

Questionnaire on ‘Women’s Human Rights in the Changing World of Work’

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- *What are the main trends influencing women’s human rights in the world of work in your national context and their impact:*
- *on the types of and quantity work available to women, and the quality and conditions of work (including access to social protection and equal pay)?*

Women make up 51% of South African Society, but are the minority when it comes to leadership positions. Women in South Africa are less likely than women in the rest of Africa to start their own business. Key support services, like childcare, are mostly filled by women, and these are the most vulnerable and exploited workers.

Women in South Africa face several challenges in accessing the labour market including their historical disadvantage in relation to accessing skills, education and training, resources and networks. Anecdotal evidence from women involved in Labour Research Service (LRS) programmes points to the fact that employers continue to see childbearing as a negative interruption and are dissuaded from employing young women. Even though South Africa has labour laws protecting pregnant women, and the Labour Relations Act specifically mentions that an employer is not entitled to dismiss an employee due to her pregnancy, pregnant women still report cases of contracts being terminated.

Caroline Skinner (2019) notes that the ‘hourly earnings in the typical own-account worker in the informal sector are R18 for men and R13 for women’. The self-employed who operate businesses large enough to employ others earn relatively low wages – median hourly earnings among this group are only R25 for men and R16 for women.’ (Skinner, 2019) Around 44% of skilled posts (and better remunerated) are filled by women, though this number has seen little change since 2002. In formal businesses 29% of senior roles are held by women, up from 26% in 2014 (Grant Thornton, 2018).

Domestic and clerk work is dominated by women, with only 4% of domestic work occupied by men. Women are considerably less likely to have work based benefits like unemployment insurance, paid leave, retirement fund contributions and medical aid (Skinner, 2019).

- *for women’s safety (including violence and sexual harassment) at work?*

The Occupational Health and Safety Act (OHSA) was instituted in 1994 in South Africa. The OHSA lists workers' rights in health and safety in the workplace. While we have extensive Occupational Health and Safety (OHS) regulations for the traditionally high risk industries, there continues to be very little focus on addressing the specific needs of working women. Call centre workers for example, the majority of whom are women, speak of the psychological stress of dealing with abusive customers. Health care workers report high levels of anxiety and depression as a result of feeling constantly under threat from patients. Young women in the hospitality sector are particularly vulnerable to unwanted sexual attention and sexual harassment. Domestic workers are particularly vulnerable to abuse as they are relatively isolated in the households where they work and find it hard to report abuse and are seldom able to call on witnesses.

- *on women's rights to organize and claim rights?*

Informal workers are organised, sometime very locally but increasingly across cities and nationally, eg SA Domestic Service and Allied workers union (SADSAWU). The difficulties of organising informal economy workers, including engaging in traditional social dialogue and collective bargaining, where employment relationships are unclear remains a challenge. Women in the informal economy might also see trade unions as dominated by men who are not prepared to engage with women workers or who are too preoccupied with the formal workforce.

In South Africa there is a national political commitment to combat discrimination and promote equal treatment and opportunities at the workplace. Chapter 2 of the Employment Equity Act states that "no person may unfairly discriminate, directly or indirectly, against an employee, in any employment policy or practice, on one or more grounds, including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language, birth or on any other arbitrary ground" (Republic of South Africa, 1998). With the amendments to the Employment Equity Amendment Act (EE Act) coming into effect in 2014 the Commission for Conciliation, Mediation and Arbitration (CCMA) is now able to arbitrate in discrimination cases, replacing the more expensive Labour Court route. Soon after the amendments came into effect the CCMA director reported that in 2015 the number of discrimination cases being reported to the CCMA had doubled as compared to the previous year, and in most of the cases employees had won. Yet the percentage of discrimination cases being taken to

the CCMA remains very low as many cases continue to go unreported because employees fear victimisation and potential loss of employment.

What are the promising practices emerging from your country to ensure the realization of women's rights to work and women's rights at work, in the context of technological and demographic change, as well as continuing globalization and the shift towards sustainability? (laws; economic, labour market and social policies; programmes).

