Women's frequently asked labour rights questions: Inventory of frequently asked questions regarding women's labour rights in Egypt, Guatemala, India, Indonesia, Kenya, Mozambique, Pakistan, Paraguay, Peru, South Africa, Tanzania and Uganda

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Citation for published version (APA):

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Women’s Frequently Asked Labour Rights Questions

Inventory of frequently asked questions regarding women’s labour rights in Egypt, Guatemala, India, Indonesia, Kenya, Mozambique, Pakistan, Paraguay, Peru, South Africa, Tanzania and Uganda

Janna Besamusca and Kea Tijdens
Acknowledgements

We thank all who contributed to this report, which are in the first place all project partners who contributed by sharing their experiences through interviews. In particular we thank Chidi King and Maria Tsirantonaki from the International Trade Union Confederation, as well as Irene van Beveren, Paulien Osse and Tendayi Matimba from the WageIndicator Foundation for their comments on previous drafts.

The authors are grateful for the financial support from the FLOW programme of the Ministry of Foreign Affairs in the Netherlands (nr 23643).

September 2015
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Bibliographical information


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ISSN online: 2213-4980
ISSN print: 1570-3185
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1. Introduction

From 2012 to 2016, the International Trade Union Confederation (ITUC), the WageIndicator Foundation and the Amsterdam Institute for Advanced Labour Studies (AIAS) are running the Labour Rights for Women project with national trade union confederations and WageIndicator teams in twelve developing countries in Africa, Latin America and Asia. Six African countries participate in the Labour Rights for Women project (Egypt, Kenya, Mozambique, South Africa, Tanzania and Uganda), three Asian countries (India, Indonesia and Pakistan) and three Latin American nations (Guatemala, Paraguay and Peru).

Labour Rights for Women is one of the female leadership (FLOW) projects of the Dutch Ministry of Foreign Affairs and aims to empower women workers by raising awareness of labour rights, empowering women to improve their own work situation and improve legislation. In this context, the Amsterdam Institute for Advanced Labour Studies publishes five overview reports covering the ratification of relevant ILO conventions by the countries in the project, national legislation important to women workers, legislative lacunae in the respective countries, gender clauses in collective bargaining agreements and an inventory of the questions that women workers bring up themselves. This is the fifth of those reports.

In this report, we present an overview of the information provided to workers in the project countries and the extent to which they make use of it. The first way in which women can get answers to their questions is by visiting the information that is provided on the websites, as over 6 million people from these 12 countries did in the last year. We firstly describe the information that is provided for free through the WageIndicator websites. We then analyse the relative frequency at which the different topics are being consulted by web visitors, by studying the 11 million page views that the websites got between May 2014 and May 2015.

The second way that workers can address the Labour Rights for Women project for answers is through direct contact with the local teams. In the second part of this report, we relate the experiences of local team members, who answer questions sent via email or posed in meetings and work place visits. Together, these two analyses provide a picture of the issues that women workers in the twelve countries deal with and the problems they attempt to solve.
2. The information provided online

2.1. The WageIndicator websites

In each of the twelve project countries, information on labour law is available for free on the WageIndicator websites. Three countries (Kenya, Tanzania and Uganda) have two websites, targeting employees (mywage.org) and employers (africapay.org) respectively. Websites are in the local language, including five English language sites (South Africa, India, Kenya, Pakistan, Uganda), one Arabic (Egypt), three Spanish (Guatemala, Paraguay, Peru), one Bahasa (Indonesia) and one Portuguese (Mozambique) site. In Tanzania, the Mywage.org page can be consulted in two languages, English and Swahili.

The sites allow you to compare your salary to that of peers and look up your collective agreement, but also provide information on a range of labour laws, including minimum wage legislation.

Each site has a section on minimum wages. Next to that, the sites have a structured section on labour laws, providing information in a variety of fields displayed in the picture. Visitors can find information on pay, in some cases including separate public sector wages, compensation in case of over time or night work, and annual leave. The sites also have information on employment contracts, health and safety regulations, sick leave and social security. Finally, several pages are targeted specifically to women, providing information on the gender pay gap, equal treatment, work and family responsibilities and the regulation of the domestic work sector.

