impact women at work (2024) <https://doi.org/10.1787/a1603510-en>.

304 UNI Global Union, Algorithmic Management: Opportunities for Collective Action. A Guide for Workers and Trade Unions (2023) <https://uniglobalunion.org/wp-content/uploads/Algorithmic-Management-Opportunities-for-Collective-Action.pdf>

305 EU Regulation 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of

Brazil's 2018 General Data Protection Law "allows audits by the data protection authority if there is a risk that automated decisions at the workplace could result in unfair outcomes that amplify existing biases, such as those against protected groups and union activists."<sup>306</sup> An Italian court recently ruled that an algorithmic management system that penalized workers for any absences from work was discriminatory, because the algorithm did not distinguish between legally protected reasons like illness or engaging in a strike.<sup>307</sup> The union should also leverage existing legal protections regarding the right to health and safety and equality.

*EMPLOYER shall ensure that workers benefit equally from the introduction and use of technology and prevent any discriminatory or arbitrary treatment or impacts from the introduction or use of technology.*

*EMPLOYER shall not introduce, operate, deploy, revise or modify any new technology, including any automated or semi-automated monitoring or decision-making systems or surveillance tools, without consent from UNION.*

- a. *"automated or semi-automated monitoring system" means any system used to monitor, supervise or evaluate the work performance of individuals through digital or electronic means*
- b. *"automated or semi-automated decision-making system" means any digital, electronic or data processing system used to make or support decisions that affect working conditions, including but not limited to recruitment, promotion, work assignments, working time, earnings, and occupational safety and health*
- c. *"surveillance tool" means any tool that col-*

*lects personal data, images, audio or other information from a worker, whether personally identifiable or not*

*Workers have the right to privacy, the protection of personal data and the right to know and understand how data is collected, used and processed. The collection, use and processing of worker data, images, audio or other information shall be done only with consent of UNION. Collection, use and processing shall be: transparent; done only to the extent necessary for specified purposes; no more intrusive than required for reasonable work-related purposes, and shall avoid any potential discriminatory or arbitrary treatment of workers.*

*[EMPLOYER and UNION through equality body, OSH Committee or other competent body with equal representation] shall conduct a risk assessment of any proposed new technology on equality and work and undertake reasonable measures to prevent any discriminatory impact [as defined in the section on discrimination or relevant provisions].*

*Where use of algorithmic management tools results in a discriminatory impact on any worker or group of workers, EMPLOYER must remedy the impact and prevent recurrence. The union shall have the right to propose [or develop in consultation with the employer through the OSH Committee, committees designed to address equality or other appropriate joint body] reasonable remunerative measures to address the impact and prevent recurrence. Reasonable remunerative measures shall be enacted whenever feasible and shall not be unreasonably denied.*

*EMPLOYER shall provide periodic training, no less than annually, to all workers on the manner and means in which worker personal information is collected, processed and assessed, in an accessible and comprehensive manner, including a clear and transparent explanation of the functioning and reasoning of any automated or semi-automated decision-making processes.*

such data (April 27 2016) <http://data.europa.eu/eli/reg/2016/679/2016-05-04>; See also discussion in UNI Algorithmic Management Guide.

306 UNI, Algorithmic Management Guide at 10-11.

307 Business & Human Rights Resource Centre, Italy: Court rules against Deliveroo's rider algorithm, citing discrimination (January 5 2021) <https://www.business-humanrights.org/en/latest-news/italy-court-rules-against-deliveroos-rider-algorithm-citing-discrimination/>

The union can bargain to conduct a specific risk assessment of current algorithmic management tools to identify and remedy any discriminatory or arbitrary practices. This could be conducted by the union itself, or through a joint labour-management space like an OSH Committee. It could also bargain direct access and discussion with the developers of algorithms or other technology to fully understand the functioning of workplace tools.

For more on worker data privacy, see the ILAW **Future of Labour Law** database on telework.<sup>308</sup>

#### EXAMPLES:

- Public Services International (PSI) has a **Digital Bargaining Hub** which includes examples from agreements related to equality.<sup>309</sup> A Framework Agreement with the European Public Services Union states that men and women should benefit equally from digitalization and requires the development of “a Gender Action Plan with specific targets and yearly actions to close the gender and possibly grade gap in employees benefiting from the opportunities of digitalisation;” “Encouraging equal take up of possibilities for flexible working patterns by men and women in order to tackle the unequal distribution of care duties between women and men; [and] Involving Equality Officers in the design and implementation of digitalisation processes.” Unite the Union negotiated an agreement wherein “the Employer will ensure that New Technology does not discriminate in any area of employment and accepts its responsibilities to comply with the Equality Act 2010 and all other relevant legislation. It is recognised that specific issues including new ways of working and working time, job design, job evaluation, access to training, retraining and progression, can all have equality implications.”<sup>310</sup>

- UNI Global Union developed a **guide** on algorithmic management and collective action for trade unions.<sup>311</sup> The guide details several examples of general bargaining around transparency in algorithmic management, such as a December 2021 agreement between the Spanish union federations Unión General de Trabajadores (UGT) and Confederación Sindical de Comisiones Obreras (CCOO) and the delivery company Just Eat that protects “the right to privacy and limits the company’s access to workers’ data,” requires the company to provide information about geolocation and other data collection, and establishes an algorithm committee, with an equal number of representatives from workers and the employer.
- The ITF has a report on the impact of technology on women in transport, which includes a series of recommendations. Among the report’s findings were that automation and technology tools often displaced women and informal workers, so relocation agreements and restructuring policies must fully address impacts on women and other marginalized workers.<sup>312</sup>

## VII. RIGHT TO PERSONAL AND FAMILY LIFE

The International Covenant on Economic, Social and Cultural Rights, as well as the Universal Declaration of Human Rights both recognize the right to rest and leisure, including reasonable limitations of working hours and periodic holidays with pay.<sup>313</sup> ILO Convention 156 on Workers with Family Responsibilities calls on governments to “make it an aim of national policy to enable persons with family responsibilities who are engaged or 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.”

308 Monica Tepfer and Carlos Ledesma, ILAW Network Future of Labour Law Database on Telework Article 14 (2022) <https://www.ilawnetwork.com/model-laws/telework/article-14-privacy-monitoring-and-data-protection>

309 Public Services International, Digital Bargaining Hub <https://publicservices.international/digital-bargaining-hub>

310 Public Services International, Digital Bargaining Hub, Theme 2: Equity, diversity and inclusion, <https://publicservices.international/digital-bargaining-hub/2-equity-diversity-and-inclusion?id=13170#additional-reading-on-theme-2-equity-diversity-and-inclusion>

311 UNI, Algorithmic Management Guide at 14.

312 ITF, The Impact of the Future of Work for Women in Public Transport (2019) <https://www.itfglobal.org/en/resources/impact-future-work-women-in-public-transport>

313 Article 24, UDHR, Article 7(d) ICESCR.

ties.”<sup>314</sup> How the rights to rest, leisure and family life are protected at the national level varies substantially.

The right to leave as a component of balancing work and personal life is addressed in the next section on **equitable leave policies**. This section addresses workplace policies on hours, scheduling and breaks. The right to balance personal and family life with work responsibilities can entail ensuring appropriate flexibility, and it can conversely entail the right to predictability and stability. It can mean addressing long work hours and expectations regarding availability. These are issues that affect all workers, but the disproportionate burden of unpaid care and domestic work socially assigned to women make it particularly pressing as a matter of gender equality. For example, studies by the UK TUC found that women are 7 times more likely to be out of the workforce due to caring responsibilities,<sup>315</sup> with higher rates among racialized women and women with disabilities.<sup>316</sup> Demands for work-life balance can also help challenge the capitalist presumption that work should always take precedence, and carve out critical space not just for care but rest and self-actualization. Unions should survey members regarding work-life balance and work hours to determine which issues are most pressing.

**Discrimination based on family responsibilities and caregiver status** is defined and discussed as a general matter above in the section on **discrimination, violence and harassment**. Unions must ensure protections are included in collective bargaining, as it is an important tool to challenge employer policies and practices that discriminate against working parents.

### Flexible Work

This guide uses the term “flexible work” to describe worker-led variations in work schedule or location, such as telework or remote work, variable work hours,

or compressed schedules. Language will need to be modified to address the specific options deemed available and desirable to workers. A critical aspect of flexible work is ensuring that it is something workers can adopt – or not – on a voluntary basis. For example, remote work or telework may be a useful tool for workers, particularly those with care responsibilities, but it can also result in the employer pushing costs of operating a business onto workers and a blurring of boundaries between work and home.<sup>317</sup>

*EMPLOYER recognizes the right to personal and family life. All workers shall be able to voluntarily take advantage of [flexible work arrangements and/or scheduling], including the use of [telework / flexible working hours / reduced schedules / compressed schedules], where it does not present a substantial conflict with effective business operations.*

- a. *A worker shall present a proposal for [flexible work] in writing to [their supervisor; human resources or other appropriate individual], who shall respond in no more than 14 days in writing either approving the proposal, or enumerating specific reasons why the proposal was denied and proposed reasonable alternatives to reconcile work and personal and family life. The worker and/or the union shall have the right to propose reasonable alternatives.*
- b. *Requests and proposed alternatives shall not be unreasonably denied.*
- c. *The union can contest the overall reasonableness of a rejection, and the reasonableness of the proposed alternatives.*

For more information on how to define telework and ensure employer obligations for issues such as provision of appropriate workstations, see the **ILAW Future of Labour Law database on telework**, and **report series on telework**.

All workers should be able to take advantage of flex-

<sup>314</sup> ILO C156 Article 3.

<sup>315</sup> TUC, Women 7 times more likely than men to be out of work due to caring commitments (March 8, 2023) <https://www.tuc.org.uk/news/women-7-times-more-likely-men-be-out-work-due-caring-commitments>

<sup>316</sup> TUC: BME women 12 times more likely than men to be out of the labour market due to caring commitments (October 23, 2023) <https://www.tuc.org.uk/news/tuc-bme-women-12-times-more-likely-men-be-out-labour-market-due-caring-commitments>

<sup>317</sup> See Tepfer and Ledesma, ILAW Network Future of Labour Law Database on Telework.

ible work arrangements. Some collective bargaining agreements and laws extend flexibility only to those with family obligations, and in some instances only to mothers. This is sub-optimal, as it both devalues other legitimate reasons workers may want flexibility, and risks creating biases against workers with families. Flexibility such as telework is also particularly important for workers with disabilities. If there is a need to bargain this provision down, *"all workers"* could be amended, for example, to apply to *"workers with family obligations, workers with a disability or other significant life circumstances."* It is best practice to avoid gender-specific provisions as it excludes men with family obligations, reinforces gender stereotypes regarding caregiving and risks creating a disincentive to hire women.

*In the event of unforeseen emergency circumstances, workers shall be able to propose modifications to work schedule and/or location. This shall not impact the option to use leave.*

#### EXAMPLES:

- The 2015 book *Collective Bargaining and Gender Equality* notes that unions in Australia and New Zealand increasingly include clauses on flexible working arrangements and the right to work part time in their collective agreements.<sup>318</sup>
- A 2017 agreement in Portugal between the trade union SDPGL (*Sindicato Democrático dos Professores da Grande Lisboa*) and Santa Casa da Misericórdia de Lisboa grants the right to telework to workers who have a disability or chronic illness, are responsible for children 12 years and under, or care for a disabled or sick family member. The teleworking option is initially offered for six months and can then be extended for up to five years. The worker has the right to return to office work in the same or a similar function. The company has the right to perform visits to control work activity and equipment during normal working hours, with advance notice.<sup>319</sup>
- A 2017 collective agreement negotiated at the ENI

group in Italy allows workers with children under the age of two to perform "smart work." "Smart work" involves working from home up to two days a week. "A survey found that the productivity of smart workers increased due to improved motivation, better work-life balance, saving of commuting time and better organisation of work."<sup>320</sup>

- A 2022 collective bargaining agreement from Argentina states that teleworkers who care for children under 13 years, a person with disabilities or an older adult who requires specific assistance are entitled to compatible schedules, to be established by mutual agreement with the company.<sup>321</sup> This reflects legal protections in the jurisdiction.<sup>322</sup>
- The Finnish Government Employees Union carried out a program to support bargaining in 2010 that examined the gender impact of pay and work agreements.<sup>323</sup>
- In Italy, a 2014 agreement between the five main unions and employers' associations contained a focus on flexible work arrangements.<sup>324</sup>
- A 2003 study from Mexico on clauses to promote gender equality identified several clauses that protect the right of parents of young children, often just mothers, to clock in early or late without consequence, or allow workers with children in a care facility to arrive late or leave early.<sup>325</sup>

#### Predictable Working Hours

Increasingly in many jurisdictions, workers can be offered contracts without fixed work hours, sometimes called 'zero hours' or 'on-call' contracts. This is particularly common in service sectors with fluctuating demand like retail and restaurants – jobs which often have an over-concentration of women and other marginalized workers.<sup>326</sup> There is a growing move-

<sup>320</sup> *Id.*

<sup>321</sup> PSI Bargaining Hub, Theme 2.

<sup>322</sup> Mariana Laura Amartino and Verónica Nuguer, *Telework and Care Work in Argentina*, Global Labour Rights Reporter, Forging a Feminist Labour Law (2024) <https://www.ilawnetwork.com/wp-content/uploads/2024/06/GLLR-Volume-3-Issue-2-English.pdf>

<sup>323</sup> Pillinger and Wintour at 27.

<sup>324</sup> Pillinger and Wintour at 64-65.

<sup>325</sup> García Pineda, Anexo.

<sup>326</sup> See, e.g. TUC, BME women twice as likely to be on zero-hours

<sup>318</sup> Pillinger and Wintour at 63.

