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Besamusca, J.; Tijdens, K.

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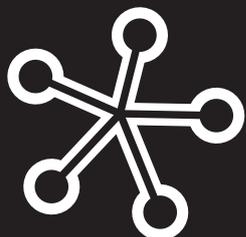


Amsterdam Institute for
Advanced labour Studies

A Labour Rights for Women working paper

Women's Labour Rights in Collective Bargaining Agreements

Janna Besamusca, Kea Tijdens



Working Paper 155

November 2014

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University of Amsterdam

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General contact: aias@uva.nl

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Women's Labour Rights in Collective Bargaining Agreements

**Inventory of women's labour rights clauses
in collective bargaining agreements in
Guatemala, Indonesia, Kenya, Mozambique,
Peru, South Africa, Tanzania and Uganda**

Janna Besamusca
AIAS, University of Amsterdam

Kea Tijdens
AIAS, University of Amsterdam

Labour Rights for Women working paper

WP 155

Table of contents

ABSTRACT	7
1 INTRODUCTION	9
2 DATA AND METHODOLOGY	11
2.1 The Collective Bargaining Agreements Database	11
2.2 Using the online CBA comparison tool.....	12
3 GENERAL INFORMATION ON THE COLLECTIVE AGREEMENTS AND COUNTRIES	15
4 PAY	17
4.1 Wages and pay scales.....	17
4.2 Premiums and allowances	18
4.3 Social security.....	19
5 HOURS AND LEAVE	21
6 MATERNITY	23
AIAS WORKING PAPERS	25

Abstract

This report, written for the Labour Rights for Women project examines the extent to which Collective Bargaining Agreements contributes to the empowerment of women in work. The new and innovative WageIndicator Collective Bargaining Agreements Database is used to compare 186 collective bargaining agreements in Guatemala, Indonesia, Kenya, Mozambique, Peru, South Africa, Tanzania and Uganda in terms of pay, working hours and work-family clauses. Almost all agreements have clauses regarding wages, but only 26 out of 186 have detailed pay scales showing what workers in different occupations should earn. Up to 84% contain clauses on standard working hours, schedules and holidays. Just over six in ten agreements guarantee paid maternity leave and offer job security after maternity leave.

On average, the agreements offer better working conditions than the legal requirements in every country. Only one of the collective agreements has set working hours that are longer than the legal standard, four in ten agreements copy the legal standard exactly, whereas nearly six in ten offer shorter hours. Two agreements offer shorter annual leaves than the statutory entitlement, three in ten agreements follow the law and all others offer longer leaves. However, the collective agreements do not always offer more maternity leave than the law. While three in four agreements copy the law, 17% offer less than the legal standard. In Mozambique, South Africa and Uganda, collective agreements sometimes offer only the compulsory leave, meaning the duration of weeks that it is legally forbidden for the mother to work, rather than the standard provisions for paid maternity leave.

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. Labour Rights for Women is one of the female leadership (FLOW) projects of the Dutch Ministry of Foreign Affairs and aims to empower female workers by raising awareness of labour rights, empowering women to improve their own work situation and improve legislation.

Next to national and international legislation, an important avenue for the achievement of gender equality and improving working conditions is through collective bargaining. Together, social partners can make decisions that will facilitate the integration, participation and emancipation of women in the workplace. In order to address the large knowledge gap with regard to the content of collective agreements, this report is dedicated to an inventory of women's labour rights in collective bargaining agreements closed between employers and trade unions in Guatemala, Indonesia, Kenya, Mozambique, Peru, South Africa, Tanzania and Uganda.

The data presented here are an outcome of an ambitious and innovative project aiming to make the contents of collective agreements accessible to a large public through web-based data collection and distribution. The report contains both an introduction to the Collective Bargaining Agreements Database, with information on how to use it yourself, as well as analysis of the agreements that have been collected for the countries in the Labour Rights for Women project.