2.2. Web visitors

In order to study the extent to which web visitors make use of the available information, we analyse the page views over the last year for the twelve countries. Between May 2014 and 2015, the websites drew between 27,000 (Uganda) and 2.5 million web visitors (Indonesia). People can enter the site through its homepage, but also on any subpage if they entered a direct link or found the site via search engines on their work related question. On average, the web visitors looked at two pages during each visit. Six in ten visitors viewed at least one page related to labour laws or minimum wages.

<table>
<thead>
<tr>
<th>Country</th>
<th>Total visits site</th>
<th>Total Page views (PV) site</th>
</tr>
</thead>
<tbody>
<tr>
<td>South Africa - Mywage.co.za</td>
<td>675,030</td>
<td>1,457,668</td>
</tr>
<tr>
<td>Egypt - Rawateb.org</td>
<td>166,157</td>
<td>292,954</td>
</tr>
<tr>
<td>Guatemala - tusalario.org/guatemala</td>
<td>182,002</td>
<td>319,162</td>
</tr>
<tr>
<td>India - paycheck.in</td>
<td>1,306,038</td>
<td>3,135,723</td>
</tr>
<tr>
<td>Indonesia - gajimu.com</td>
<td>2,557,747</td>
<td>3,608,572</td>
</tr>
<tr>
<td>Kenya - mywage.org/kenya</td>
<td>160,455</td>
<td>317,399</td>
</tr>
<tr>
<td>Kenya - africapay.org/kenya</td>
<td>58,402</td>
<td>117,166</td>
</tr>
<tr>
<td>Mozambique - meusalario.org/mocambique</td>
<td>199,046</td>
<td>483,574</td>
</tr>
<tr>
<td>Pakistan paycheck.pk</td>
<td>136,179</td>
<td>246,582</td>
</tr>
</tbody>
</table>
Guatemala (51%) and India (68%), more than half of the page views are to the pages providing information on pay, leave and employment contracts. Between a third and two fifth of the views concern these issues in South Africa, Kenya, Pakistan, Paraguay, Peru and Tanzania. In Indonesia (24%) and Uganda (18%) views relating to contracts and pay form a relatively small share, with the lowest shares in Mozambique (9%) and Egypt (11%).

Figure 1: Contract and wage consuts as a share of total page views per country

The relative share of page views differs per country, as can be seen in the figure above. In India, the minimum wage page by itself received almost two third of the total visits, totalling nearly two million page views in the year of the study. The minimum wage page also clearly attracts most visits in South Africa, Mozambique, Pakistan, Paraguay and Peru. In Guatemala, the minimum wage page is the most frequently visited, but it is closely followed by the pages on annual leave and overtime pay.

However, in Tanzania and Kenya, the pages on employment security are visited more. In Uganda, the employment security and annual leave pages received about the same number of visits,
whereas in Egypt and Indonesia, employment security, minimum wages and annual leave receive a comparable share of the total page views.

2.2.2. Health and social security
The pages about social security, sick leave and health and safety are frequently visited in Egypt, where they receive 28% of the site’s total page views, Pakistan (19%) and Uganda (12%). In the other countries, the pages regarding these issues receive roughly 5% of the page views, except Guatemala and India, where they form less than 2% of total page views.

The pages on health and safety are least often visited, only receiving more than 1% of total page views in Indonesia, Kenya, Mozambique, Pakistan, Tanzania and Uganda. In absolute terms, however, the health and safety pages are visited at least twice a day in each country, varying from a low of 590 views in Guatemala to 61,234 on Indonesia’s Gajimu.com. The sick leave pages are viewed just slightly more often than the health and safety pages and most frequently so in Egypt (5%), Paraguay (4%) and Uganda (3%). In absolute numbers, the page was visited least often in Paraguay (1388 views) and most in South Africa (35,409 page views), Egypt (16,105) and Indonesia (16,846).