<sup>319</sup> Tina Weber, *Right to disconnect: Legal provisions and case examples*, Eurofund (2020) <https://www.eurofound.europa.eu/system/files/2020-04/wpef20001.pdf>

ment to restrict or outright ban these contracts, and workers may wish to negotiate a ban. Beyond the fact that these contracts allow business owners to force workers to bear the costs of business uncertainties, the power it gives managers to assign hours (or not) carries a heightened risk of abuse, including GBVH.

Where it is not possible to completely ban variable hours contracts, unions can push for safeguards. Depending on the dynamics and needs identified by workers, proposed language could promote more predictability in scheduling, create mechanisms to ensure the existing workforce gets hours when they are available, and protect workers' right to freely decline work without consequences. Because this is highly specific to the industry or workplace, no sample language is offered, but below is a checklist of some options to consider:

- Require minimum guaranteed hours
- Allow contracts that require availability only with additional compensation to workers for that availability
- Protect the right to refuse extra hours without consequence
- Require that the employer provide an upfront estimate of the work schedule (hours needed, including regular and on-call shifts, and when roughly work will be needed) at time of hiring and/or at periodic intervals, with penalties for significant variations from that schedule
- Create a mechanism to revise contracts to reflect actual labour needs, for example periodic adjustments based on average hours worked over a specified time period
- Create rules about how hours and changes to schedules are communicated, including requiring a minimum advance notice
- Ensure the existing workforce has the option to pick up more hours, including converting to a set schedule where possible, before outside hiring can occur

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contracts as white men (March 9, 2022) <https://www.tuc.org.uk/news/tuc-bme-women-twice-likely-be-zero-hours-contracts-white-men#:~:text=BME%20women%20are%20the%20most,compared%20to%202.4%20per%20cent>

More suggested language can be found at the ILAW Network Future of Labour Law Database on [working time](#).

#### EXAMPLE:

- In 2015, Unite New Zealand and various fast-food chains eliminated zero hours contracts and introduced secure and regular shifts.<sup>327</sup> This victory ultimately also led to the government taking action to address zero hours contracts.<sup>328</sup>

#### Reduced Working Hours

Some unions have been successful at negotiating an overall reduction in working hours, either through reduced work hours across each day or by eliminating one workday. This is sometimes accompanied by options to work longer shifts as well as shorter shifts.

#### EXAMPLES:

- The European Public Services Union published a series of case studies on how public sector unions in Austria, Iceland, Denmark, Finland, Norway, Sweden, Spain, Portugal, the UK and Ireland have pushed for shorter working hours.<sup>329</sup>
- In 2018, IG Metall negotiated a 28-hour week, or six hours a day, with an additional raise or the option of increased paid days off.<sup>330</sup>

#### Right to Disconnect

Increasingly, jurisdictions are enacting requirements to recognize the right to disconnect.<sup>331</sup> The demand

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327 Unite, Fast Food campaign <https://www.unite.org.nz/fast-food>; Pillinger and Wintour at 66.

328 IUF, New Zealand union campaign wins ban on zero hours contracts (2016) <https://pre2020.iuf.org/w/?q=node/4827>

329 EPSU, Reducing working time: case studies from across Europe (2024) <https://www.epsu.org/article/reducing-working-time-case-studies-across-europe>

330 Pillinger and Wintour at 64; See also Industrial IG Metall Collective Agreement – What it Means for Workers (2018) <https://news.industrial-europe.eu/Article/197>

331 See, e.g. Australia Fair Work Ombudsman, Right to disconnect <https://www.fairwork.gov.au/employment-conditions/hours-of-work-breaks-and->

for constant availability particularly impacts women, who often face higher burdens of a “second shift” of unpaid care and domestic work.

*Workers are not required to monitor, read or respond to contact by the EMPLOYER or third parties in connection with work outside of working hours, including while utilizing leave.*

#### EXAMPLE:

- UNI Global Union has created draft bargaining text on the right to disconnect,<sup>332</sup> and has incorporated protections into a framework agreement with Telefonica.<sup>333</sup>

#### Right to Lactation

Workers have the right to accommodations to facilitate safe and sanitary breastfeeding, including modifications to protections to ensure safety and health, discussed in the section on **OSH**, and the right to self-selected breaks throughout the working day.

*Lactating workers shall have the right to take self-selected breaks for up to three hours during the working day to accommodate breastfeeding. Workers shall have access to a private, secure and sanitary space to nurse or express milk, and an appropriate space to store milk and medical equipment.*

#### EXAMPLES:

- The Ghana Industrial and Commercial Workers' Union negotiated that members are entitled to

two hours of nursing breaks each day until the child is 1 year old.<sup>334</sup>

- A collective agreement between the Confédération Démocratique du Travail and Domaines Brahim Zniber Diana Holding Group includes a one-hour breastfeeding break for up to two years after giving birth.<sup>335</sup>

## VIII. EQUITABLE LEAVE POLICIES

Bargaining over equitable leave policies, like all things discussed in this guide, will need to build on the legal protections offered in the jurisdiction. The union can hold educational meetings for workers regarding their rights to leave under law.

#### Leave for Caregivers

Virtually all countries guarantee leave related to birth and new parenthood. Most countries have codified access to maternal leave for the birthing parent, and an increasing number of states also provide paternal or parental leave.<sup>336</sup> Many countries have begun to introduce the concept of offering both shared and “non-transferable” leave, specifically to encourage fathers to take on an equitable share of childrearing.<sup>337</sup>

ILO Convention 183 on Maternity Protection recommends at least 14 weeks of paid leave as a minimum standard,<sup>338</sup> with its accompanying Recommendation 191 calling for at least 18 weeks “whenever possible.”<sup>339</sup> The model language below is intended to offer

<sup>334</sup> ILO Gender Equality 1998 at 19.

<sup>335</sup> Solidarity Center, A Morocco Case Study at 32.

<sup>336</sup> See, e.g. ILO, Maternity and paternity at work (2014) [https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms\\_242615.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_242615.pdf); World Policy Center, Is paid leave available to mothers of infants, including maternity and parental? (June 2023) <https://www.worldpolicycenter.org/policies/is-paid-leave-available-to-mothers-of-infants-including-maternity-and-parental>

<sup>337</sup> See, e.g. The EU Directive on Work-life Balance calls for 4 months paid parental leave, with some leave transferable between parents, and at least some of the leave non-transferable to encourage fathers to take leave. EU Directive 2019/1158 on work-life balance for parents and carers (2019) <https://eur-lex.europa.eu/eli/dir/2019/1158/oj/eng>

<sup>338</sup> ILO C183 at Article 14.

<sup>339</sup> ILO R191 a Paragraph 1(1).

[rosters/right-to-disconnect](https://rosters/right-to-disconnect); UNI Global, Legislating a Right to Disconnect (2020)

<https://uniglobalunion.org/report/legislating-the-right-to-disconnect/>

<sup>332</sup> UNI Right to Disconnect at 7.

<sup>333</sup> UNI Global Union and Telefonica, Draft Principles on the Right to Disconnect, Annex to the Global Agreement (January 28, 2019) <https://uniglobalunion.org/wp-content/uploads/Telefonica-the-Right-to-Disconnect-English.pdf>

some guidance, but the union will want to thoroughly understand the existing protections under law and build on them.

Parental leave that is only available to mothers discriminates against fathers and same-sex couples and reinforces a gendered division of labour with respect to child-rearing, which is why an increasing number of unions demand equitable access to parental leave for all new parents. Language should ideally be gender neutral and avoid limitations like language that provides rights only to married couples or to biological parents. This could be coupled with leave specific to recovery from the physical process of childbirth for the birthing parent.

Conceptually, the leave statuses below are broken out into leave that is related to the physical process of gestation and birth, something that is specific to a pregnant person, and parental leave to cover child-care, which can be done by any parent. It may instead be optimal to build on the existing legal terms in the jurisdiction.

For other aspects related to pregnancy, see the section on [pregnancy, lactation and reproductive rights](#).

### Prenatal / Pregnancy Leave

*Pregnant workers shall be provided [at least 15 days or build on the statutory minimum] of leave to attend prenatal appointments and to attend to other medical needs related to pregnancy, without the need to provide medical documentation. [Additional days shall be provided as needed with medical documentation].*

*Workers have the option to commence parental leave anytime within [build on the statutory minimum or ideally at least 2 months] of the estimated due date to prepare for childbirth.*

*Workers who experience miscarriage, stillbirth or termination of pregnancy are entitled to [build on the statutory minimum or ideally at least 3 months] of medical leave which shall not be deducted from other medical leave balances.*

*Workers shall have [build on the statutory minimum if it exists or at least 30 days annually] of medical leave to access fertility treatments, which can be taken in hourly or daily increments and shall not be deducted from other medical leave.*

Pregnant workers who are exposed to work health risks and hazards that cannot be eliminated should also have access to leave, as discussed in the [section on OSH](#), as well as access to medical coverage for fertility treatments, also briefly addressed in the [section on OSH](#).

### Parental Leave

*All workers are entitled to [build on the statutory minimum or ideally at least 12 months] paid parental leave to care for children, whether biological or adopted, from birth or time of adoption, at full salary. Workers who give birth are entitled to an additional [build on the statutory minimum or at least 3 months] of leave.*

Depending on the circumstances of the industry, particularly wage rates, workers may also wish to push for additional leave that only covers a percentage of their salary, perhaps with options to either get a shorter number of months at closer to full salary or a longer period of time at less salary. This should be subject to discussion and agreement with workers, particularly parents or those hoping to become parents.

*Workers are entitled to an additional [3 months or 6 months] at [percentage of salary - 80 - 50%] and additional [months of unpaid parental leave totalling 2 years].*

Collective bargaining can incentivize co-responsibility between parents for care. For example, a study from Sweden found that an "increase in collectively negotiated supplementary payments to statutory parental leave benefits has incentivized parents to move away from a gendered division of parental

leave. The practice made the parental responsibilities of men and women visible at the workplace, which in turn led to changes in social norms and advanced gender equality.<sup>340</sup>

*Where both parents are employed at EMPLOYER, workers may transfer up to [2 months] of their allotted leave to the other parent.*

Some jurisdictions are now also experimenting with allowing parents to take leave in smaller increments, which preliminary research indicates might increase the propensity of men to take their leave. While women often face discrimination based on the assumption that they will automatically assume the bulk of caregiving, men who attempt to take on caregiving roles are also often targeted for discriminatory treatment from employers. In a recent study, almost three-quarters of men reported feeling stigmatized for taking extended paternity leave, and more than half feel anxious about returning to work due to negative repercussions on their reputation and career progression.<sup>341</sup> The union can normalize the role of men in caregiving roles, challenge harmful stereotypes and use anti-discrimination protections to support parents.

#### EXAMPLES:

- The South African Commercial Catering and Allied Workers Union (SACCAWU) have engaged in internal education and negotiations promoting the rights of parents since the 1990s. As detailed in a [COSATU gender bargaining guide](#), a landmark agreement in the retail sector with the store Pick 'n Pay "makes the point that both men and women should be involved in caring for and bringing up their children." The agreement covers "health needs of pregnant women, caring for adopted children, paid leave for mothers and fathers, providing for miscarriages, paid medical aid and advice on contraception. All female employees working for

the company are entitled to 11 months leave, nine of which are paid. Three of the nine months are paid at 75% of the worker's wage and six of them at 30%. Couples who are both employed by the company can share this leave. Parents are able to save leave for anytime until a child's fourth birthday. The agreement makes provision for paternity leave - fathers are entitled to eight days paid leave at the time of the mother's confinement. Fathers also have time off to take their babies to the clinic. Also provided for in the agreement is leave for parents who adopt children."<sup>342</sup> SACCAWU developed a model policy on parental leave,<sup>343</sup> which calls for 14 months of paid parental leave for all parents regardless of race and gender.<sup>344</sup>

- The COSATU bargaining guide also discusses a South Africa retail workers agreement that covers some paid leave for mothers and fathers, as well as many examples of agreements that provide paid maternity leave.<sup>345</sup> In 2010, the South African Public Service Coordinating Bargaining Council and Education Labour Relations Council negotiated 4 months maternity leave at full pay, with unpaid leave available for an additional 15 months, as well as rights to paid leave for prenatal medical appointments and adoption leave.<sup>346</sup> These efforts are complemented by efforts to win protections for maternity and paternity leave under law.<sup>347</sup>
- The 2015 book *Collective Bargaining and Gender Equality* discusses many examples of successful negotiations over parental leave. The Austrian metalworkers negotiated 16 months paid parental leave for every child.<sup>348</sup> In Korea, the teachers union KFTA negotiated a one-year unpaid leave of absence for men and women workers with a child

<sup>342</sup> COSATU Resource Document at 8.

<sup>343</sup> Pillinger and Wintour at 28.

<sup>344</sup> Jessika Ferrari Froning, *From Provider to Carer: Identifying Opportunities and Challenges of the New South African Fatherhood*, Utrecht University Masters Theses Repository (2016) <https://studenttheses.uu.nl/handle/20.500.12932/24351>

<sup>345</sup> COSATU Resource Document; See also Teuteberg at 12-15.

<sup>346</sup> Pillinger and Wintour at 58.

<sup>347</sup> South Africa Basic Conditions Employment Act, Sections 25 and 26 (1998).

<sup>348</sup> Pillinger and Wintour at 58-62. See also Borbély at 4.

<sup>340</sup> Hayter and Bastida at 139.