2 Data and methodology

2.1 The Collective Bargaining Agreements Database

For this report, we use the Collective Bargaining Agreements Database of the WageIndicator Foundation. The Collective Bargaining Agreements (CBA) Database aims to publish full text and coded information about Collective Agreements on the national WageIndicator web pages. The collecting of these collective agreements was made possible as a part of several Development Cooperation projects, including the Labour Rights for Women project which is funded through the female leadership (FLOW) projects of the Dutch Ministry of Foreign Affairs, DecentWage Africa, Living Wages East Africa and Decent Wages Latin America.

The first agreements were entered in the database by the end of 2013. By September 2014, 299 agreements from 23 countries had been entered and were published on the national websites.¹ The full text CBAs are published in their original language and not translated. The text is coded for approximately 700 variables, clustered in several topics.

The data collection about Collective Agreements occurs in several steps. First, in a country an agreement is reached between the WageIndicator Foundation and one or more social partners to collect CBAs and to publish them on the national WageIndicator website. Social partners express a great interest in publishing, because it is an effective and cheap mean of communicating the results of their bargaining efforts to their constituency and to a wider audience. These partners send their Collective Agreements to the WageIndicator team, that is responsible for coding and publishing the Collective Agreements. Where needed, they convert PDF or GIF files into text files, upload these texts in COBRA, annotate and code them. To facilitate the coding, COBRA uses both country-specific and not-country-specific auxiliary lists. Based on the working days per year, the paid leaves and the wage amounts, COBRA computes hourly wages for the main or lowest wage groups. Finally, the web-pages with Collective Agreement texts are generated and published in the national websites of WageIndicator. The Collective Bargaining Agreement Database is free to use. The online tool contains the full collective agreements' texts, which can be found by name or

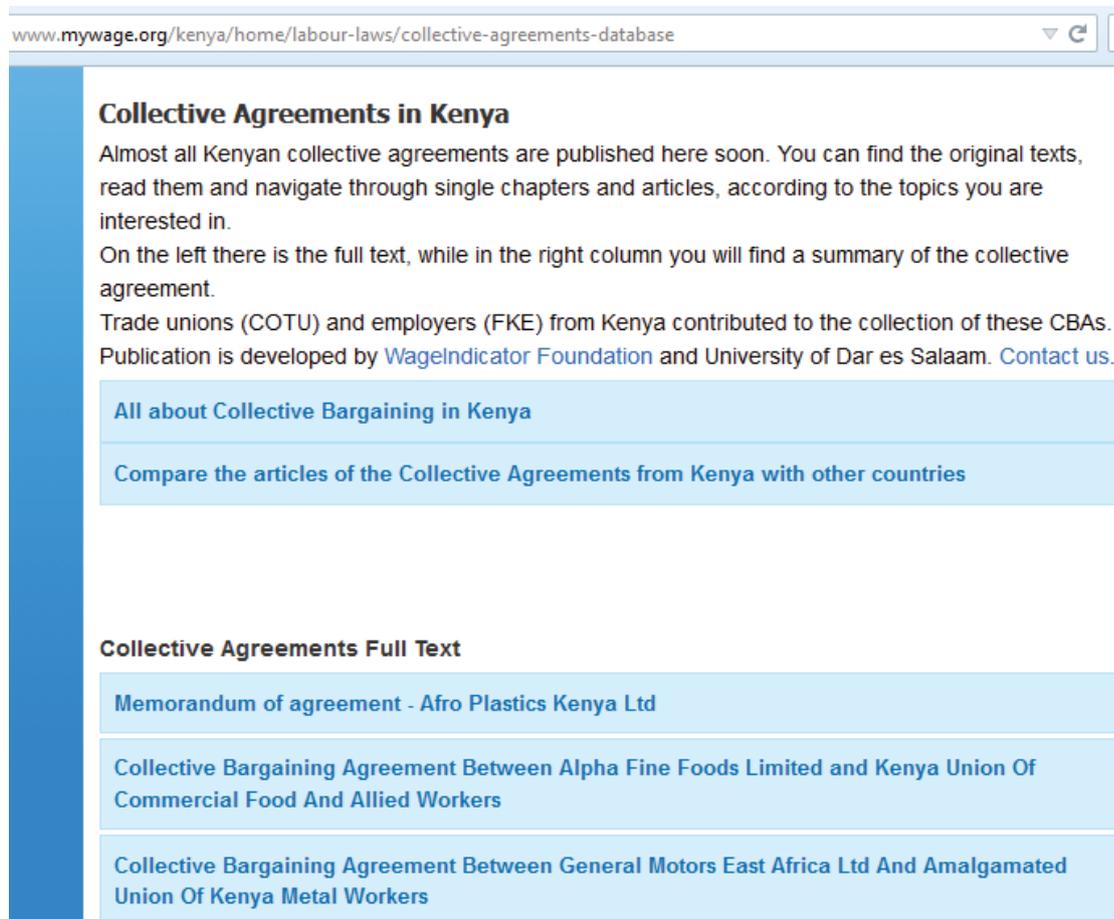
1 Benin, Brazil, Burundi, Cambodia, Colombia, El Salvador, Ethiopia, Ghana, Guatemala, Guinea, Honduras, Indonesia, Kenya, Madagascar, Mozambique, Niger, Peru, Rwanda, Senegal, South Africa, Tanzania, Togo, Uganda