Figure 2: Health and social security consults as a share of total page views per country

Of the three issues, the social security pages are the most often consulted. Across the countries, the page was viewed over 300,000 times in the last year, totalling an average 5% of page views across countries. The social security page forms the largest share of page views in Egypt (22%) and Pakistan (12%). In absolute term, the Egyptian sites with its 63,210 page views is only trumped by Indonesia, where it was visited 124,836 times.

2.2.3. Gender specific topics
Gender related topics, such as equal treatment and maternity leave, were consulted almost as often as the social security, health and safety issues described above. In this section we look at the pages regarding equal treatment, the gender pay gap, family responsibilities, maternity and work
and domestic work. These pages were visited most often in Uganda (16%), Peru (15%), Paraguay (15%) and South Africa (11%). The pages formed between 5% and 10% of the total page views in Egypt, Guatemala, Indonesia, Mozambique, Pakistan and Tanzania. Only in India did the gender related pages get less than 1% of the views.

Of the gender related pages displayed in the figure above, the page on maternity and work was best viewed on average. It was most popular in Peru (11% and 32,589 page views) and Paraguay (9% and 38,304 page views) in both absolute and relative terms. Meanwhile, the pages on family responsibilities were much less visited, with a high of 2% in Egypt. The domestic work page was particularly frequented in South Africa, where it formed 6% of total page views and was consulted 90,549 times.

Figure 3: Gender specific consults as a share of total page views per country

On average the pages on equal treatment, including all non-discrimination legislation, formed 3% of the page views in a country. The pages were viewed at higher frequencies in Pakistan (5%), Mozambique (6%) and Uganda (9%). The page on pay discrimination in particular, popular in many European countries, never formed more than 1% of the page views in any of the 12 developing countries and was visited a total of 20,911 times in total.

3. Direct questions to team members

Next to looking up questions online, female workers have the possibility to address team members directly with their queries. They do so when they cannot find the information online, if they do not have access to internet, to ask for the application of laws to their situation specifically, or when prompted to talk about decent work in trade union meetings and workplace visits. For this report, we interviewed local team members responding to questions from women workers by email and in person. A total of 21 local team members, working for trade unions, employers’ organisations and the WageIndicator websites were asked to participate in an interview. Thirteen responded and answered five questions about their work in semi-structured interviews over skype, email or
messenger chat. The team members were asked to relate their experiences and impressions with regard to the questions they received from women.

3.1. How many women ask questions

The countries differ in the number of questions they receive and, more strikingly, in the extent to which they are asked by women. Particularly remarkable is the low share of women asking questions throughout South Asia. Asked about the kind of questions women pose, one of the South Asia web managers responded “my first impression is that we don’t receive queries from women workers or if we do from a woman, it is never about women issues.” Both the Indian and Pakistani respondents noted that women formed only a minimal share of the online questions, whereas in Indonesia some success was achieved by changing the website to include more pictures featuring women. Even there, however, the share of women did not exceed 20%. One Indonesian team member explained that young women in particular, were hard to get into a conversation. Whereas the older women would bring up questions in meetings, the younger women workers would only speak if encouraged to do so by direct queries from the chairperson or in very small meetings of around three to five people. In trainings and larger meetings, these young women would attend, but refrain from participating in the discussion or posing questions.

Women asked more questions than men in the Latin American countries and Kenya, but remained a minority at about one third of the questions. This is in strong contrast to the African project countries, where women were reported to be represented to at least an equal extent, and actually asked more than men in South Africa and Tanzania. In Uganda, the team members reported that women have found their way to the website, forming the majority of online questions, but still being outnumbered by men in the meetings.

3.2. What women want

Women pose questions about their basic working conditions as well as more specifically about women’s issues. Queries about wages and other aspects of pay, such as overtime and allowances, are among the most frequently asked questions in all the countries, except India and Pakistan. Maternity related issues were prominent in many countries, with issues around discrimination and sexual violence coming up frequently too.

More rarely asked questions included queries about job searches, employer queries and social security. In South Africa, numerous women contact the website asking what a fair wage for their domestic worker would be. In all of the African countries, team members report that women also contact them asking to be matched to jobs, or the find a better job than the one they are in. In Pakistan, the few questions that were sent in by women were in majority by women out of employment and focused either on severance pay, getting a job or inheritance rights. Questions received in India were either from women who were not being granted their rights to paid maternity leave, or female employers enquiring after the applicable minimum wage.