<sup>341</sup> Josie Cox, *Maternity leave: The hidden barriers keeping men at work*, BBC (July 12, 2021) <https://www.bbc.com/worklife/article/20210712-paternity-leave-the-hidden-barriers-keeping-men-at-work>

under 8 years old, in addition to 90 days paid maternity leave. LO Sweden and the Confederation of Swedish Employers negotiated an insurance scheme to supplement the national parental leave insurance, which compensates 80% of wages up to a certain level. The agreement “effectively doubles the length of time during which employees receive additional payments from the employer.”<sup>349</sup> In Argentina, the state university teachers’ union CONADU allows parents, if they both work at the university, to share leave days in case of birth or adoption.

- In 2023, the Commercial Industrial & Allied Workers Union (CIAWU) in Malawi negotiated a 30% increase in maternity leave, up to 4 months, and 1 month for non-birthing parents<sup>350</sup>
- In a 2009-2010 National Agreement, the Brazilian National Confederation of Financial Sector Workers (Confederação Nacional dos Trabalhadores do Ramo Financeiro da CUT (Contraf-CUT)) won an increase in maternity leave from 4 to 6 months.<sup>351</sup> Workers note ongoing challenges to implementation including “veiled harassment by their immediate superiors and even their teammates” for accessing the leave, emphasizing the need for vigilant enforcement.
- An analysis of collective agreements in Honduras found a range of protections before and after childbirth, including a reduced working day and priority access to the cafeteria for pregnant workers; additional unpaid maternity leave for rest and recovery after childbirth; additional paid postnatal leave when the newborn requires special care; breastfeeding breaks; paternity leave; maternity bonuses and no-interest loans for those on maternity leave.<sup>352</sup>
- An agreement in Morocco between the Confédération Démocratique du Travail and Domaines Brahim Zniber Diana Holding Group incorporated protections that existed under law for new parents, including three months leave, a

one-time bonus, and three days of paternal leave for men. While these protections were legally required, workers note that they were only enforced following negotiations with the company.<sup>353</sup>

### Provisions to Avoid Penalizing Leave-Takers

*Workers who take any form of leave [related to caregiving or otherwise based on the language in the agreement] are guaranteed the same job under the same terms and conditions upon return to work.*

*Workers who were on leave during [periodic pay period such as annual performance-based increases per the agreement] are entitled to a pay increase equivalent to the average pay increase.*

*Use of leave shall be taken into account and not downgraded with respect to promotions, bonuses, pension contributions, and other material or non-material benefits.*

Many workers face barriers to fully disconnecting while on leave. In jurisdictions or under agreements with generous leave policies, some leave-takers may conversely find it desirable to access some paid time to ease the transition back to full time work. In Australia, where workers can access a year or more of paid parental leave, keeping in touch days are guaranteed by law.<sup>354</sup> There are options below for language to address both issues, although the union should carefully consider whether paid staying in touch time is desirable based on discussions with leave-takers about the dynamics at the worksite or industry. There is a risk that providing this option will create pressure on workers to use it. Keeping in touch days might help workers preserve desirable long-term responsibilities, but such penalization could also be addressed through specific protections or general non-discrimination protections.

<sup>349</sup> Pillinger and Wintour at 61.

<sup>350</sup> Zanele Chakela, Victory for retail union in Malawi negotiating parental rights, Labour Research Service (2024)  
<https://www.lrs.org.za/2024/04/11/malawi-parental-leave-workers-get-more-days/>

<sup>351</sup> Portilho Lins at 18.

<sup>352</sup> Anner and Mendoza, Bargaining for Decent Work at 23.

<sup>353</sup> Solidarity Center, A Case Study of Morocco at 5, 32.

<sup>354</sup> Australian Unions, Going on parental leave? Here's why you should know about keeping in touch days (2022)  
<https://www.australianunions.org.au/2022/11/24/going-on-parental-leave-heres-why-you-should-know-about-keeping-in-touch-days/>

*Workers who are on leave are not expected to remain in contact and shall not be required to respond to work communications.*

*Workers on parental leave may, at their own initiative, request to receive information, perform specific duties or otherwise remain involved in specified areas of their work to ease the transition back to work. Workers shall have access to up to [10 full or part time paid keeping in touch days or equivalent hours] that workers may voluntarily access during parental leave for this purpose, any time after the first 2 months following birth or adoption. Such requests shall not be unreasonably denied, and use of such [days/hours] shall not prejudice use of remaining leave or the right to remain uninvolved with other areas of work.*

cific rights related to re-entering a university position.<sup>358</sup>

## Family/Caregiving Leave

*Workers shall be entitled to [build on the statutory minimum or ideally at least four weeks] annual paid leave to care for a family member, [which can be taken in half-day or hourly increments if the worker prefers]. This shall not prejudice the right to use or not use [flexible work arrangements as discussed below or other terminology from the agreement or relevant law and/or medical leave].*

*Family member includes a spouse or [domestic partner / life partner / appropriate legal terms and/or social categories in the jurisdiction], parent, grandparent, child, grandchild, sibling, or any other relation of the worker or their spouse or [domestic partner / life partner / appropriate legal terms and/or social categories in the jurisdiction]; as well as any individual for whom the worker has primary custody, guardianship or other responsibility, persons residing in the immediate household, and persons whose relationship is not defined above but is of similar closeness to the relationships described above.*

- The 2015 book *Collective Bargaining and Gender Equality* notes agreements in Bulgaria and Denmark that address equitable payments into pension schemes for leave-taking. In Luxembourg, a 2005 banking sector agreement includes “provisions for time on parental leave to count as employment when decisions are made about promotion.”<sup>355</sup>
- An agreement between the Danish Union of Journalists and the Danish Newspapers and Media Employers’ Association includes a provision that grants journalists who return from parental leave an automatic pay increase equal to the average increase of their co-workers.<sup>356</sup>
- The National Tertiary Education Union in Australia has negotiated provisions around re-entry policies including “staying in touch” days.<sup>357</sup> The enterprise agreement at the Australian National University with Australian education unions stipulates the right to work re-entry assistance including spe-

## EXAMPLES:

- An agreement between California Faculty Association and the California State University defines the term “immediate family” as “the employee’s spouse or domestic partner, parent, grandparent, grandchild, son, son-in-law, daughter, daughter-in-law, brother, sister, uncle, aunt, stepchild or step-parent of the employee, spouse or domestic partner, and close relative or persons residing in the immediate household of the employee (except domestic employees or roomers). Also included in this definition shall be any minor children or incapacitated individuals for whom the employee

<sup>355</sup> Pillinger and Wintour at 61.

<sup>356</sup> Pillinger and Wintour at 62.

<sup>357</sup> Pillinger and Wintour at 57; University of Sydney, Leave Policy 2023 <https://www.sydney.edu.au/policies/showdoc.aspx?recnum=PDOC2016/423&RendNum=0>

<sup>358</sup> Australian National University, Enterprise Agreement, Parental Leave <https://services.anu.edu.au/human-resources/enterprise-agreement/38-parental-leave>

has primary responsibility or legal guardianship or conservatorship.”<sup>359</sup>

- An 2018 agreement between the Canadian Union of Public Employees Local 3902 and the University of Toronto defines family for purposes of bereavement leave as “spouse, partner, child, grandchild, parent, sibling, or grandparent, or for the death of a person whose relationship is not defined above, the impact of which is comparable to that of the immediate family (e.g. a close friend). For clarity, the foregoing is inclusive of step and in-law relations and relations regardless of gender.”<sup>360</sup>
- In South Africa, the Motor Industry Bargaining Council includes “life partner” in its provision for family responsibility leave, and the Public Service Coordinating Bargaining Council lists both spouses and life partners when referring to family responsibility leave.<sup>361</sup>

### Privacy Protection in Leave Processes

Below, several areas of leave are discussed that are highly personal and are often met with social stigma and shaming – violence leave, gender affirming leave and menstrual leave. These are all areas that unions have been negotiating around, and naming these issues is important to destigmatize and create solidarity around the prevalence and unacceptability of interpersonal violence including domestic violence, respect for gender diversity and authentic self-expression and routine biological processes. However, these are also all deeply personal issues.

Workers should have the option to *not* disclose if they prefer not to, particularly in environments where they risk not being fully supported. Ideally, workers should have access to generous, general leave that they can access for any reason. Neither personal leave days nor short-term medical leave should require documentation or an explanation from the worker of how they plan to use the leave. It may be reasonable to require medical documentation for longer-term medical leave, but workers should not be required to disclose the specific nature of their medical condition

or the treatment being sought. Unions should review current language around access to personal leave and medical leave to ensure respect for privacy.

### Violence Leave

An increasing number of jurisdictions have protections enshrined in law for victims of domestic and/or sexual violence to take needed time to heal or take steps to achieve safety, such as receiving medical or mental healthcare, engaging in court proceedings, custody hearings, or moving locations.<sup>362</sup> Naming the issue and providing specific support is critical to ensuring the safety of victims and coworkers. However, as mentioned above, having both specific leave *and* generous leave time that workers can access without being required to disclose a complex and painful personal circumstance is ideal. Leave should be accompanied by access to other accommodations and the right to a safety plan, **as discussed in the section on domestic violence.**

*Workers who experience [gender-based and potentially other categories of] violence, including domestic or intimate partner violence,] shall have access to an additional [20 days or build on what is available under law] of paid leave to address the impacts of the violence. This shall include, but is not limited to, accessing mental or medical healthcare, engaging in court proceedings, or moving residences.*

### EXAMPLES:

- The Australian Council of Trade Unions (ACTU) developed an advocacy platform to push for protections against domestic violence, building on national law passed in 2017. Numerous affiliates followed suit, in 2016 it was estimated that 1,234 collective agreements contained domestic vio-

359 California Faculty Association, Collective Bargaining Agreement 2022-25 <https://www.calfac.org/contract-2022-2025/>

360 CUPE, Bargaining Beyond the Binary at 12.

361 COSATU Resource Document at 7.

362 For example, in the Philippines, workers experiencing domestic violence are legally granted 10 days paid leave for workers experiencing domestic violence. The law also protects colleagues who help workers. The law in New Zealand gives 10 days paid leave and access to flexible working arrangements. ITF, ILO C190: A Transport Workers' Toolkit at 31 (2021) <https://www.itfglobal.org/en/resources/ilo-c190-transport-workers-toolkit>

lence protections.<sup>363</sup> For example, the National Tertiary Education Union negotiated domestic violence leave, first for permanent staff but then extended it to casual workers. The Maritime Union of Australia reached a workplace agreement with port operator Hutchison Ports which included 20 days paid domestic violence leave.<sup>364</sup>

- An **ITF report** includes examples from transport sector collective agreements in France and the Philippines. In France, a 2021 agreement on professional equality signed by Groupe SNCF and a group of unions, CGT, UNSA Ferroviare, SUD-Rail and CFDT, granted victims of gender-based or sexist violence a three-day exceptional leave of absence to attend a court summons, meetings with a lawyer or access support from a specialist association or company social and health services. An agreement from the Philippines in the transport sector also includes provisions on paid domestic violence leave.<sup>365</sup>
- A **TUCA report** notes several examples from the Americas region. In Argentina, an agreement reached by teachers in the Chubut province states that teachers who suffer an action “which results in a direct harm affecting their life or personal safety, either in the public and private sphere” may take leave. “This absence, whether total or partial, shall be duly justified by the services of attention and assistance to the victims of such a situation. Said service will evaluate the conditions and times of the referred leave. In order to make protection or the right to be fully assisted effective, reduction of the working day or readjustment of working time or location may also be considered.”<sup>366</sup>

### Gender Affirming Leave

An increasing number of unions are negotiating gender affirming leave, including in contexts where gender affirming medical procedures are not widely available and travel is required. As with violence leave, social stigma and the highly personal nature of the

issue means it is optimal to have generous general leave policies available. Unfortunately, the targeted and deliberate demonization of trans identity and gender transition means that in some contexts it will be unsafe to include such provisions explicitly, but the union can still provide support and safety to trans workers by fighting to ensure they can access general medical and other leave to support transition.

### EXAMPLE:

- The CUPE Guide **Bargaining Beyond the Binary** lists language from several agreements that provide leave for gender transition, including one agreement that creates a joint union-management fund to support transition.<sup>367</sup>

### Menstrual Leave

Some jurisdictions have laws regarding leave for menstruation, sometimes restricted to those with medical issues like dysmenorrhea.<sup>368</sup> As discussed above, ideally workers would also be able to turn to generous, generalized medical leave as well as accommodations for disabilities. However, it may be advisable to negotiate additional, specialized leave, particularly if it is not possible to secure generous leave or accommodations. It is critical that such leave does not prejudice the right to utilize flexible work arrangements or access accommodations.

## IX. PREGNANCY, LACTATION, AND REPRODUCTIVE RIGHTS

The physical and social process of pregnancy and lactation at work involves an array of overlapping rights, including the right of workers to choose whether and when to have a child, the right to reproductive health and safety, and the right to non-discrimination.<sup>369</sup>

<sup>363</sup> Pillinger and Wintour at 83.

<sup>364</sup> ITF C190 Toolkit at 31.

<sup>365</sup> ITF C190 Toolkit at 31.

<sup>366</sup> CSA TUCA at 97.

<sup>367</sup> CUPE, *Beyond the Binary* at 22.

<sup>368</sup> See discussion in Rachel B. Levitt and Jessica L. Barnack-Tavlaris, *Addressing Menstruation in the Workplace: The Menstrual Leave Debate*, *The Palgrave Handbook of Critical Menstruation Studies*, Chapter 43 (2020) <https://www.ncbi.nlm.nih.gov/books/NBK565643/> doi: 10.1007/978-981-15-0614-7\_43n

<sup>369</sup> See, e.g. ILO C111, 156 and 183; CEDAW, CESCR

There is also an emerging recognition that care is a right, see brief discussion in the section on [access to care](#).