characteristics of the agreements.

2.2 Using the online CBA comparison tool

The Collective Bargaining Agreement Database enables visitors to read the original texts of collective agreements and to compare clauses at national and cross-country levels. It can be accessed through its own homepage <http://www.wageindicator.org/main/labour-laws/collective-bargaining-agreements> or through the national WageIndicator websites.

When accessing the site of one country, like in the Kenyan example below, the visitor gets access to information about collective bargaining in the country, the full texts of all the agreements that have been coded and to the online comparison tool.

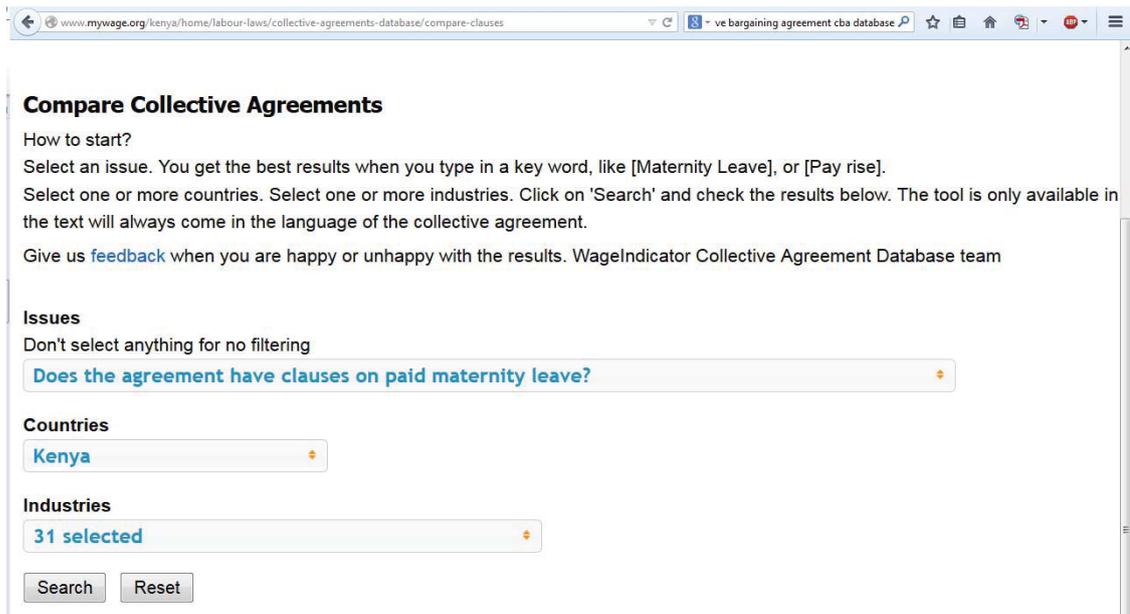


The screenshot shows a web browser window with the URL www.mywage.org/kenya/home/labour-laws/collective-agreements-database. The page content includes:

- Collective Agreements in Kenya**
 - Almost all Kenyan collective agreements are published here soon. You can find the original texts, read them and navigate through single chapters and articles, according to the topics you are interested in.
 - On the left there is the full text, while in the right column you will find a summary of the collective agreement.
 - Trade unions (COTU) and employers (FKE) from Kenya contributed to the collection of these CBAs. Publication is developed by [WageIndicator Foundation](#) and University of Dar es Salaam. [Contact us.](#)
- Two navigation buttons:
 - All about Collective Bargaining in Kenya
 - Compare the articles of the Collective Agreements from Kenya with other countries
- Collective Agreements Full Text**
 - Memorandum of agreement - Afro Plastics Kenya Ltd
 - Collective Bargaining Agreement Between Alpha Fine Foods Limited and Kenya Union Of Commercial Food And Allied Workers
 - Collective Bargaining Agreement Between General Motors East Africa Ltd And Amalgamated Union Of Kenya Metal Workers

In the data-entry process, selected clauses in the collective agreements are highlighted. This feature allows web visitors to compare clauses across collective agreements, within and across countries. The webpage ‘Compare Collective Agreements’ allows visitors to select a key word, select one or more countries, and select one or more industries. The text is shown in the original language of the collective agreement.

In the numerical online comparison tool, users can choose which collective bargaining agreements they would like to compare. Selections are possible on the basis of issues, countries and industries. The content is coded according to eight topics, namely 1) wages, 2) working hours, schedules, paid leaves and paid holidays, 3) employment contracts, 4) work and family arrangements, 5) arrangements concerning health and medical assistance, 6) sickness and disability arrangements, 7) social security and pensions, and 8) training. Users can choose to compare a variety of issues in different CBAs in their own country/industry or in several countries/industries.



3 General information on the collective agreements and countries

In this report, we analyse the women's labour rights clauses in a total of 186 collective bargaining agreements in eight Labour Rights for Women countries: Guatemala, Indonesia, Kenya, Mozambique, Peru, South Africa, Tanzania and Uganda.

Table 1. Number of CBAs per countries

Guatemala	8
Indonesia	40
Kenya	56
Mozambique	9
Peru	35
South Africa	3
Uganda	16
Tanzania	19
Total	186

Of the 186 CBAs, 15 cover the public sector. The collective agreements cover activities in eighteen different sectors, shown in table 2, including agriculture, manufacturing, transport, logistics and communication, hospitality, catering and tourism. All agreements have been signed by at least one trade union and employer, 18 are signed by at least one employers' association, whereas ten are additionally signed by a professional association. A total of fifteen agreements have been declared binding for employers who did not sign the agreement. These cases include collective agreements in Guatemala, Indonesia, Kenya, Mozambique, South Africa, Tanzania and Uganda.

Table 2. Number of collective agreements per sector

Agriculture, forestry, fishing	15
Extraction, mining, quarrying	11
Manufacturing	59
Waste treatment, sanitation, supply of electricity, gas and water	5
Construction, technical consultancy	8
Retail trade	7
Hospitality, catering, tourism	16
Transport, logistics, communication	20
Financial services, banking, insurance	1
Public administration, police, interest groups	5
Education, research	2
Healthcare, caring services, social work, personal services	5
Security, cleaning, homework	1
Publishing, printing, media	4
Trade, fuelling and repair of motor vehicles	2
ICT services	4
Entertainment, culture, sports	2
Other	9
Total	176

All except five agreements have clauses on wages. Just over half (54%) of the collective bargaining agreements include job descriptions or refer to a system of job descriptions. Most of the occupations that are defined in the collective agreements are manual and administrative jobs, like attendants, cleaners, clerks and drivers.