3.2.1. Questions regarding pay and decent work
First and foremost, women workers addressed the team members with questions surrounding all forms of pay and decent work. These questions relate to their basic rate of pay, hours, over-
time, shifts, allowances, etc. Women ask about their basic working conditions, both in terms of the minimum levels as well as inquiring whether their situation is compliant with the law. As one team member from South Africa phrased it:

“Wages are a theme for women. Are they being paid enough for the work that they do? What about things like public holidays and weekend work? So wages, definitely is a category. Another category, I would say, is revolving around fairness and holidays. How much leave am I allowed to take? And along with all of this are often things, that people are saying, my boss won’t let me take unpaid leave, for example. Or, my boss says I’m only allowed to take two days leave a year; or, my boss won’t give me leave at all. A lot of the questions, across the board, for all these different categories relate to what I would call unfairness at work – that people feel that they have been badly treated at work and what can they do.”

Some questions focused mainly on the basic pay rate, or hourly wage. In Uganda, where no legal minimum wage exists, most of the questions from women regarded the low hourly pay. As one respondent explained it, “wages are very low in general and women work in the lowest paid jobs”. Ugandan women also reported men in the same workplace earn more for doing the same job, asking if this is legal.

Two team members in Indonesia report that women do not ask questions about their basic wage quite as often as men, but do instead report discrimination in allowances and violations of overtime pay. They report that women in the garment industry often work unpaid overtime, as targets are set too high to achieve within regular hours and no overtime is paid until targets are reached. In Tanzania, women also asked about the social security funds and severance pay. One of the respondents reported, similar to the Indonesian case, that women compared to men, more often asked questions about benefits and allowances than about hourly wage rates.

In some cases, the team members were also confronted with discriminatory practices in allowances. As one member from Indonesia tells: “In one case, there was a different housing allowance for men, women and widows. Men get about $2 housing allowance, widows get $1.5 and women get $1.” In Tanzania, women also reported receiving lower allowances. A common case relates to transport allowances during annual leave, which men receive for themselves and their families, whereas women get it only for themselves and their children.

3.2.2. Questions regarding maternity

In all countries, women also came to team members with questions regarding maternity. In some countries, like the three Latin American countries, these were the most frequently asked questions. In other countries, however, women were more reluctant to bring up gender related issues. Indonesian women did also ask about specific women’s issues, but only when prompted to do so in meetings about maternity and women’s issues. In these cases, they brought up three main issues. Firstly, menstruation leave. Indonesian women have the right to menstruation leave. In practice, however, many women report being actively discouraged from seeking the leave through requirements like handing over a doctor’s note every month to get the days off. Secondly, female workers report not being granted nursing breaks and lacking breastfeeding facilities at work. Thirdly, one of the team members reported complaints by women who suffered miscarriages after the sixth
month, but were unable to get the full maternity leave period, as required under the law. Asked why she thought women did not bring up maternity issues unprompted, one team member speculated:

“I think they see employment status, working hours and wages as the most important thing. They tend to forget their maternity rights, like menstruation leave, they tend to ignore it, they tend to think like, OK, it’s not that big a deal.”

While the questions posed by women do not differ much from those asked by men in South Asia, some of the most frequently asked questions in Latin America concern issues of maternity and work-family life. Two team members who worked in several Latin American countries reported seeing that when women were a majority of the participants in a meeting, they would push for discussions about maternity leave, breastfeeding and day care. First and foremost, Latin American women too, address team members after they were fired, when wages weren’t paid or the minimum wage wasn’t adhered to. However, Guatemalan women also report being fired when they get pregnant, while Peruvian and Paraguayan women mention maternity related rights as the most important after unfair dismissals and wages. The team members received many questions about the right to breastfeeding, relating both to nursing breaks, payment during the breaks, as well as facilities. In Guatemala, women were sometimes unsure whether maternity leave provisions applied to them, especially in the informal sector or if they were the only employee in a local business.