This section links to language and discussion on the rights of pregnant and lactating workers throughout this document. Protecting the rights of workers who are pregnant and lactating includes, but is not necessarily limited to, negotiating over the following issues:

- Protection from discrimination, including measures to address discrimination in hiring and promotion based on both pregnancy and suspected impending pregnancy, as well as examination of hiring patterns to assess whether there is any unwillingness to hire women of childbearing age, discussion and model language in the sections on [discrimination](#) and [recruitment](#), as well as discrimination in access to appropriate OSH protections and accommodations, discussion and model language in the [section on OSH](#).
- Right to access leave during pregnancy and after birth, discussion and model language in the section on [leave](#).
- Right to protection of reproductive health and safety for workers who are pregnant or who wish to become pregnant, including accommodations, discussion and model language in the [section on OSH](#).
- Right to lactation accommodations for two years, including self-selected breaks, a safe and sanitary place to express and store milk and adjustments to working conditions to ensure health and safety for the worker and their child, additional discussion and model language in the section on [personal and family life](#) and the [section on OSH](#).
- Right to stability in employment, below.

*Pregnant workers have the right to stability in employment and shall not be subjected to any form of discipline for reasons related to pregnancy. Adverse actions, including with respect to workplace advancement, shall be presumed retaliatory unless otherwise demonstrated.*

## X. DOMESTIC VIOLENCE IN THE WORKPLACE

Domestic violence is a pattern of behaviour in which an intimate partner or family member uses physical violence, coercion, threats, intimidation, isolation, and/or emotional, sexual, or economic abuse to control an individual. In the workplace, victims, perpetrators and coworkers can all be impacted.

Addressing the impacts of domestic violence on the workplace is recognized by ILO Convention 190 as a core part of eradicating violence and harassment in the world of work and is a critical aspect of effective OSH management. Domestic violence is also an issue of non-discrimination, as many workers are forced to leave work as a result of the abuse. Abusers often deliberately interfere with a worker's ability to perform their job, and victims may be more likely to be absent from work due to abuse. Union-led studies repeatedly demonstrate the impact of domestic violence on the world of work and the critical importance of interventions:<sup>370</sup>

- The ITF and transport unions in India collaborated on a [2020 report](#), which found that 47% of workers report direct experience of domestic violence, with 24% reporting a direct experience in the past 12 months. Ninety-two percent of respondents who experienced domestic violence reported that it affected their ability to work; 77% reported discrimination from their employer after reporting experiences of domestic violence and 23% reported losing their job because of their experiences with domestic violence.
- A [2014 survey](#) by the Canadian Labor Congress and the ITUC found that 1 in 3 workers experienced domestic violence in their lifetime. 82% of those who experienced domestic violence said the violence negatively affected their work performance; 53% experienced violence at or near the workplace; 38% said it affected their ability to get to work; 37% said that it negatively impacted their co-workers and 8.5% lost their job as a result of domestic violence.

<sup>370</sup> This list is modified from a Solidarity Center Factsheet on Domestic Violence as a Workplace Issue (2021)

- In a [2015 ITUC study in the Philippines](#), 75% of workers who identified as victims of domestic violence reported the abuse affected their work performance, 84% reported it affected attendance at work, and 34% reported their abuser was employed at the same workplace. 10% of victims lost their job as a result of domestic violence and 21% experienced discrimination from their employer for disclosing their victimization.
- A [2017 survey](#) by the ITUC and the Confederation of Mongolian Trade Unions found that 22% of workers who identified as victims of domestic violence reported experiencing discrimination and/or adverse actions from their employer as a result of disclosing their experience and 11% lost their job. Unfortunately, almost half of those who lost their job or felt discriminated against as a result of domestic violence did not take any further action (47%) and only 16.5% contacted their union.

As discussed in the section on the [union role in addressing discrimination, violence and harassment](#), union representatives must have access to appropriate information, training and resources to support members who experience domestic violence and adopt appropriate preventative measures. Unions should develop strategic relationships with local organizations and resources related to domestic violence, such as crisis or women's shelters, advocacy organizations, and/or government bodies. This enables the union to connect workers to resources, as well as access specialized, local expertise to develop informed best practices. A global directory of community-based organizations is available here: <https://nomoredirectory.org/>

Addressing domestic violence at work has several critical aspects, including:

- Access to leave, sample language and examples [in the section on leave](#), so that victims have paid time off to seek safety, with confidentiality provisions.
- Measures to address the impact of domestic violence in OSH management, [discussed in the section on OSH](#), including planning to keep victims and coworkers safe, as well as potential issues with perpetrators in the workplace.
- The enumerated right to a personal safety plan, including reasonable workplace accommodations,

sample language below.

- Measures to address discrimination against victims of domestic violence, including measures to protect people being subjected to discipline if work performance or absence can be linked to an abusive or violent situation. In addition to the general language in the section on [non-discrimination](#) regarding family status, the union may wish to negotiate specific language around stability, sample language below.

*Workers who are at risk of experiencing or have experienced sexual or domestic violence have the right to a personal safety plan. This shall include the right to utilize leave, and the right to accommodations, including temporary or permanent modifications to work assignments and duties, relocation or redeployment, and enhanced security protocols and resources at the workplace. Workers can request specific measures, and such measures shall not be unreasonably denied.*

*Workers who are experiencing domestic violence shall have the right to stability in employment and shall not be subjected to discipline due to work performance or absence that is the result of domestic violence.*

*Workers who are experiencing domestic violence have the right to privacy, and EMPLOYER shall take measures to ensure confidentiality. No personal information will be kept on a worker's personnel file without their express written permission.*

## EXAMPLES

- The Canadian union Unifor has the guide [Bargaining a Domestic Violence Policy & Program](#), and supports a women's advocates program. As discussed in the section on [discrimination, violence and harassment](#), the union bargains for paid women's advocates positions at worksites and provides specialized training aimed at addressing

domestic violence in the workplace.<sup>371</sup>

- The European Trade Union Congress (ETUC) report *Safe at Work Safe at Home* details multiple union approaches, including protections in collective agreements, awareness raising and advocacy, and features case studies from 11 countries in Europe.<sup>372</sup>
- The Australian Congress of Trade Unions (ACTU) developed a *model agreement* on family and domestic violence.<sup>373</sup> Many unions in Australia have bargained protections, for example, the National Tertiary Education Union negotiated university-level agreements that include protections against adverse job action, access to leave and, in some cases, protections that cover casual workers.<sup>374</sup>
- The University of California Berkeley has a collection of *OSH clauses related to violence*, including an agreement between the Service Employees International Union (SEIU) 775 and Millennial Healthcare, which states that “[s]ome employees are known to be at risk because they are subject to violence, threats, or harassment from a current or former client, spouse, partner, or other non-employee. Human Resources and Security personnel work with at-risk employees and their supervisors to develop safety plans that address the specific risks the employee faces while at work.”<sup>375</sup>
- The National Education Union in the UK has a toolkit on *Domestic Abuse and the Workplace*, which includes a *model policy* and a *checklist* for workplace representatives.<sup>376</sup>
- The Canadian Labour Congress has a *Domestic violence at work resource centre*, which includes *model contract language*.<sup>377</sup>
- North American Steelworkers bargaining committees won “domestic violence leave in recent contracts covering thousands of members in the steel, paper, tire and rubber, health care and other major sectors” in 2023. Local unions also supported the creation of “women’s advocates or equity advocates to provide support to members who experience domestic violence or sexual harassment,” provided training on “warning signs and risk factors for domestic violence” and provided links to local organizations that provide counseling, safety planning and other services.”<sup>378</sup>
- UNISON UK has a guide on *Domestic violence and abuse: a trade union issue* that includes model contract language, links to local resources and guidance.<sup>379</sup>
- Industriall has a series on *domestic violence as a union issue*, available in English, Spanish, French and Russian, including how to identify impacts on work and support union members.<sup>380</sup>
- IUF’s guide *Breaking the Silence* is available in English, Spanish and French.<sup>381</sup>
- The Ontario Federation of Labor has a *guide on collective bargaining* on this issue,<sup>382</sup> as does the United Food and Commercial Workers of Canada, which includes *model language*.<sup>383</sup>
- A 2019 global framework agreement between UNI Global Union and Orange addresses domestic violence as a workplace issue, with Orange agreeing to “offer both male and female employees who are victims of domestic violence, and who request it, support adapted to their situation, such as for

371 Unifor, Bargaining a Domestic Violence Policy & Program [https://www.unifor.org/sites/default/files/legacy/documents/document/bdvpp\\_v1.pdf](https://www.unifor.org/sites/default/files/legacy/documents/document/bdvpp_v1.pdf)

372 Pillinger, *Safe at Home, Safe at Work*.

373 Australian Congress of Trade Unions, *Model Clause* <https://www.ituc-csi.org/IMG/pdf/actu-model-f2665.pdf>

374 Pillinger and Wintour at 83.

375 Berkeley, *Bargaining Language: Specific Hazards*.

376 NEU, *Domestic abuse and the workplace Toolkit* <https://neu.org.uk/advice/equality/sex-and-gender-equality/domestic-abuse-and-workplace-toolkit>

377 Canadian Labour Congress, *Domestic violence at work resource centre* <https://canadianlabour.ca/domestic-violence-work/>

378 USW Women of Steel at 14.

379 UNISON UK *Domestic violence and abuse: a trade union issue* (2022) [https://www.unison.org.uk/content/uploads/2022/11/27064\\_domestic\\_violence\\_v3.pdf](https://www.unison.org.uk/content/uploads/2022/11/27064_domestic_violence_v3.pdf)

380 Industriall, *Domestic violence and the role of trade unions explained* (2021) <https://www.industriall-union.org/domestic-violence-and-the-role-of-trade-unions-explained>

381 IUF, *Breaking the Silence* (2021) <https://www.iuf.org/news/breaking-the-silence-why-domestic-violence-is-a-trade-union-issue/>

382 Ontario Federation of Labor, *Domestic Violence Goes to Work Every Day: A Bargaining Guide* (2016) [https://ofl.ca/wp-content/uploads/OFL\\_DV-booklet\\_nov2016\\_v02-PR\\_single-pages-1-2.pdf](https://ofl.ca/wp-content/uploads/OFL_DV-booklet_nov2016_v02-PR_single-pages-1-2.pdf)

383 UFCW Canada, *Domestic Violence and the Workplace a Bargaining Guide* [https://www.ufcw.ca/templates/ufcwcanada/images/women/publications/Domestic-Violence-and-the-Workplace-A-Bargaining-Guide-EN\\_V4.pdf](https://www.ufcw.ca/templates/ufcwcanada/images/women/publications/Domestic-Violence-and-the-Workplace-A-Bargaining-Guide-EN_V4.pdf)

example (depending on the local context): special work time arrangements, relocation, emergency accommodation assistance, emergency economic support, etc. These employees may also be referred to external organisations such as specialised partner associations.”<sup>384</sup>

- A **TUCA report** discusses examples from the Americas region, including an agreement of the Yacimientos Petroleum Workers (Los trabajadores y las trabajadoras de Yacimientos Petrolíferos Fiscales) which requires the employer provide support services, including medical and mental health support, to both the victim and any minor children if they have filed a formal complaint of domestic or intimate partner violence.<sup>385</sup>
- In the United States, the Communications Workers of America put out a 2006 **resource** that includes sample collective bargaining language.<sup>386</sup>

## XI. LGBTIQ+ RIGHTS

Collective bargaining is a critical tool to protect the rights of lesbian, gay, bisexual, transgender, intersex and queer workers. Discrimination based on sexual orientation and gender identity are unique forms of oppression, but also inextricably linked to social constructions of gender and patriarchy. A holistic approach to gender discrimination requires addressing how sexuality and gender identity are constrained and policed in the workplace. Collective bargaining is especially critical because protections for workers of different sexual orientations and gender identities are often poorly developed or lacking entirely in law. While many countries have seen progress over the past decades, in many jurisdictions there are also coordinated right-wing attacks on the LGBTIQ+ community. Troublingly, these are increasingly focused on attacking the rights to freedom of association and expression.<sup>387</sup>

384 UNI Orange GFA at 19.

385 CSA TUCA at 97.

386 CWA, Domestic Violence: The Union Response (2006) [https://cwa-union.org/news/entry/domestic\\_violence\\_the\\_union\\_response#respond](https://cwa-union.org/news/entry/domestic_violence_the_union_response#respond)

387 The International Lesbian, Gay, Bisexual, Trans and Intersex Association, Laws on Us (May 2024) <https://ilga.org/resources/laws-on-us-global-overview-2024/>

Criminalisation, stigma and repression can make it difficult for LGBTIQ+ workers to be their full, authentic selves at work. Workers may be bullied, harassed, unfairly disciplined, or fired because of their sexual orientation or gender identity, especially if their access to legal recourse is limited. Unions can cultivate a safer, supportive place for workers to surface issues and identify solutions and demand holistic protections in bargaining.