Internationally the South African Government has shown its commitment to achieving full gender equality by being part of the African countries who have adopted the African Union's Agenda 2063 and it is a signatory to the UN framework for Sustainable Development Goals (SDGs). Both frameworks commit to the achievement of full gender equality. As a signatory South Africa is obliged to implement appropriate programmes and interventions to achieve gender equality. The National Development Plan (NDP) finalised in 2012 serves as South Africa's vehicle for achieving the SDGs and identifies the active participation and empowerment of women as important in the transformation of the economy. The NDP makes the following recommendations:

- Public employment should have a specific focus on unemployed women
- The transformation of the economy should involve the active participation of women and the empowerment of women
- There should be support for women's leadership in all sectors of society
- Measures should be implemented for women to have access to basic services
- Women should have no fear of crime and should be protected by the law
- There should be nutrition intervention for pregnant women
- Women should have access to anti-retroviral treatment and effective routine micro-biocides

In South Africa the Domestic Workers' Act sets out minimum wages for domestic workers and specifies working conditions such as hours of work, overtime pay, salary increases, deductions, annual and sick leave. The Report on the Status of Women in the South African Economy estimates the number of domestic workers at 1 million and as the largest employment sector for black women (Republic of South Africa, 2015). In South Africa we have also been at the forefront of ensuring that domestic workers are covered with most of the core protections required by international standards with the amendment to the Labour Relations Act to accommodate Sectoral Determination 7 (SD7).

The South African Local Economic Development Network (LED) identifies a lack of an appropriate legislative and regulatory framework in the informal economy where local governments treat informal economy participants largely on the basis of by-law formulation and marginalize the informal economy within official economic development. This lack of appropriate legal frameworks exposes women to all manner of abuses, particularly from law enforcement agencies and officials who show little or no concern for the very laws they are supposed to uphold. This is expressed in various ways including police brutality, corruption and double taxation (Njenga and Ng'ambi, 2012). Women in the informal economy also often raise issues of sexual harassment from both government and customs officials, but are unlikely to report the cases of sexual harassment for fear of being further victimised (ibid.).

Access to education, lifelong learning and skills development would go a long way in addressing the relatively low levels of formal education and business literacy among women in the informal economy, and would assist women in challenging the perception that they are a high-risk group for credit, making it difficult to raise capital for their businesses. Many informal economy workers work under very unfavourable conditions with no proper infrastructure. Women in particular often bring their children along to work with them in conditions where there are no proper shelters, or where no proper toilets, water or garbage collection points exist. Addressing these unsafe and unhealthy working conditions is essential for decent work to prevail.

In 2017 Cabinet approved the implementation of a national minimum wage which took effect in May 2018. At the end of a two year transition period the national minimum wage will come into full effect. The transition period makes provision for the ultra-low wage sectors of domestic work and agriculture to be included at lower tiers – 75% and 90% of the national level – for up to two years. In July 2019, these sectors will be included at the national level. Many women workers are sole bread-winners and low wages keep both themselves and their families in poverty. What we will need to continue to assess is whether the present format of the national minimum wage will alleviate the increasing burden women experience in trying to keep themselves and their families out of poverty – this has particular relevance to women working in sectors like domestic work.

South Africa's social protection policies are aimed at reducing vulnerability and assisting women to stabilise incomes in the event of unemployment, employment injury, disability, sickness and maternity, and by ensuring that they have at least a basic level of income security. The Amendments

to the Unemployment Insurance Agency (UIA) signed into effect on 18 January 2017 state that a beneficiary for maternity payment is an employed person who has been employed for at least 13 weeks. Another significant amendment is the shift from a sliding scale to a fixed rate of 66% payment of the earnings of the beneficiary at the date of the application. While these amendments make the UIA compliant with the ILO Maternity Protection Convention 183 (2000), article 16(1) of the 2014 SADC Protocol on Employment and Labour, and the 2007 Code on Social Security in the Southern African Development Community (SADC), there still remains the challenge of providing women with an unrestricted entitlement to maternity benefits (Olivier and Govindjee, 2015).