In Kenya, one of the team members said that women, in any meeting, bring up three topics: discrimination, sexual harassment and maternity protection. Women want to know how long they can take maternity leave and what percentage of their pay they should receive. As a South African team member explained, however, maternity leave was an issue that women dealt with when they were already in a job, but that they seldom intended to mention at all during contract negotiations. Women refrained from mentioning maternity with cause, as team members from many countries reported a multitude of forms of pregnancy discrimination. Some companies have said they won’t hire young women who might get pregnant, and one team member even received some reports of pregnancy testing.

Ugandan women were sometimes fired from their informal workplaces when they informed their employer of a pregnancy, and even more often found their job had been taken by someone else when they came back from leave. In South Africa, team members received many questions about the length of maternity leave and the level of pay, as well as complaints from women who had been fired immediately preceding, during or after maternity leave. Some recent legal changes and differences between sectors and companies made South African women in particular often uncertain of their rights. Women also asked about their partners’ right, who generally only have three days of family leave per year, which includes paternity related leave as well as leave for a sick child and in cases of death in the family.

3.2.3. Questions regarding sexual violence

Violence was an issue in many countries, most prominently in the African countries. Women workers were concerned about their own safety, that of their children, but also reported having been victimised. In South Africa, one of the priorities for women negotiating a new contract was
safety, revolving around the issues of transport, childcare and working hours. One team member explained that when women asked questions about hours, it was as often about the times at which they worked as it was about the number of hours. She explained:

“We have got a very, very poor transport system in South Africa. And because of our Apartheid structures, people live far from where they work. So travelling is very expensive and is very unsafe. And if you work shifts, there is almost no public transport; and if there is, it is very unsafe to use it late at night... Take retail workers, they finish at nine or ten o’clock at night sometimes. There is no transport for them. And on a normal day they finish at seven, eight o’clock, which doesn’t sound late, but in the context of no transport and it’s dark, it’s really risky... A second consideration is the child care. Because there is no proper child care facilities, there is no sense of what do I do with my child in the evening and in the weekend. So there is a lot of anxiety about, where are my children when I’m here. You know, I’m not there to see that they’re home, there’s no proper childcare facility that I can send them to that I can afford... In many ways, it’s about safety, because we have high, high rates of violence against children; and particularly of sexual violence. It’s terrible, because for many women, while they are at work, all they are thinking is, where is my child now. You can’t just let them be in street on their own, they can’t travel by themselves.

In the African countries, team members reported receiving many queries from women who had been victims of sexual violence. In South Africa in particular, team members receive many questions from women who have experienced sexual violence at work, asking what they can do about it. Both these cases and those of domestic workers, were also regularly reported by friends and family of the victim, searching for ways to assist. The team member running the website reported receiving many emails asking for help, whereas the trade unions created safe spaces in meetings in order for women to report sexual violence.

However, a team member from Kenya explained many women had been threatened with dismissal if they reported the harassment, whereas a team member from Tanzania said it was often difficult to help the victims because they refused to name the perpetrator or give incriminating details that may lead to their own identity being discovered. The team member, frustrated by the difficulties in helping victims noted “the women report the crime, hoping we will launch an independent investigation while they keep their job. But no-one can do much without the victim’s help. We don’t have enough information”.

3.3. Challenges to addressing women’s issues

In general, local team members report being able to address the questions brought to them in meetings, workplace visits and via the websites. Most issues that women workers report are clearly illegal under the law and procedures and institutions exist to remedy the situation.