Union guides specific to addressing the rights of LGBTIQ+ workers include:

- The Confederação Nacional dos Trabalhadores do Ramo do Vestuário (National Confederation of Garment Workers (CNTRV-CUT)), together with the Inter-Union Department of Statistics and Socio-Economic Studies, prepared a **study** of the main clauses negotiated in the garment industry to protect the rights of LGBTQIAPN+ people, with model clauses covering everything from combating discrimination to extending maternity and paternity rights to same-sex couples.<sup>388</sup>
- The CUT Brazil developed an **LGBTQIA Almanac**.<sup>389</sup>
- The Canadian Union of Public Employees (CUPE) developed a **Bargaining Beyond the Binary Negotiating Guide** and a **Bargaining 2SLGBTQI+ Rights Checklist**.<sup>390</sup>
- Pride at Work in the United States developed **Bargaining for LGBTIQ+ Justice**, which has guidance and sample collective bargaining language to address issues like discrimination, coverage of diverse families in leave and benefits, transitioning and other issues.<sup>391</sup>
- The Canadian Labour Congress report **We Keep Each Other Safe** discusses how to support LG-

388 Departamento Inter-Sindicatos de Estatística e Estudos Socioeconômicos (DIEESE), A negociação coletiva de garantias relativas aos trabalhadores e às trabalhadoras LGBTQIAPN+ (2023) <https://www.dieese.org.br/pesquisaDIEESE/2023/negociacaoColetivaLGBT.html>

389 Luiz Carvalho, Almanaque LGBTQIA, CUT Brazil (2021) <https://www.cntrv.org.br/system/uploads/ck/files/AlmanaqueLGBTQIA.pdf>

390 CUPE Bargaining Beyond the Binary; Bargaining 2SLGBTQI+ rights: A checklist for collective agreement language (March 8, 2023) <https://cupe.ca/bargaining-2slgbtqi-rights-checklist-collective-agreement-language>

391 Pride at Work, Bargaining for LGBTQIA+ Justice (2024) <https://www.prideatwork.org/bargaining?rq=bargaining>

BTIQ+ workers in the face of widespread stigma and demonization of sexual and gender diversity, and the practical guide *Workers in Transition* discusses how unions can support trans workers.<sup>392</sup>

- The FNV in the Netherlands *Checklist for Collective Bargaining*.<sup>393</sup>
- Unifor of Canada *Trans Inclusion Equity Guide*.<sup>394</sup>
- The IUF developed *Bargaining Demands* for LGBTI Workers.<sup>395</sup>

The ILO also has several guidance documents, such as a report on the *Inclusion of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ+) persons in the world of work: A learning guide*.

Workplace **benefits and programs**, such as parental leave and health care coverage, are not always designed to meet the needs of LGBTIQ+ workers. The union can help build inclusive protections. The section on *family/caregiving leave* has a discussion, sample language and examples of an **Inclusive Definition of Family** for purposes such as leave and benefits, as well as equitable access to *parental leave* and access to *gender-affirming leave*. The section on **OSH** addresses issues such as an *inclusive risk analysis*, access to *safe changing and sanitation facilities, dress codes*, and access to *medical benefits*. Even in localities where LGBTIQ+ identities are criminalized, the union can and should still push for policies around these issues framed in a general manner, such as leave for all parents following adoption and dress codes that do not enforce gender binaries.

## Discrimination Protections

A broad definition of discrimination, including sexual orientation and gender identity as well as family status, birth and personal appearance, is contained in the section on *discrimination*, which also details internal mechanisms to address workplace discrimination, violence and harassment. The union may also want to propose specific language to protect trans and gender non-conforming workers, such as the right to be addressed by their preferred name and pronouns.

*Workers have the right to be addressed by their preferred name and pronouns. The intentional or persistent refusal to respect a worker's gender identity (for example, intentionally referring to the worker by a name or pronoun that does not correspond to the worker's gender identity) constitutes harassment.*

Particularly in countries where LGBTIQ+ status is criminalized or highly socially stigmatized, the union can discuss and adopt safety measures to prevent discrimination without necessarily framing them as such in bargaining. This may include, for example, bargaining a right to confidentiality that bars management and coworkers from sharing a worker's personal information gained in the course of employment without the worker's permission, bargaining for access to gender-neutral sanitary facilities, see section in **OSH**, or *measures* to protect workers from discrimination by third parties such as customers or members of the public see section on *violence and harassment*.

## EXAMPLES:

- The U.S. hospitality union Unite Here won protections for food service workers, including "stronger language on sexual harassment, intimate partner violence protections," and rights for transgender and non-binary workers in contracts with three of the largest food service employers in the United States: Sodexo, Compass Group and Aramark. These protections are built into agreements covering more than 50,000 workers.<sup>396</sup>

<sup>392</sup> CLC, We Keep Each Other Safe (2024) <https://documents.clcctc.ca/human-rights-and-equality/Pride/WeKeepEachOtherSafe-2024-07-17-EN.pdf>; CLC, Workers in Transition (2021) <https://canadianlabour.ca/wp-content/uploads/2021/02/WorkersInTransition-Guide-EN.pdf>

<sup>393</sup> FNV Netherlands, Checklist for Collective Bargaining (2015) <https://coc.nl/wp-content/uploads/2015/05/Regenboog-checklist-Netwerk-FNV-Roze.pdf>

<sup>394</sup> Unifor Canada Trans Inclusion Equity Guide (2024) [https://www.unifor.org/sites/default/files/documents/Trans%20Inclusion%20Equity%20Guide%20EN%202024\\_0.pdf](https://www.unifor.org/sites/default/files/documents/Trans%20Inclusion%20Equity%20Guide%20EN%202024_0.pdf)

<sup>395</sup> IUF, Bargaining Demands for LGBTI Workers (2021) <https://www.iuf.org/wp-content/uploads/2021/09/2021-Bargaining-demands-for-LGBTI-workers-rights-and-Glossary.pdf>

<sup>396</sup> Kate Miceli and Amy Dalrymple, Strategies for Unions to End GBVH at

An analysis in CUT Brazil's **LGBTQIA Almanac** found that in 2021 there were 266 union agreements that recognized the rights of workers in same-sex unions and 226 that guard against discrimination and prejudice including in respect to pay and opportunities.<sup>397</sup> A **2023 CNTRV study** analysed clauses, everything from combating discrimination, accessing leave and ensuring equitable access to benefits for same-sex couples, and notes case studies and sample language across hundreds of contracts.<sup>398</sup>

- A global study of collective bargaining notes agreements in Brazil, Canada, El Salvador, Portugal, Sweden and the United States that prohibit discrimination on the basis of transgender status, gender identity or gender expression.<sup>399</sup>
- A global framework agreement between UNI Global Union and Carrefour states that “[d]iversity is reflected in particular in differences in gender, age, origin, culture, sexual preference, nationality, opinions and beliefs, disability, family situation, education and trade union membership. Under no circumstances may these differences influence hiring, training, compensation, career management and career development.”<sup>400</sup>
- The United Steelworkers in Canada developed the union's first LGBTQ+ Advisory Committee to improve contract language, create an inclusive education curriculum and decrease harassment of LGBTQ+ members.<sup>401</sup>

The Spanish Trade Union Confederation of Workers' Commissions (Confederación Sindical de Comisiones Obreras (CCOO)) **Model Protocol Against Harassment Based on Sexual Orientation, Gender Identity and/**

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Work, U.S. Department of Labor Blog (November 27, 2024) <https://blog.dol.gov/2024/11/27/4-strategies-for-unions-to-end-gender-based-violence-and-harassment-at-work>

397 Carvalho, Almanaque LGBTQIA at 29.

398 DIEESE, A negociação coletiva.

399 Hayter and Bastida at 141.

400 UNI Global Union, International Agreement for the Promotion of Social Dialogue and Diversity and Respect of Fundamental Rights at Work (3 October 2018) [https://www.carrefour.com/sites/default/files/2022-06/International%20Agreement%20Carrefour%20x%20UNI\\_2018.pdf](https://www.carrefour.com/sites/default/files/2022-06/International%20Agreement%20Carrefour%20x%20UNI_2018.pdf)

401 USW Transition Handbook (2021) [https://usw.ca/wp-content/uploads/2022/04/Trans\\_guide\\_EN\\_2021\\_national.pdf](https://usw.ca/wp-content/uploads/2022/04/Trans_guide_EN_2021_national.pdf)

or **Gender Expression**, has model language including clauses to ensure prevention and support.<sup>402</sup>

## XII. ACCESS TO CARE

Access to care is one of the primary barriers to women entering the workforce at all and can be a major challenge to remaining and advancing in a career. The right to care is an emerging right under international law, particularly well-developed in the Inter-American system,<sup>403</sup> and recently recognized by the Constitutional Court of Ecuador.<sup>404</sup> Many states fail to realize the right to care by providing adequate funding to support childcare and eldercare, resulting in “do-it-yourself” welfare models where families must find ways to ensure adequate care, generally by either relying on unpaid care work from women and girls within the family, or by relying on low-wage, precarious paid care work.<sup>405</sup>

Unions can address these dynamics by bargaining for subsidies for child and/or elder care or specific coverage of costs such as school fees or supplies. Access to care should be provided on an equitable basis, not restricted to women workers, as this reinforces social stereotypes that assign women as caregivers and discriminates against men who take on caregiving roles. Unions and worker rights CSOs can also push for in-

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402 Protocolo CCOO.

403 See, e.g. Tenth Regional Conference on Women in Latin America and the Caribbean, Econ. Commission for Latin America and Caribbean, Quito Consensus xiii (Aug. 14, 2007), <https://www.cepal.org/sites/default/files/events/files/quitoconsensus.pdf>; ITUC and ILAW, Observaciones a la solicitud de opinión consultiva de la República Argentina sobre El contenido y el alcance del derecho al cuidado y su interrelación con otros derechos (November 7, 2023) <https://www.ilawnetwork.com/wp-content/uploads/2024/01/Amicus-Opinion-Consultiva-sobre-derecho-al-cuidado.-CSI-ILAW-signed.pdf>

404 ESCR-Net, Judgment No. 3-19-JP / 20 and accumulated (September 1, 2021) <https://www.escri-net.org/caselaw/2021/judgment-no-3-19-jp-20-and-accumulated/>

405 See, e.g. Silvia Borelli, From a Patriarchal Welfare to a DIY Welfare: A Short History of Care Workers in Italy, Global Labour Rights Reporter, Volume 3, Issue 2 (2024) <https://www.ilawnetwork.com/forging-a-feminist-labour-law/>

clusive legal protections regarding the right to care.<sup>406</sup>

If there are a high number of workers with young children or eldercare responsibilities, the union can bargain for care to be provided by the employer. Where the union negotiates for in-house care, measures must be taken to ensure that care staff are provided a living wage and fair working conditions.<sup>407</sup>

Language in the agreement will be heavily dependent on the support currently available in the jurisdiction and locality.

## EXAMPLES

- Childcare was one of the first issues identified when the National Confederation of Financial Sector Workers (Confederação Nacional dos Trabalhadores do Ramo Financeiro da CUT (Contraf-CUT)) started creating a space within the union to discuss women's equality in the 1970s and 1980s, along with better working conditions and increased political participation. After the first women's meeting in 1981, the union won childcare for babies and, a decade later, extended this to children aged up to six.<sup>408</sup>
- Garment workers in Bangladesh have negotiated for childcare coverage in multiple agreements with employers.
- In a global framework agreement between COLSI-BA, IUF, and Chiquita the employer agreed to pro-

vide on-site childcare.

- In Argentina, an agreement between public sector unions UPCN (Unión Del Personal Civil De La Nación) and ATE (Asociación Trabajadores del Estado) and the Minister of Labour, Employment and Social Security included financial support for childcare-related costs.<sup>409</sup>
- The CUT Brasil negotiated the inclusion of childcare centres in an agreement with the metal-working sector.<sup>410</sup>
- In Honduras, various collective agreements cover school supplies for workers' children.<sup>411</sup>
- A 2003 study of clauses from Mexico contains a range of measures to support access to care, including agreements where the employer makes monthly payments for children up to 6 years old, shared payments when costs are over a certain amount, establishes in-house daycares, covers school supplies through payments to workers or through a lump sum managed by the union, and/or provides individual academic scholarships or funds to support scholarships to workers' children.<sup>412</sup>

<sup>406</sup> For example, the civil society organization SADAQA in Jordan negotiated for amendments to the country's labor law to expand access to childcares. Previously, childcare needs were determined based on the minimum number of women workers at the worksite, but the amendments challenged the sexist assumptions of this provision and won care based on the overall number of workers and expanded to achieve social justice by including working families in various sectors and workplaces and not just large sized companies. Sadaqa Jordan, Women's Labor Rights <https://sadaqajo.org/womens-labor-rights/?lang=en>

<sup>407</sup> For an example of how this can go wrong, see a case study of Turkey whereby law many employers must provide childcare, and employers utilize subcontractors to provide low quality care with underpaid care workers. Gaye Yilmaz, Bargaining Agenda for Gender (BAG): Turkey, a case study, Visibility and Voice for Union Women: Country case studies from Global Labour University Researchers at 100 (2014) [https://www.researchgate.net/publication/376757281\\_Visibility\\_and\\_Voice\\_for\\_Union\\_Women\\_Country\\_case\\_studies\\_from\\_Global\\_Labour\\_University\\_researchers](https://www.researchgate.net/publication/376757281_Visibility_and_Voice_for_Union_Women_Country_case_studies_from_Global_Labour_University_researchers)

<sup>408</sup> Portilho Lins at 8.

<sup>409</sup> ILO, A Review of Wage Setting at 46.

<sup>410</sup> CSA TUCA at 77.

<sup>411</sup> Anner and Mendoza, Bargaining for Decent Work at 23.

<sup>412</sup> García Pineda, Anexo.

# PART II: INTERNAL UNION STATUTES AND POLICIES

Gender-responsive collective bargaining starts with inclusive, democratic and transparent bargaining structures within trade unions. Women, LGBTQ+ workers, and other workers marginalized due to gender discrimination are in the best position to identify core issues related to workplace equality and shape bargaining demands, and should be involved in all aspects of negotiations, including deciding on the content of the agreement, negotiating tactics and ratification. Facilitating this requires the union to identify and eliminate barriers to participation, engage with membership to surface and understand core issues, and provide space for the workers most impacted by gender discrimination to lead on developing solutions.

