



**COSATU**

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**COSATU POSITION  
PAPER ON MATERNITY  
PROTECTION**

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## **1.0 INTRODUCTION**

This paper has been developed by the COSATU Gender Committee in order to put forward the summary of COSATU's position on Maternity Protection and Parental Rights. The paper is drawn from decades of COSATU work on advancing the rights of workers in relation to their parental rights and in relation to the reproduction of society and labour. The paper seeks to clarify and simplify COSATU's position on addressing the linkages between patriarchy; capitalism and racism and their detrimental impact on building a society that embraces equality and social justice.

## **2.0 BACKGROUND**

In the year of the COSATU launch in 1985, COSATU also launched its Living Wage Campaign which integrated the issue of maternity leave. At the 1985 Inaugural Congress COSATU adopted the Living Wage Campaign, which integrated maternity rights including paid maternity, paternity leave and job security. At its 1988 COSATU National Women's Conference, the federation also adopted the following recommendations:

- Parents' right to freely decide on number and spacing of their children
- Parental rights for women and men
  - Paid parental leave for the first 4 years of a child's life and paid time off for health care
  - Job security; no shift work, and safety at work during pregnancy
  - UIF – extension to domestic and farm workers; full combined pay (employers and UIF)
- Childcare – free childcare from the state and the bosses.

In 2000 COSATU adopted the Gender Policy. The Gender Policy included key aspects on Parental Rights. These can be summarised as follows:

- Combine work and full family life, with care and attention for children
- Challenge women's oppression, ensure quality early childhood development for children, promote women's activism in trade unions through child care.

The Gender Policy proposed a comprehensive package of parental rights provisions, namely:

- Paid maternity leave
- Paid and unpaid parental leave
- Childcare leave
- Flexible working time, childcare
- Breaks and facilities for breastfeeding
- Health and safety for pregnant and nursing mothers
- Job security.

The Gender Policy recognised the role of employers and the state in the provision of childcare and in ensuring comprehensive parental rights. The Policy also advocated support for negotiators, organisers and shop stewards to advance the campaign through the following activities: education, a negotiators' manual, and research.

### **3.0 ENGENDERING REPRODUCTIVE WORK**

Our position on Maternity Protection seeks to engender reproductive work and to eradicate its burden on women by addressing:

- Unpaid reproductive labour
- Gender division of labour in the home and workplace
- Socialisation of reproductive responsibilities – shifting the responsibility from the individual to the society (i.e. state, employers)
- *“The bosses, state and tradition have always made childcare the private exclusive responsibility of women. Employers have a social responsibility towards the support of parents and their children”* (COSATU Women's Conference 1988)
- Struggle for a society that is family-friendly and child-friendly
- *“Most workers are forced to choose between being workers and parents”* (COSATU Women's Conference 1988)
- Balancing work/life
- *“Women and men must have equal opportunity to combine employment with family life”* (COSATU Women's Conference 1988).

## **4.0 VALUES AND PRINCIPLES UNDERPINNING THE COSATU POSITION**

### **4.1 Values and principles**

- Challenge gender inequality and discrimination against women and promote substantive gender equality
- Right to combine reproductive and productive work, and recognise the excessive burden of reproductive work on women
- Reproduction of society is a social responsibility and not a private household matter
- Economic security for families at all times
- Healthy pregnancies and healthy babies for development in a responsible and responsive state
- Time for bonding and development of relationship between mother and child, early childhood development in line with the development commitments of the SA state
- Many women, both in the formal and informal economies, continue to face maternity-related threats to their health and economic security; the Constitution prescribes rights and protection
- Maternity protection at work encompasses different components: maternity leave, health protection, non-discrimination, social protection and breastfeeding rights.

### **4.2 Parental Rights Include:**

- Job Security
- Parental leave – maternity and paternity
- Social security
- Right to return to work
- Ante-natal and post-natal care
- Breastfeeding provisions
- Childcare
- Health and safety
- Career break
- Adoption
- Help to deal with stillbirths, miscarriages and abortions.

## 5.0 INTERNATIONAL CONVENTIONS AND INSTRUMENTS

COSATU believes that the SA government is a signatory to the following conventions and declarations, and as a result has to ensure their implementation:

- Universal Declaration of Human Rights
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Maternity Protection Convention (Revised), 1952 (No. 103)
- SADC Protocol on Gender
- Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa
- Equal Remuneration Convention, 1951 (No. 100)
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- Domestic Workers' Convention (189).

COSATU believes that the SA state should ratify the following conventions with immediate effect in line with its Constitution, which prescribes the right to health care, the right to protection and the right to basic education:

- Maternity Protection Convention, 2000 (No. 183)
- Maternity Protection Recommendation, 2000 (No. 191)
- Night Work Convention, 1990 (No. 171).