The questions were also used in a more collective effort. Team members mentioned that they had used the Labour Rights for Women project to collect women’s issues and insert them into collective bargaining negotiations. They work to put the women’s issues on the bargaining agenda, which were previously brushed away in favour of wage demands. The, often male, negotiators were invited to meetings and workplace visits, where the project members worked with them to prioritise the issues women brought up.
3.3.1. Fear of asserting one’s rights
In more specific cases, however, hurdles do exist. Many women were afraid to lose their jobs if they pressed for their rights too hard. In some cases, amongst others in the agricultural sector in Guatemala, activists were threatened and intimidated, while most people contacting the team members were primarily worried for loss of income if they were to clash with their employers over labour rights issues. One respondent from South Africa talked about what women ask her:

“When I go to an interview, what can I put on the table as far as my rights go. You know, what is going to make me stand a chance of possibly losing the job if I assert too many of my rights. So there is a lot of uncertainty around, you know, if I do look for work, in how far am I able to assert what I know are my labour rights. There is a lot of nervousness around in how far should I show that I know this, because it could jeopardise my chances”

3.3.2. Substandard employment contracts
One of the issues is related to the lack of proper employment contracts. In some cases, like in South Africa, team members sometimes find that women signed contracts giving them lower standards than provided according to national legislation or policy. These kind of contracts get both women workers and the team members in murky waters, as they start trying to figure out for each case whether the national standard or the individual contract takes precedence.

Even larger problems are encountered in the informal sector. Team members from Latin America report often having problems solving women’s issues, because so many women work in the informal sector without a written contract. While legislation and social security, like maternity leave, in principle apply to employers in the informal sector too, informal workers are often unable to prove having been employed by a firm. One team member described the situation as following:

“When they don’t have any contract, I mean when they work like in the informal sector and they don’t even have a contract, then some of them come and they say, I asked my employer for maternity leave and he said, you cannot force me because you are not even employed by me.”

The team advises women to always ensure they have a contract and try to help prove the existence of an employment relationship, for example by showing that wages were paid on a regular basis. However, in cases where no written contract was ever signed and wages are paid in cash, rather than bank transfer or by cheque, the women lack proof of an existing employment relationship. When they cannot prove they were ever employed, they both loose the right to maternity leave and the opportunity to challenge their employer in court. The team members also report the situation affects their ability to organise the workers. One team member said, “If there is a change in the law, they just don’t care, because they know that it doesn’t apply to them, so it’s hard to organise anything.”

3.3.3. Reaching employers in noncompliance
One problem encountered by the local teams was the enforcement of compliance, mostly with the law and sometimes with collective agreements signed by the company itself. One South Asian team reported that the implementation of agreements was sometimes lacking. In one large bank, the trade union and central management negotiated the provision of facilities for nursing breaks in all branches. Later check-ups, however, revealed that only a few branches had implemented the
outcomes of the company's collective bargaining agreement and most women still did not have access to breastfeeding facilities.

African team members sometimes encounter issues of bargaining coverage. Most complaints they receive are addressed through interpersonal relations between employers and unions or firms and employers organisations, to avoid entering the lengthy formal arbitration procedures. Trade union organisers bring issues to management and the employers’ organisation can sometimes reason with firms who are in noncompliance with the law. One African team member from an employers’ organisation said:

“We tell the employer what are the legal implications of violations of the law. We say, if you are caught on the wrong side of the law, it will be costly for you. Or we tell them, you pay below market rates and you risk losing your employees to a competitor.”

These interpersonal relations appeared to be the most effective way of settling disputes. Contact was directly with management of the noncompliant firm and the team members could arrange meetings on short notice, looking for quick solutions. However, these networks could only offer solutions if the noncompliant firms were part of them, or at least cooperated with them, for example if they are associated to the employers’ organisation or if the shop is unionised. One of the team members explained, “sometimes we come to the point that the employer is not a member of an employers’ association and the workplace has no relations with the trade union. In those cases, we cannot do much.”

Effectively, in these cases, the team members have to rely on formal complaint procedures, which are both lengthy and often not responsive to complaints by individual workers. In some cases, complaints would only be admitted if signed by at least twenty employees from the same firm and the responsible agencies often took months to even initiate mediation processes. The only exception to this issue is South Africa, where the Commission for Conciliation, Mediation and Arbitration (CCMA) offers a direct route for individual workers to file work-related complaints. Team members attempt to help the workers directly, either by providing legal information or addressing management in the context of the trade union, but do refer workers to the CCMA if no resolution is found bilaterally. The CCMA then, after receiving the complaint from the worker and reviewing the case, arranges a meeting in which it mediates and proposes a legal solution.
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