4 Pay

4.1 Wages and pay scales

The most basic form of pay is through wages. Countries often set minimum wages, but above that floor the wage setting is usually left to individual employers and workers or to the social partners. As such, collective bargaining can be an important instrument in ensuring decent wages. We find that almost all collective bargaining agreements (97%) indeed have a clause regarding wages, however, up to 40% of them do not specify the level on which wages are determined. Only 14% of the agreements include pay scales that prescribe wages for different occupations in the company. These pay scales are only found in Indonesia, Kenya, Uganda and Tanzania. Some 36% of collective agreements set wages on the basis of occupations, job titles or skill levels. This happens regularly in Indonesia and Kenya, but was not the case in the Guatemalan, Peruvian and South African collective agreements that were studied for this report. Nearly one in five agreements have a clause specifying the lowest wage to be paid.

Table 3. Clauses on wages and pay rises

	Guatemala	Indonesia	Kenya	Mozambique	Peru	South Africa	Uganda	Tanzania	Total
Wage clause	8	40	56	8	34	3	15	17	181
Pay scales	0	19	2	0	0	0	4	1	26
Skill levels	0	18	38	1	0	0	4	3	64
Cost of living pay rise	0	19	1	1	1	1	4	1	28
Structural pay rise	7	12	50	1	30	1	4	3	108
Once-only pay rise	0	7	0	1	2	0	0	2	12
Total CBAs in country	8	40	56	9	35	3	16	19	186

Collective agreements may also include provisions on pay rises, which could occur at regular intervals, once only or when living costs in the country increase. Some 16% of CBAs include an automatic adjustment to compensate for rising cost of living. Half of the Indonesian agreements and a quarter of the Ugandan agreements have such clauses. Six in ten collective agreements include a structural wage increase, which is most common in Kenya and Peru. Seven per cent of the collective agreements include a once-only increase, which we found only in Indonesia, Mozambique and Peru. In three out of eight cases, these increases are regulated as a percentage of basic wage, whereas five contain agreed increases in money amounts. Only in 3% of the cases is the increase of wage is linked to performance of the company.

4.2 Premiums and allowances

It is possible for laws to exist or for bargaining partners to agree on situations in which workers are entitled to a higher pay (premiums and bonuses) or to reimbursement of some costs (allowances). One in three agreements prescribe that overtime hours should be paid at a premium rate, defined as a percentage of the basic wage. Half of the collective agreements (48%) pay a premium for work on Sunday, which is calculated as a percentage of the basic wage. Four in ten agreements include an extra payment for the paid annual leave, which in almost 90% of the cases is defined as a money amount. Seven per cent of the collective agreements foresee premium pay for on-call work (40% as an amount, 60% as percentage), 4% have a premium on hardship work (20% as an amount, 80% as percentage). Three in ten collective bargaining agreements have an agreed premium pay for night work, which is calculated as a money amount in 70% of the cases and as a percentage in three in ten cases. In Indonesia and Kenya all of these premiums are relatively common, whereas in Uganda and South Africa they are rare.

Table 4 Clauses on premiums and allowances in CBAs

	Guatemala	Indonesia	Kenya	Mozambique	Peru	South Africa	Uganda	Tanzania	Total
Night work	0	13	19	4	12	1	1	4	54
On-call work	0	5	1	0	0	1	2	3	12
Annual leave	6	6	46	1	1	0	3	12	75
Overtime	3	34	55	2	8	1	3	10	116
Hardship work	1	2	2	0	0	0	1	1	7
Work on Sunday	1	27	46	2	2	0	0	5	83
Commuting allowance	1	20	15	4	4	1	4	9	58
Seniority	0	9	3	2	3	1	2	8	28
Meal allowance	0	15	22	0	3	0	2	5	47
Total CBAs in country	8	40	56	9	35	3	16	19	186

One in three collective bargaining agreements compensate employees for commuting by granting a transport allowance, which in 85% of the cases is a money amount. More than a quarter of all agreements grant employees the right to meal allowances, which in 36% of these cases is awarded through meal vouchers. In 66% of the cases the meal allowance applies to all employees, whereas in 34% it is reserved to some employees. Seniority allowances are included in 16% of the CBAs, which in seven out of ten cases are a money amount and for which between one and sixteen years of service are required.