Often, one of the primary barriers to meaningful gender bargaining is the failure to create inclusive internal structures and processes within union spaces. Historically, most unions have been dominated by men and a masculinized conception of work.<sup>413</sup> This reality has been slow to change. Even where policies on gender equality and diversity exist on paper, women are often systematically marginalized and excluded in practice. This is particularly true if they hold other marginalized identities, such as racialized women or women from ethnic or religious minorities. As discussed in a study

by the Global Labor University, gender and racial discrimination, patriarchy and class intersect to “mute women’s voices in strategy and policy work, and at the negotiating table, leading to too few of their demands for gender parity and rights getting into the union mainstream and onto bargaining agendas.”<sup>414</sup>

Bargaining teams from both the union and the employer are often dominated by or entirely composed of men, creating a “shared masculinised understanding” of priorities in bargaining.<sup>415</sup> Issues more salient to women and others marginalized because of their gender identity, including measures to address structural discrimination and devaluation, are viewed as peripheral to ‘bread and butter’ issues like pay – even when pay rates and job classifications too often reflect gendered disparities.<sup>416</sup> When bargaining agendas do include issues related to gender equity, in at least some cases, research has found they are more likely to be traded away in the negotiating process.<sup>417</sup>

Unions have created internal structures related to gender and/or women’s rights for decades. However, these bodies are sometimes marginalized within

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413 See, e.g. Maria Helena Santos, Carla Cerqueira, and Rui Vieira Cruz, Gender asymmetries in Portuguese trade unions: The case of the CGTP-IN, *European Journal of Gender Studies*, Volume 29, Issues 1 (2021) <https://journals.sagepub.com/doi/full/10.1177/1350506820979010#bibr26-1350506820979010> (“historically unions not only excluded women from campaigns and membership but also actively campaigned against the entry of women into the labour force. This was done to preserve skilled jobs for men, but, at a deeper level, reflected the chauvinistic attitude of men as bread winners”); Akua O. Britwum and Sue Ledwith (Eds.), *Visibility and Voice for Union Women: Country case studies from Global Labour University Researchers* (2014) [https://www.researchgate.net/publication/376757281\\_Visibility\\_and\\_Voice\\_for\\_Union\\_Women\\_Country\\_case\\_studies\\_from\\_Global\\_Labour\\_University\\_researchers](https://www.researchgate.net/publication/376757281_Visibility_and_Voice_for_Union_Women_Country_case_studies_from_Global_Labour_University_researchers); Ana Avendaño, *Solidarity Betrayed*, Pluto Press (February 2025) <https://www.plutobooks.com/9780745349176/solidarity-betrayed/>

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414 Britwum and Ledwith, *GLU Visibility and Voice* at 2.

415 Britwum and Ledwith, *GLU Visibility and Voice* at 7.

416 Britwum and Ledwith, *GLU Visibility and Voice*; See also CSA TUCA at 78; Solidarity Center, *A Case Study of Morocco* at 11 (discussing findings from Akua Opokua Britwum, Karen Douglas and Sue Ledwith, *Women, gender and power in trade unions* (2011) that “where negotiations explicitly include gender equality concerns, such as paid parental leave, breast-feeding support, child care concerns and work-life balance issues, these issues are frequently considered to be subordinate to other concerns about pay and benefits that reflect the disproportionate role that men, and male negotiators, play in collective bargaining fora.”)

417 Serrano and Certeza, *GLU Visibility and Voice* at 84. (discussing a survey showing that “except for reproductive health and protection against sexual harassment, all other gender/women-related proposals in collective bargaining are always traded off for other bargaining proposals ... almost all the respondents claimed that women-related proposals, except the two mentioned earlier, are up for trade off most if not all of the Time”)

institutional structures and do not always influence decision-making. The dichotomy between the institutionalization of gender structures and the continued practice of excluding marginalized workers from decision-making emphasizes the need for a holistic, collective approach that shifts both formal policies and everyday practices to reflect the needs of marginalized workers; rather than isolated actions that are not mainstreamed throughout the organization or seen to be a responsibility of the leadership.<sup>418</sup>

A core challenge remains to ensure “the changes and transformations necessary for real equality to become a cross-cutting objective at all levels”<sup>419</sup> of the trade union movement. This includes ensuring that the union bodies and individuals tasked with addressing equality are given adequate institutional power and material resources to effectively promote equality, and that this work is understood to be central to the trade union agenda.<sup>420</sup> Plans and processes to promote equality are sometimes developed but not adequately disseminated throughout leadership and membership, so there is a need to ensure education and sensitization at all levels.<sup>421</sup>

There are a range of internal policy measures unions can adopt to promote equality within the movement. This guide does not offer holistic guidance on internal organizing, but the central role that a union’s internal dynamics play in bargaining necessitates capturing some examples and best practices.

**Unions have taken a range of measures to promote safer, more democratic and inclusive internal systems and processes related to collective bargaining, such as:**

- Adopting comprehensive equality plans that aim to mainstream gender issues throughout all aspects of union programs, activities, and goals, with adequate funding, staffing and

support to ensure implementation

- Adopting internal policies to address discrimination, violence and harassment within the labour movement (discussed below)
- Developing gender agendas or platforms that focus on and defend the rights of people in vulnerable or marginalized situations
- Supporting inclusive and transparent member leadership development, with intentional outreach to women, LGBTIQ+ persons and other underrepresented groups
- Developing collective bargaining priorities and language through active inclusion of and consultation with the workers most impacted by gender discrimination at work, including women, especially women with other marginalized identities such as racialized women, and LGT-BIQ+ persons
- Conducting assessments to understand the current participation of women, LGBTIQ+ persons, and other marginalized workers within union structures, to identify and rectify barriers to engagement
- Providing practical supports to enable participation in trade union activities, such as shifting meeting locations and/or times to accommodate workers with family obligations and/or providing access to childcare
- Education and awareness-raising for union representatives on gender issues at work, including existing legal protections and how the union can robustly protect and promote the right to equality
- Training union representatives on how to identify and address workplace discrimination, violence and harassment in a gender-sensitive and trauma-informed manner
- Conducting systematic assessments of collective agreements to see how they currently address gender issues to strengthen protections
- Educating union members on current protections under law and collective agreements regarding gender equality issues
- Engaging in partnerships and alliance-building with community organizations to provide support for survivors of gender-based violence and harassment
- Disseminating positive language and practi-

418 Gissela Pisconti, *Conquistando la Diferencia* (2017) <https://www.iesiperu.org.pe/wp-content/uploads/2021/11/Conquistando-la-diferencia-2017-virtual.pdf>

419 CSA TUCA at 64.

420 CSA TUCA at 66.

421 CSA TUCA at 67.

es, and enhancing opportunities to discuss and elevate these issues within the union

- Developing tools to support union leadership, such as manuals, roadmaps, plans, and policies focused on promoting equality and inclusion from an intersectional perspective

Once again, this guide cannot provide holistic guidance on all these different strategies. However, there are a few illustrative cases discussed below. This is not comprehensive but is intended to highlight a sampling of strategies to build a democratically informed, strategic agenda for gender equality.

### EXAMPLES:

- A 2019 study by TUCA discusses internal measures taken by union confederations at the national level, organized around six themes: the drafting and incorporation of explicit written policies on gender equality; encouraging unionization of women workers; promoting women's participation at all levels of the union; creating internal equality plans; designing and implementing awareness, dissemination and advocacy campaigns; and establishing platforms and proposals for collective bargaining with a gender perspective.<sup>422</sup>
- The International Domestic Workers Federation (IDWF) created an innovative leadership program for domestic workers in the Americas region, the LUNA program. The program provides training for union leaders on organizing, political education, and community building. One of its unique features is that it includes a physical healing practice called somatics, which is geared at addressing the impact of stress and trauma on the body. This recognizes that sustained organizing requires addressing the consequences of systematic oppression based on gender, race and class on workers' lives and bodies. The program intentionally seeks to cultivate leadership styles that do not replicate existing, abusive societal power structures but instead reflects a progressive vision that can only be achieved through healing and deconstruction of current hierarchies. The program includes time to discuss the impact of trauma and promote healing, as well as discussions of strategies

to organize and bargain for more effective workplace protections. This has resulted in growing membership and a more united and powerful movement.<sup>423</sup>

- The Central Única de Trabajadores (CUT) Brazil adopted a policy on gender equity in 2012.<sup>424</sup> In addition to provisions regarding parity in union leadership, discussed below, unions are required to provide childcare during union activities, offer flexible meeting times and mainstream gender issues into all secretariats. These changes have been credited with an increased uptake of issues related to gender equity at work, such as access to childcare and parental leave.<sup>425</sup> In 2014, the CUT National Secretariat on Women Workers (Secretaria Nacional Sobre a Mulher Trabalhadora (SNMT CUT)), in partnership with the Centre for Studies on Trade Unionism and Labor of UNICAMP, initiated a training project aimed at Women's Coordinators and Secretariats, both within the confederation and at affiliated national unions, to increase women's participation in leadership. The CUT also introduced programs to train women negotiators for bargaining.<sup>426</sup>
- In the United States, the Service Employee Workers West developed an innovative strategy to address violence and harassment in the janitorial sector by incubating and facilitating leadership of worker-survivors of GBVH to transform internal structures within the union and build community alliances to push for changes at worksites and in law. The union recognized the need to "lead from the back" by empowering members while also formalizing institutional support for the work within union structures.<sup>427</sup> As discussed in the section on **training**, the union developed a worker-centred peer-to-peer leadership and education approach, with a trauma-informed methodology.

423 IDWF, Leadership, Unity, reNovation and Amplification (LUNA) (2022) <https://idwfed.org/capacity-building/latin-america-capacity-building/leadership-unity-renovation-and-amplification-luna/>

424 Didice Godinho Delgado, Trade Unions in Transformation (2017) <https://library.fes.de/pdf-files/iez/13794.pdf>

425 Nazaret Castro, CUT-Brazil, a trade union centre at the forefront of the feminist struggle, Equal Times (October 4, 2017) <https://www.equaltimes.org/cut-brazil-a-trade-union-centre-at?lang=en>

426 CSA TUCA at 66 and 71.

427 Avendaño, Solidarity Betrayed at 78

422 CSA TUCA at 64-73.

The “*promotoras*” program gave workers affected by GBVH space to discuss and heal from their own experiences. These workers were trained to assume union leadership positions, and to go into worksites and communities to address violence and harassment. The program has “two key channels of impact: the healing and leadership development that the *promotoras* themselves experience as they train for and inhabit their new role, and the influence that *promotoras* have, in turn, on their coworkers, workplaces, and the industry as a whole.”<sup>428</sup> The union created a physical space, called the Ya Basta (“enough is enough!”) Centre, for the *promotoras* to engage with workers and employers. The union also created the Ya Basta! coalition, with local anti-rape organizations and academic institutions. This coalition successfully pushed for regional legislation that requires building service companies to fund training for all workers and managers on prevention of sexual harassment at work, conducted by workers through a peer education model, discussed in the section on [training](#).

- As discussed [above](#), the Canadian union UNIFOR adopted a groundbreaking program to train local union activists to become “women’s advocates,” defined as “a specially trained workplace representative who assists women with concerns such as workplace harassment, intimate violence and abuse.”<sup>429</sup> The Women’s Department at UNIFOR hosts a specialized training program for union activists to become women’s advocates, and also prepares and serves as a resource for local representatives to address issues related to gender equality, with a focus on women.
- As also discussed [above](#), the ITF Women’s Advocates programme trains union activists to become ‘Women Advocates’ to build a support network, and provide a workplace response to gender-based violence and harassment, including the impact of gender violence and intimate partner violence on the workplace.<sup>430</sup> The ITF Women’s Advocacy Programme is driving change

by building women’s leadership and power in the transport sector. In Brazil, unions like SINDIMOC have established a Women’s Secretariat, while CNTTL and SINDOMOC are working with employers to make workplaces safer and build reporting mechanisms. In India, trained women advocates, *nirbhayas*, are at the forefront of organising all workers including women transport workers and rebuilding union strength in the wake of COVID-19 and economic crises. They are claiming space and visibility with both employers and governments, and are supporting women to enter and remain in traditionally male-dominated roles.

- Unite the Union in the UK adopted a comprehensive policy to support equality representatives, both at the worksite level and throughout the union’s industrial structure. As discussed [above](#), local bargaining committees are encouraged to negotiate with employers for a paid, elected workplace union equality representative position. These equality reps address equality issues at the workplace and also participate in the Union’s industrial structure, through regional and national-level committees,<sup>431</sup> which provides resources, training and other support for the work. The union created Committees specifically for Women, Black & Asian ethnic minorities, Disabled members and LGBT+ members.<sup>432</sup> Unite has also campaigned for legal protections for equality representatives on the job, recognizing that these roles often involve challenging power hierarchies.<sup>433</sup> At the time of this writing, legal rights for union equality representatives have been included in a proposed Employment Rights Bill.<sup>434</sup>
- The textile union of Santa Catarina in Brazil created an internal process whereby women workers in textile factories review and approve gender clauses during negotiations.<sup>435</sup>
- Also in Brazil, the Union of Workers in the Cloth-

431 Unite the Union, Rulebook at 11.1, 18.1 (2023) <https://www.unitetheunion.org/media/4wvbk32a/final-unite-rule-book-amended-march-2024-v-1.pdf>

432 *Id.* at 17.8.