The UIA introduces a shorter and what appears as a reasonable qualifying period of 13 weeks, but a woman can only claim the maternity payment based on her acquisition of contribution credits i.e. the benefit is based on the number of days of work. There is therefore no minimum period of payment benefits if a woman has not accumulated enough credits, restricting entitlement to the contribution of the individual woman and not as part of a social contribution of all employed men and women. All unemployed women, women working in atypical forms of employment or in situations where employers are not compliant with the UIA remain excluded from any form of maternity protection. For maternity benefits to be an unrestricted right, and the extension of the benefits to unemployed women, continues to be a challenge. When contributory schemes like unemployment insurance or maternity payment are linked to formal employment, women are less likely to benefit from these forms of social protection. Women are over-represented in the low skill, low paid, casual, temporary forms of employment and over represented in sectors like services that tend to be prone to more precarious forms of employment (Statistics South Africa, 2011). As women bear the overwhelming responsibility for unpaid work such as domestic work and care work, their patterns of employment are irregular and they are less likely to be covered by contributory social insurance schemes as compared to men. Employed women on average earn less than employed men resulting in lower levels of benefits. In 2003 South Africa extended unemployment benefits to domestic workers but to date very few employers are in compliance with this legal obligation.

The Child Support Grant of R350 per child reaches over 12 million children with the large majority of the recipients being women living in female headed households. The women receiving the grants are responsible for the food, shelter, clothing, education, health and other aspects of the child's maintenance – all unpaid care work. So while the Child Support Grant provides for the dependent children of people who are unable to support the child, it does not provide for the adults carrying out

this support, the vast majority of whom are women. This leaves the caregiver with no means to support themselves (Beth, 2014). There remains a perception by many that the child support cash transfer is a social protection entitlement that women benefit from, and particularly young women continue to face criticism that they are lazy and misusing the grant, entrenching the perception that care work should be the unpaid responsibility of women. The challenge of recognising care work as equivalent to paid employment and establishing effective and safe care facilities remains a challenge.

Specific questions

- Technology

The debates arguing that jobs are at risk of being replaced or computerized is to a large extent based on studies conducted in Europe and Northern America (Arntz, Gregory and Zierahn, 2016). In this context it's difficult to predict to what extent job losses will be experienced, which makes predictions in the developing world even more precarious. What has come out of our research is that the nature of work in the near future will be 'flexible', and this could have serious implications for the social protection of workers. Women are most vulnerable.

As is widely known, globally the proportion of women using the internet is 12% below that of men. This is particularly severe across Africa (ITU, 2017). South Africa's mobile penetration is better than the continental average, but still behind many countries, including Kenya which has mobile penetration of 83%. South Africa has some of the highest data costs in the world, which has been impeding innovation in the informal sector.

As a case study and because of our involvement with unions in this sector, the LRS looked at retail for the purpose of this research. Retailers are increasingly shaping their models based on convenience and the experience of shopping. Such a decreased reliance on human labour will not only have cost-saving effects, but also avoid the demands of organized labour such as providing workers with adequate social protection. However, services like online shopping and automated stores are generally associated with middle to high-level income groups. When we consider the African context, it is well known that affordability and literacy levels differ to that of the global North.

Automated stores and Big Data mining represent complex systems that operate at very high costs. However, as the cost of automation decreases automation could become more accessible. This is difficult to foresee as automation is further reliant on infrastructure - like good internet connections.

Automation can, therefore, be regarded as a slow process that has to overcome economic, societal and legal hurdles which are often more pronounced in a developing context. Unions are constantly faced with employers whose main objective is to terminate all permanent contracts that provide employees with any form of social security.

Our research shows that the future of work is context driven and that some have argued that the extent of automation is often exaggerated. It is, however, anticipated that routine or predictable tasks are more susceptible to displacement than non-routine tasks. Women are often in these kinds of positions. Such predictions place a sector such as retail at a higher risk than an industry such as Information Technology (IT). It is predicted that while the jobs themselves may not entirely vanish, the jobs will be 'redefined'. If a job radically changes, a worker may indeed not have the new skillset.