Up to 89% of the collective bargaining agreements contain clauses regarding employees' health; six in ten outline a health and safety policy, whereas two in three include clauses on access to medical assistance for sick employees. Four in ten agreements oblige employers to contribute to the health insurance of employees and two in ten provide access to health care for employees' families.

Half of the collective bargaining agreements entitle employees to sickness pay for a defined period of time, which varies from one day to one year. In one in three CBAs, sickness pay is paid at the same level as regular wages, whereas two in three foresee a reduced level of pay. Just over half of the agreements guarantee that employees get paid in case of disability due to work. Eight in ten provide funeral assistance or related benefits for employees or their relatives.

4.3 Social security

The final form of payment is social security, which can be seen as a form of delayed payment. Employers and employees pay into social security funds, which guarantee the workers' income after retirement, in case of unemployment or disability. Over two thirds of the collective agreements include clauses on social security, half of them include employer contributions to employees' pension funds, two in ten prescribe employer contributions to a disability fund and only two of the 186 agreements include payments into an unemployment fund. As table 5 shows, there are large differences between countries. All Indonesian collective agreements have at least one social security clause and almost all of them foresee employer contributions into pension and disability funds. On the other hand, the South African social security clauses remained on such a general level, that they have not established any of the three contribution schemes. Employer contributions to pension funds are relatively common in Guatemala, Indonesia, Kenya and Tanzania. Disability funds are only common in Indonesia and are occasionally found in Kenya, Mozambique, Peru and Tanzania. Only in Indonesia and Uganda do we encounter any collective agreement that includes a clause on employer contributions into an unemployment fund.

Table 5. Social security clauses in CBAs

	Social security clause	Pension fund	Disability fund	Unemployment fund	Total CBAs in country
Guatemala	6	5	0	0	8
Indonesia	40	38	34	1	40
Kenya	38	35	1	0	56
Mozambique	4	3	1	0	9
Peru	10	2	2	0	35
South Africa	3	0	0	0	3
Uganda	8	2	0	1	16
Tanzania	17	8	1	0	19
Total (clauses)	126	93	39	2	186

Nearly eight in ten collective agreements contain clauses regarding the start and termination of contracts. Six in ten agreements specify a trial period, which can vary from one week to a year. Two in three collective bargaining agreements have agreed severance pay when an employer ends an employment contract, which is almost always related to the years of service. Almost half of the agreements contain clauses on training and one in three refer to a training programme for employees, while only 14% of the agreements detail employer contributions to training funds. Less than 2% of the collective bargaining agreements contain clauses on traineeships.

5 Hours and leave

An important issue in collective agreements are the clauses regarding working time and time off. Of all the collective bargaining agreements in the sample, 84% contain clauses on standard working hours, schedules and holidays. Four in ten have agreed working hours per day, six in ten have agreed hours and days per week and only 2% have agreed monthly working hours. As table 6 shows, average working days vary from 7.6 hours in Indonesia to 8.7 in Peru, Uganda and Tanzania. Average weekly working hours are highest in Uganda, whereas a forty hour average working week exists in Guatemala, Indonesia, Mozambique and Peru. Only 7% of the CBAs studied for this report have set a maximum on the number of hours of overtime that are allowed.

On average, the agreements offer better working conditions than the legal requirements in every country. Average agreed working hours are shorter than the maximum allowed hours and the weeks of annual leaves in the collective agreements are equal to or higher than the statutory entitlement. Only one of the 113 collective agreements that sets standard working hours has set working hours that are longer than the legal standard, four in ten agreements copy the legal standard exactly, whereas nearly six in ten offer shorter hours.