433 Unite, Equality Strategy (2023) <https://www.unitetheunion.org/media/5725/jn9997-a4-unite-strategy-for-equality-2023-brochure-1.pdf>

434 UK, Employment Rights Draft Bill, Clause 62 at 39-40 <https://bills.parliament.uk/publications/59796/documents/6226#page140>

435 CSA TUCA at 78.

428 Pinto, West and Wagner, Healing into Power.

429 Unifor’s groundbreaking Women’s Advocate program <https://www.unifor.org/unifors-ground-breaking-womens-advocate-program>

430 ITF C190 Transport Workers’ Toolkit at 19.

ing and Embroidery Industries of Ibatinga and Region (Sindicato dos Trabalhadores nas Indústrias de Confecções e Bordados de Ibatinga e Região) created a program to promote equality negotiations, built around a strategy to incorporate young women in leadership through a group called *Núcleo Jovem*. The group carried out activities on Sunday mornings, with childcare provided, so that women could participate in union debates and positions, and train for union leadership.<sup>436</sup> As discussed [above](#), this process supported the incorporation of gender equality clauses in collective agreements.

- The Icelandic Confederation of Labour drew up guidelines to support gender mainstreaming in bargaining teams as part of negotiations in 2008 and 2010.<sup>437</sup> The Confederation's equality and family committee provided special training courses on gender mainstreaming in collective bargaining.
- In Sri Lanka, a group of five trade unions, including the Government Nursing Officers Association; the Ceylon Estate Staff Union; Jathika Sevaka Sangamya; Protect Union and the National Union of Seafarers engaged in internal processes to increase women's involvement and leadership within their unions. This included gender sensitization training, and a review of existing internal policies regarding gender discrimination and GBVH. This work was challenging, as unions are male dominated even in sectors where members are predominantly women.<sup>438</sup> The unions adopted new policies that require the participation of women in executive leadership structures, and revised policies to promote equality within the movement. The program also established specialized GBVH Units at work-sites. One or two union officials per workplace received training on GBVH and are empowered to identify issues at worksites and propose remedial measures.
- Many unions have embraced efforts to ensure the incorporation of informal women workers, as women and other marginalized groups are often concentrated in informalized work. For example,

the 2015 book [Collective Bargaining and Gender Equality](#) discusses how the Ugandan Amalgamated Transport and General Workers Union created an Informal Sector Women's Committee to organize informal workers around major transport hubs. As discussed [above](#), this led to negotiations to improve women's safety and access to toilets and other facilities. In Ghana, the Ghana Trade Union Congress (GTUC) adopted a policy to encourage sector-based unions to include informal workers.<sup>439</sup> The ITF developed an informal transport workers' charter,<sup>440</sup> and a labour impact assessment methodology for the introduction of new transport systems which includes a gender focus.<sup>441</sup>

- Trade unions in Honduras hosted discussions around gender-based violence and harassment at work and incubated a group of activists who developed model clauses to include in collective negotiations with employers.<sup>442</sup> The Honduran Federation of Agro-industrial Unions (Federación de Sindicatos de Trabajadores de la Agroindustria FESTAGRO) undertook training of women leaders to prepare them for bargaining.<sup>443</sup>
- The European Federation of Public Service Unions conducted a gender mainstreaming audit in 2010.<sup>444</sup>
- Trade union organizations in Peru and the Solidarity Center designed a manual on collective bargaining with a gender perspective in 2024. This tool aims to promote analysis and discussion of the importance of including a gender perspective in collective bargaining processes and to provide tools for incorporating a gender perspective into collective bargaining processes.

<sup>439</sup> Pillinger and Wintour at 95.

<sup>440</sup> ITF, Informal Transport Workers Charter (2017) <https://www.itfglobal.org/en/resources/informal-transport-workers-charter>

<sup>441</sup> ITF, Understanding Informal Transport In Africa (2025) <https://www.itfglobal.org/en/resources/understanding-informal-transport-in-africa>

<sup>442</sup> Anner and Mendoza, Bargaining for Decent Work at 4.

<sup>443</sup> Solidarity Center, Union Women on the COVID-19 Frontlines (2021) <https://www.solidaritycenter.org/union-women-on-the-covid-19-frontlines-the-road-to-recovery/>

<sup>444</sup> Jane Pillinger, EPSU Gender mainstreaming audit (2010) [https://www.epsu.org/sites/default/files/article/files/EPSU\\_Gender\\_Mainstreaming\\_Audit\\_2010.pdf](https://www.epsu.org/sites/default/files/article/files/EPSU_Gender_Mainstreaming_Audit_2010.pdf)

<sup>436</sup> CSA TUCA at 77.

<sup>437</sup> Pillinger and Wintour at 26.

<sup>438</sup> Solidarity Center, Global Impact Report.

## Internal Policies Regarding Discrimination, Violence and Harassment Within the Union

Robust collectively bargained protections regarding discrimination, violence and harassment must be informed by and complement internal policies and practices developed by the union to identify and address discrimination, harassment and violence within union spaces and at worksites. Negotiating demands for the employer must build on these internal policies and plans, considering how the two will interact.

As Ana Avendaño writes in *Solidarity Betrayed*, building a strong internal response requires doing the internal work necessary for union representatives and leaders to fully grasp workers' experiences with discrimination, violence and harassment, building relationships with communities that support the workers, and appropriately resourcing these efforts.<sup>445</sup> It also requires creating clear structures of accountability and internal processes.

Historically, unions have often reflected patriarchal power hierarchies present at the worksite and social norms and stereotypes. As Luciana Censi writes, "the patriarchal capitalist system uses violence to perpetuate domination over the working class, imposing in interpersonal relationships hierarchies and privileges of men over women and the LGBTQBIQ+ collective, thus reproducing divisions, violence and discrimination; for this reason it is necessary for union organizations to have their own tools for self-care, democratization, exchange and conflict resolution, not only for the daily practice of union activism, but also to effectively build feminist agendas in collective bargaining."<sup>446</sup>

The section on collective bargaining to address discrimination, violence and harassment provides **model language and guidance** on core issues like definitions, preventative measures, risk assessments, and grievance procedures that can support the development of cohesive internal measures. While none of the model language is intended to be adopted without modification, union policies in particular will need specific measures related to the dynamics of union work and representation, including instances where

union officials abuse their own power or fail to promote the interests of all members.

At a minimum, such policies should include:

- A clear internal accountability structure with respect to gender equality, which can implement policies and respond to individual instances, with proper resources and institutional authority
- Where the union has negotiated workplace-level gender equality representatives, discussed in the **section on discrimination, violence and harassment**, or other gender equality structures, mechanisms to provide internal support and resources to these positions and ensure their input and inclusion in the development of policies and best practices and internal union governance structures
- Mechanisms to support *all* union representatives to identify and address gender-based discrimination, harassment and violence within the worksite and industry in a gender-responsive and trauma-informed way. This should include on-going internal education to better understand gender discrimination and GBVH, including how societal norms and stereotypes shape working conditions; best practices for addressing individual cases in a trauma-informed manner; the existing legal protections in the jurisdiction; and the internal policies and practices of the union
- Strategies to engage with community support groups and government bodies tasked with equality to support survivors in accessing resources and bringing legal cases, and to support union representatives in understanding and connecting survivors with these resources.
- Specific guidance on how to address discrimination, violence and harassment committed by union members against other union members. There is often a misguided belief that unions are required to defend perpetrators from dismissal or other adverse work consequences, even when they are credibly accused. Union policies should make clear that the duty of fair representation to members does not inhibit pursuing consequences in cases of har-

<sup>445</sup> Avendaño, *Solidarity Betrayed* at 86.

<sup>446</sup> Luciana Censi, *Case Study* (2024).

- assessment or violence between union members.
- Specific policies on how to address cases where members harass third parties, particularly taking into account power dynamics where members hold positions of authority, such as teachers and doctors. The union's role is to advance the interest of all members; it is not to shield bad actors from accountability.
- Policies that address the union's duty as an employer to create a safe, equitable world of work and protect paid staff, contractors, volunteers and others carrying out work for the union in any capacity.
- Specific measures to identify potential abuses of power by union representatives against members.
- Safeguarding policies that address the union's role as a convener, designed to create safer spaces during union activities, including meetings, trainings, rallies, strikes and other activities.
- Education and sensitization programs for all members on their rights at work and within the union.
- Internal manuals, guidelines, and group discussions on discrimination, violence, and harassment.

Unions may wish to explore developing mechanisms of restorative justice. Restorative justice is a process that seeks to centre the victim and focus on repairing harm, by bringing together victims and perpetrators who are prepared to take full responsibility for their actions. The focus is on healing and accountability, rather than punishment. Remedial measures can be highly individualized and flexible.<sup>447</sup> The use of restorative justice mechanisms requires both that the victim(s) make a fully informed and voluntary choice to utilize such a process, and that the perpetrator(s) genuinely recognize the harm caused and are prepared to engage in a good faith effort to repair that harm.

Restorative justice may be particularly effective in addressing conduct like sexist remarks or microaggressions, especially between union members. The

union can provide a platform to address the harm, end bad conduct and shift workplace norms outside the disciplinary processes of the employer. When only punitive processes are available, some workers may not speak out, as they may not wish to invoke formal discipline. However, there must be safeguards to ensure the process is without coercion, with the victim engaged in the design and implementation of the process, and the opportunity to utilize formal disciplinary processes continuously available. The perpetrator must understand the harm caused and demonstrate genuine remorse – restorative measures are never appropriate where perpetrators are defensive or are seeking to minimize the situation or avoid consequences. The union officials or other facilitators leading the process must be fully competent to guide such processes in a gender-sensitive and trauma-informed manner as poorly implemented restorative processes have the ability to compound rather than address harm. Finally, there should be limitations on the types of behaviour that are subject to these processes. For example, it would not be appropriate for instances of severe misconduct, such as rape or demands for sexual favours in exchange for workplace benefits. Restorative justice processes are not discussed in the section on employer-bargained mechanisms deliberately, because – while not impossible – it is particularly challenging to implement effective restorative justice practices within the context of an extreme imbalance of economic power like the employer-worker relationship.

#### EXAMPLES:

- The International Trade Union Confederation (ITUC) and Global Unions (GUFs) Facilitators Guide and Workshops on violence and harassment were developed to support union conversations on these topics, including those that occur within movement spaces. As of this writing, the guides are available in English, Spanish, French, Arabic, Korean, Turkish, Bengali, Tamil, Hindi, Sinhalese, Arabic, Bahasa, Portuguese, Tagalog, and Croatian.<sup>448</sup>
- The ITUC and GUFs Facilitator Guide and Work-

<sup>447</sup> For a discussion of what these processes might look like in the union context, see Avendaño, *Solidarity Betrayed* at 126-128.

<sup>448</sup> Global Unions, *Train the trainers toolkit: Violence and harassment in the world of work* (2021) <https://www.industrial-union.org/toolkit-violence-and-harassment-in-the-world-of-work>

book on Taking Action on Violence and Harassment against LGBTQI+ Workers, currently available in English and Spanish, are designed to support conversations within the union movement on how to combat violence and harassment based on sexual orientation and gender identity.<sup>449</sup>

- In Argentina, the Rosario Oil Workers and Employees Union (Sindicato de Obreros y Empleados Aceiteros de Rosario - SOEAR) adopted an internal protocol regarding "prevention, intervention and action in situations of discrimination, harassment and gender-based violence against women and the LGTBIQ+ community." The Protocol applies across the union organization, "in all of the areas in which SOEAR supports actions and in all interpersonal relationships that are generated within said framework or that may affect in any way union policy and/or that could call into question the suitability, ethics or respect for human rights of union representation." The Protocol explicitly includes situations where union members or others experience discrimination from union officials; as well as where discrimination, violence and harassment are committed by members of the union against other members. There are distinct processes, all of which are carried out by the Undersecretary of Gender, including requests for information, which can be made "by any person interested in knowing the rights that exist in relation to situations" and complaints, which must be filed by an impacted individual. These processes are all guided by fundamental principles including a commitment to provide comprehensive advice, ensure the complainant is accompanied throughout the process, measures to respect privacy and confidentiality, avoid revictimization, provide referrals to services where appropriate and an educational rather than punitive approach in interventions. The Undersecretary of Gender can issue opinions and suggest remedial measures including immediate measures to protect the complainant, educational and reparative measures, and/or disciplinary measures. The Board of Directors then adopts and implements the opinion. There is

also a mechanism for rank-and-file shop stewards to raise workplace issues related to the Protocol. The use of the protocol has enabled the union to develop education and awareness campaigns, to "democratize speech and participation, to banish violent behaviour and gender stereotypes due to the absence of macho complicity, and to resolve conflicts and provide fair reparations with a class perspective, without the usual resort to companies procedures which generally defend leadership hierarchies and punish workers deemed 'difficult' (whether male or female)."<sup>450</sup>

- The Single Union of Electrical Workers of the Mexican Republic (Sindicato Único de Trabajadores Electricistas de la República Mexicana - SUTERM) approved a Protocol to Prevent, Address, and Punish Cases of Sexual Harassment and Sexual Assault.<sup>451</sup> The Protocol aims to "provide immediate assistance to any victim of sexual harassment or sexual assault at SUTERM through a SUTERM Gender Equality Representative who is trained and certified in providing in-person assistance to victims of gender-based violence and who will guide the person in making an informed decision," and lays out internal structures for handling complaints, including issuing restorative measures, preventative measures, and sanctions, as well as mechanisms to prevent violence and harassment.
- The Central Union of Social Security Workers of Peru (Federación Centro Unión de Trabajadores del Seguro Social EsSalud (FED-CUT)) created an internal committee for the prevention of violence and harassment in the workplace to implement a protocol to prevent and respond to cases of discrimination, violence, and harassment.
- Unions in several countries have adopted internal policies that clarify that the union will not defend members who have been credibly accused of gender-based violence and harassment in disciplinary proceedings. This addresses problematic internal dynamics that can sometimes arise wherein unions can end up representing perpetrators who are facing potential workplace discipline,