## 6.0 PARENTAL RIGHTS FOR SA WORKERS

COSATU will campaign tirelessly for parental rights as follows:

- ***Maternity Protection***
  - Paid maternity leave, for a minimum of 6 months, with a view to progressively increasing this period
  - Additional, paid leave should be available for ante-natal care (ANC) and illness
  - Ante-/post-natal medical care, including subsidised nutrition and transport programmes
  - Compulsory breastfeeding breaks, safe work and alternative employment (BCEA Code of Good Practice to become compulsory)
  - Non-discrimination on basis of pregnancy or childcare responsibilities

- Child care and family planning facilities
  - Breastfeeding and breast milk-expressing facilities with expressing equipment, and rest places for pregnant women
  - Part of the struggle for a living wage
- ***Workers that will be covered by maternity protection***
    - All women workers should have access to these benefits, including self-employed workers, those in the informal economy, migrant workers and sex workers
    - We note the vulnerability of certain categories of employees: domestic and farm workers, mine workers, hospitality sector workers, unregistered workers, and BCEA-excluded employees (part-time, casual, temporary, contract workers, or categories of public service workers) and we believe there should be no such exclusions
    - There should be social assistance provided through a separate, DSD-administered fund for unemployed pregnant women and teenage pregnancies.
- ***Funding mechanism for these benefits***
    - The maternity fund should be a stand-alone, ring-fenced fund, within the UIF mechanism
    - The state should contribute to this maternity fund, and should channel some of the UIF surplus funds into this fund
    - The state should establish a separate DSD-managed or overseen fund for pregnancies among unemployed or teenaged women
    - Employers should continue to contribute towards benefits and UIF, but this latter contribution should increase to 2%
    - COSATU does not only represent organised workers in formal employment, we also advocate for vulnerable and unorganised workers
    - Maternity leave should be paid out to all workers from this fund, at 100% of earnings.

### ***Paternity and parental leave***

- Recognising the right of all parents to participate fully in family life – and acknowledging the importance of fathers
- There is a need for male and female workers to take paid leave to tend to ill children, up to the age of four years
- There is a need for stand-alone child care leave provision of 10 days annually, for male and female workers
- There is a need for 10 days’ paternity leave for fathers, with a view towards extending this to two months
- Male workers should be afforded paid leave to support pregnant partners’ attending ANC
- COSATU supports the adoption of R191 provisions for male partners to be able to take paid maternity leave when the mother is unable to take care of the child in the event of her death, illness or hospitalisation, for the unexpired period remaining of the maternity leave
- BCEA provisions of non-discrimination on the basis of paternity or family responsibility leave should be extended to male workers.

### ***Campaign for the ratification of ILO Convention 183***

- We need to undertake a gap analysis – breastfeeding, safe work, paid maternity leave, informal sector, unemployed (etc): implications of ratification of C183 and costing, to feed into a discussion document
- COSATU to prioritise the ratification of C183 in NEDLAC
- COSATU to initiate awareness and mobilising campaigns, through political education at provincial and branch level, community awareness
- COSATU to facilitate partnerships – nationally and internationally – to foster research, policy advocacy and mobilisation
- Sector / affiliate organising and bargaining at the workplace in relation to provision of child care facilities
- COSATU to take advantage of existing law reform opportunities: SALRC process; UIF Amendment Bill; BCEA Amendment Bill, to push for domestication of C183

- Key is building organisation and organisational strength by improving working conditions through collective bargaining; and mobilising women and building gender activists through campaigns
- Combined approach of pushing for improved legislation and state provisions *and* collective bargaining and workers' struggles
  - Fighting against minimums becoming maximums
  - Winning demands through collective bargaining
  - Lobbying government and taking up demands through NEDLAC
- Organising at the workplace e.g. lighter work - generic issues like shift work, heavy loads and chemicals and specific investigations
- Make use of Employment Equity to advance parental rights.

## 7.0 PARTNERSHIPS

- ***Legislative Process***
  - On the development of legislation / policy on maternity Protection, COSATU will work with statutory organs such as the Law Reform Commission, the Portfolio Committee on Women in the Presidency, the Women's Multi Party Caucus, and the Commission for Gender Equality.
  - COSATU will concurrently engage with its Alliance partners, namely ANC, SACP and SANCO, as well as progressive Women's and Gender CBOs and NGOs to ensure that there is support for the COSATU submissions on Maternity Protection.
  - COSATU will also liaise with all LSOs (research, media, education etc) to garner support for the COSATU submissions on Maternity Protection.
- ***Mass Campaign***
  - COSATU will engage with its Alliance Partners, namely the ANC, SACP and SANCO to mobilise mass support for the various activities (e.g. marches, seminars, media events) that will be undertaken towards the ratification of Convention 183 and the domestication of the Convention.
  - COSATU will concurrently engage with progressive NGOs and CBOs to mobilise their communities in order participate en masse in the various

activities that COSATU will organise to provide a massive push for Maternity Protection.

- ***Lobbying***

- COSATU will work closely with its Alliance partners, the LSOs, progressive CBOs and progressive NGOs in the lobby of national and provincial parliamentarians for the ratification of C183 and its domestication.

## **8.0 CONCLUSION**

The COSATU Position Paper will be adopted at the CEC or alternatively at the National Congress in November 2015.