Table 6. Average agreed hours

	Average agreed working hours per day	Average agreed working hours per week <i>(maximum working hours law)</i>	Average agreed days of annual leave	Average agreed weeks of annual leave <i>(statutory annual leave)</i>
Guatemala	8.00	40 (48)	21	4 (3)
Indonesia	7.64	40 (40)	12	2 (2)
Kenya	8.33	45 (52)	25	4 (3)
Mozambique	8.33	40 (48)	-	- (4)
Peru	8.67	40 (48)	25	4 (4)
South Africa	-	- (48)	18	3 (3)
Uganda	8.67	50 (45)	25	4 (3)
Tanzania	8.67	44 (48)	38	6 (4)
Total	8.02	43	22	4

* Only collective agreements that have agreed working hours are included in the calculations of the averages (n=75-122)

** Legal standards between brackets in orange

Six in ten agreements have clauses on schedules and rest periods. If a collective agreement has such clauses on schedules and rest, they almost always (with only one exception) reserve at least one day per week as the weekly rest period, but rarely indicate which working hours are beyond office hours.

Seven in ten collective agreements grant employees the right to annual leave. Of those agreements that contain annual leave clauses, one in four grant twelve days (two weeks) of annual leave, one in ten guarantee 24 days and another 12% have reserved 28 days (four weeks) of annual leave. Only one collective agreement fixes which days are to be used for annual leave, whereas all others leave it up to individual agreement between the workers and their employers. Two agreements offer shorter annual leaves than the statutory entitlement, three in ten agreements follow the law and all others offer longer leaves.

6 Maternity

Up to 82% of the collective bargaining agreement contain clauses on work and family arrangements of employees. Just over six in ten guarantee female workers to paid maternity leave, six in ten offer job security for women wishing to return to work after maternity leave. Of the agreements that guarantee paid maternity leave, one third restrict the pay to a percentage of the wage, whereas two third offer full pay.

The number of weeks of paid maternity leave that are granted vary from 6 to 16 weeks. Of the agreements that contain entitlements to maternity leave, two thirds guarantee twelve weeks and two in ten grant thirteen weeks paid leave. However, the number of weeks of paid maternity leave fixed in the collective agreements does not always comply with the law. While three in four agreements copy the law, 17% offer less than the legal standard. In Mozambique, South Africa and Uganda, collective agreements sometimes offer only the compulsory leave, meaning the duration of weeks that it is legally forbidden for the mother to work, rather than the standard provisions for paid maternity leave.

Over half of the collective agreements (56%) grant some kind of paid paternity leave, which varies from 1 day to one month. Of the CBAs that guarantee paid paternity leave, three in ten foresee only one day of leave, 16% offer two days and 23% have two weeks of leave.

Three in ten agreements have a clause on child care for dependent relatives. Three in five agreements either allow mothers time off for nursing or offer employer-provided or subsidised child care facilities. Seven in ten CBAs give parents the right to one day of paid leave per year to care for sick relatives.

Table 7. Maternity clauses in CBAs

	Work and family clause	Paid maternity leave	Paid paternity leave	Childcare	Total CBA in country
Guatemala	6	4	3	4	8
Indonesia	40	36	30	18	40
Kenya	56	55	49	23	56
Mozambique	3	2	2	1	9
Peru	18	1	8	2	35
South Africa	3	3	1	1	3
Uganda	12	5	5	0	16
Tanzania	15	10	7	2	19
Total	153	116	105	51	186

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Amsterdam Institute for Advanced labour Studies

University of Amsterdam

Postal address: PO Box 94025 • 1090 GA Amsterdam • The Netherlands

Visiting address: Nieuwe Prinsengracht 130 • 1018 VZ Amsterdam • The Netherlands

Tel +31 20 525 4199 • Fax +31 20 525 4301

aias@uva.nl • www.uva-aias.net