449 Global Unions, Taking Action on Violence and Harassment against LGBTQI+ Workers (2024) <https://lgbtiworkers.org/resources/publications/facilitators-guide-taking-action-on-violence-and-harassment-against-lgbtqi-workers?id=14318&lang=en>

450 Luciana Censi, Case Study (2024).

451 SUTERM, Protocolo para Prevenir, Atender y Sancionar los Casos de Hostigamiento Sexual y Acoso Sexual [https://www.suterm.mx/es/equidadGenero/archivos/protocolo\\_para\\_prevenir\\_atender\\_y\\_sancionar\\_el\\_hostigamiento\\_sexual\\_y\\_acoso\\_sexual.pdf](https://www.suterm.mx/es/equidadGenero/archivos/protocolo_para_prevenir_atender_y_sancionar_el_hostigamiento_sexual_y_acoso_sexual.pdf)

while victims are supported – to the extent such support exists – by the employer.<sup>452</sup> SEIU Service Workers West negotiated a clause in their collective bargaining agreement specifying how the union will handle grievances regarding sexual harassment. Upon receiving notice of sexual harassment, the employer will conduct an investigation, and “[t]he union will support the Employer’s decision in this regard consistent with the duty of fair representation.”<sup>453</sup>

- The US organization Futures Without Violence developed general **guidance** on how unions can respond to intra-member violence and harassment in a fair and equitable manner.
- A guide from the Congress of South African Trade Unions (COSATU) discusses a ground-breaking 2018 agreement between the South African Democratic Teachers Union (SADTU) and the Education Labour Relations Council on disciplinary processes for sexual harassment in schools, which protects learners from sexual predators. The agreement provides for compulsory inquiries when educators are charged with sexual misconduct against students and outlines disciplinary action.<sup>454</sup>
- A 2024 ILO ACTRAV report on trade union initiatives, strategies and negotiations since the adoption of C190 includes numerous examples of internal trade union policies, including the statutes of the garment union Öz İplik-İş in Türkiye, which states that people with a history of violence are not permitted to hold any position in the union, and a whistleblower policy from the Danish union 3F.<sup>455</sup>
- Many confederations and unions have adopted Codes of Conduct to address inappropriate behaviour in spaces where the organization is acting

as a convener.<sup>456</sup> For example, the **ITUC Code of Conduct** “applies to all formal and informal ITUC events, whether physical or virtual, and includes social events organised by the ITUC. It applies to everyone participating, including ITUC staff and interns, attendees, speakers, volunteers and service providers. The code also applies in case an event is co-organised or co-sponsored with another organisation.”<sup>457</sup> The AFL-CIO **Code of Conduct** outlines how the federation will address discrimination, harassment or other unacceptable behaviour in its activities, events or meetings.<sup>458</sup>

### Hiring, Retention and Promotion

Union measures can be substantially similar to the language in the section on **hiring and recruitment** in the bargaining section, but with specific policies assessing, recognizing and addressing the role of occupational segregation and historic marginalization in shaping participation in the company, industry or sector represented.

#### EXAMPLE:

- The internal protocol on discrimination, harassment and gender-based violence against women and the LGBTIQ+ community adopted by the Rosario Oil Workers and Employees Union (Sindicato de Obreros y Empleados Aceiteros de Rosario - SOEAR) recognizes that the sector is “highly masculinized, with a clear sexual division in tasks: production, maintenance, loading and unloading, laboratory tasks, etc. are carried out almost exclusively by men. This situation, if not made visible

452 Ana Avendaño, Challenging Norms: Feminist Reconstruction of Labour Law, Global Labour Rights Reporter, Volume 3, Issue 2 (2024) <https://www.ilawnetwork.com/forging-a-feminist-labour-law/>

453 Avendaño, Solidarity Betrayed at 79.

454 COSATU Guide at 13.

455 ILO, Violence and harassment in the world of work-Trade union initiatives, strategies and negotiations since the adoption of the Convention on Violence and Harassment (No. 190) and its Recommendation (No. 206) at 44 (2019) <https://www.ilo.org/publications/violence-and-harassment-world-work-trade-union-initiatives-strategies-and>

456 Many other organizations, such as the National Academies, have adopted codes of conduct as conveners. See, e.g. Preventing Discrimination, Harassment, and Bullying: Policy for Participants in National Academies Activities <https://www.nationalacademies.org/about/institutional-policies-and-procedures/policy-on-harassment#:~:text=Sexual%20harassment%20is%20unwelcome%20sexual,%2C%20hostile%2C%20or%20offensive%20environment>

457 ITUC Code of Conduct for ITUC Activities, Events and Meetings [https://www.ituc-csi.org/IMG/pdf/ituc\\_code\\_of\\_conduct\\_en.pdf?29115/9301763b82702fcab83069d5817ddfcc8658ff426b786e-9c1ae5f10b754296c1](https://www.ituc-csi.org/IMG/pdf/ituc_code_of_conduct_en.pdf?29115/9301763b82702fcab83069d5817ddfcc8658ff426b786e-9c1ae5f10b754296c1)

458 AFL-CIO Code of Conduct (2017) <https://aflcio.org/sites/default/files/2018-02/Code%20of%20Conduct.pdf>

and questioned, generates perpetuation of gender stereotypes where men are deemed “fit” for productive work and are the providers of the material goods to survive, while women must care for and depend on the productive work of men. People who do not respond to the binary heteronormative structure (male-female) are excluded from job opportunities. This conception is not only reproduced in the relationships between colleagues in the workplace but also within our homes and other social spaces.”

### Proportional Quotas for Bargaining Committees and Leadership

Quotas can be a powerful tool to promote gender equity within union spaces.<sup>459</sup> Many unions have adopted quotas for leadership positions within the union, some of which apply to bargaining structures. A study from the Philippines found that measures creating dedicated positions for women in bargaining and leadership had a dramatic effect on coverage of issues related to women’s rights at work, such as access to childcare and maternity leave.<sup>460</sup>

In some countries, proportional representation within trade union leadership is required by law.<sup>461</sup> UN Economic and Social Council Resolution 1990/15 calls on governments, political parties, trade unions, and professional and other representative groups to adopt a 30 percent minimum proportion of women in leadership positions, with a view to achieving equal representation. An InterAmerican Court of Human Rights Advisory Opinion recognizes “the need for the states to set quotas and reserved positions for wom-

en in decision-making roles in unions, as a measure to overcome obstacles to leadership for women and allow them to enjoy greater and better representation of their interests, on a proportional basis, and tending toward gender equality on the boards of trade unions and in collective bargaining.”<sup>462</sup>

Quotas are, of course, not a panacea. First, as a report from the Global Labour University notes, quotas can have a negative effect where they are “used as a ceiling rather than a baseline,” which can then “reinforce women’s supposed incapacity for leadership.”<sup>463</sup> Moreover, women are not a monolith and women attaining positions of power does not necessarily mean they will support gender equality. Indeed, in some instances women ascend to leadership roles in male-dominated spaces specifically by upholding and legitimating power hierarchies. Research on quotas for women’s representation in electoral politics has demonstrated that there are factors that go into making quotas more or less effective - including both ensuring that women are not just fielded as candidates but placed in races they can win, and a minimum mandated threshold of at least 30%.<sup>464</sup>

<sup>459</sup> See, e.g. CSA TUCA at 78.

<sup>460</sup> Serrano and Certeza, GLU Visibility and Voice at 105-109.

<sup>461</sup> See, e.g. In Argentina, the trade union quota law, Law 25674, Article 3 requires that “female representation in elective and representative positions of trade union associations shall be at least 30% (thirty percent), when the number of women reaches or exceeds such percentage over the total number of workers... When the number of female workers does not reach 30% of the total number of workers, the quota to cover the female participation in the lists of candidates and their representation in the elective and representative positions of the trade union association shall be proportional to that number... Likewise, the lists submitted shall include women in those minimum percentages and in places that make their election possible. Any list that does not comply with the requirements stipulated in this article may not be made official.”

<sup>462</sup> Right to Freedom of Association, Right to Collective Bargaining and Right to Strike, and their Relation to Other Rights, with a Gender Perspective, Advisory Opinion OC-27/21, Inter-American Court of Human Rights No. 27, ¶ 197 (May 5, 2021), [https://www.corteidh.or.cr/docs/opiniones/seriea\\_27\\_ing.pdf](https://www.corteidh.or.cr/docs/opiniones/seriea_27_ing.pdf).

<sup>463</sup> Britwum and Ledwith, GLU Visibility and Voice at 7.

<sup>464</sup> See, e.g. Jennifer Rosen, Gender quotas for women in national politics: A comparative analysis across development thresholds (2017) <https://www.sciencedirect.com/science/article/abs/pii/S0049089X17300844?ref=hir.harvard.edu>

*Option 1:**Each bargaining committee shall comprise at least 50% women.**Option 2:**Each bargaining committee shall comprise at least 50% women. Where this is not possible due to significant over-representation of men within the membership, committee members shall reflect the percentage of women in the membership [within 5%].**Option 3:**Women shall be represented on the bargaining committee within at least 10% of their respective representation within the bargaining unit.***EXAMPLES:**

- In 2012, the Central Única de Trabajadores (CUT) Brazil adopted a policy to achieve gender parity across union leadership.<sup>465</sup> This achievement built on years of advocacy by the women's movement, and earlier efforts to achieve parity including in 1993, where the CUT approved a 30 percent quota for women in leadership. Parity was achieved by adding Secretariats to the existing Secretariats, in part to address concerns from existing leaders about the impact on their own power.<sup>466</sup> As discussed above, unions are also required to provide childcare during union activities; offer flexible meeting times and mainstream gender issues into all secretariats to facilitate women assuming leadership roles. Changes in the leadership structure have been credited with increased uptake of issues related to gender equity at work, such as access to childcare and parental leave.<sup>467</sup>
- CUT Brazil's affiliated unions also adopted measures to ensure parity. The financial sector union Contraf-CUT adopted requirements that women be at the negotiating table in bargaining,<sup>468</sup> while the garment worker union CNTRV adopted pol-

icies to achieve gender parity within leadership structures, including in top executive positions.<sup>469</sup>

- The Oaxaca State Judicial Employees' Union in Mexico determined by a majority vote in its assembly that women should have majority participation in internal negotiations, given that 60 percent of the union's membership is female.
- In 2012, the CUT Chile voted to achieve gender parity in its structures.<sup>470</sup>
- In 1999, the CUT Peru adopted a mandate that 30% of its national directive would be composed of women workers.<sup>471</sup> In Spain, the Confederación General del Trabajo (CGT) implemented a quota system establishing a minimum 40 percent representation of each gender on decision-making bodies.<sup>472</sup> A Global Labour University study notes that unions in Africa have adopted quotas ranging from "30 per cent in Ghana to 50 percent in countries such as South Africa and Zimbabwe."<sup>473</sup>
- Public Services International amended its Constitution in 2002 to include a gender parity rule that guaranteed 50% participation of women within its own bodies, and all affiliates are expected to "strive towards the attainment of equal representation of women and men in their own decision-making bodies."<sup>474</sup> On representation in the Congress, "[e]ach gender should be equally represented where there is more than one delegate, unless this is not feasible due to very significant over-representation of one gender within the affiliate's membership."<sup>475</sup> The Executive Board contains a right for affiliates to send "one seat at the disposal of each affiliate with more than 500,000 paid-up members to be used at the discretion of

469 CUT Brazil, Em Congresso histórico, CNTRV conquista paridade de gênero na direção (2019) <https://www.cut.org.br/noticias/em-congresso-historico-cntrv-conquista-paridade-de-genero-na-direcao-1cce>

470 Pillinger and Wintour at 31.

471 CSA TUCA at 69.

472 ILO, Empowering Women at Work at 29 (2020) [https://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/---emp\\_ent/---multi/documents/publication/wcms\\_760529.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---multi/documents/publication/wcms_760529.pdf)

473 Britwum and Ledwith, GLU Visibility and Voice at 7.

474 PSI Constitution, Article 1: Principles and Objectives, Equality, Equity and Diversity (2019) <https://publicservices.international/resources/publications/psi-constitution?id=10307&lang=en>

475 *Id.* at 6.6.

465 Godinho Delgado, Trade Unions in Transformation.

466 Castro, CUT Brazil.

467 Castro, CUT Brazil; CSA TUCA at 66 and 71.

468 Portilho Lins at 20.

such affiliate with the intention of furthering the goal of gender equity.”<sup>476</sup>

- In the UK, Unite the Union adopted a requirement that every Unite committee, conference and delegation is required to have a minimum proportionality of Women and Black & Asian Ethnic Minority members represented.<sup>477</sup>
- The gender policy of Ghana TUC requires that all affiliate national unions maintain a minimum quota of 40 per cent female participation in all education and training programmes. While this strengthened women’s ties to the union and resulted in more women in leadership positions, research from 2016 noted this was often in positions without formal powers such as voting rights in union structures.<sup>478</sup>
- StreetNet adopted provisions on gender parity in its structures and senior leadership.<sup>479</sup>

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476 *Id.* at 7.3.

477 Unite, Equality Strategy.

478 Akua O. Britwum, The female factor in Ghana’s trade union movement, Visibility and Voice for Union Women: Country case studies from Global Labour University Researchers (2014) [https://www.researchgate.net/publication/376757281\\_Visibility\\_and\\_Voice\\_for\\_Union\\_Women\\_Country\\_case\\_studies\\_from\\_Global\\_Labour\\_University\\_researchers](https://www.researchgate.net/publication/376757281_Visibility_and_Voice_for_Union_Women_Country_case_studies_from_Global_Labour_University_researchers)

479 Pillinger and Wintour at 99.



International Lawyers Assisting Workers Network  
1130 Connecticut Ave, NW 8th Floor  
Washington, DC 20036

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