

In the last issue of *SA Labour Bulletin*, FIONA DOVE\* identified the obstacles in a seven-year battle for gender equality in COSATU. Here she reports on a survey into collective bargaining for women's rights.

# women *and* collective bargaining *parental rights*



Photo: William Matlala

**W**omen are seriously disadvantaged in the South African labour market. African women have been particularly affected by the migrant labour system which

restricted them to the bantustans until 1986. Those who did enter the labour market outside of these areas generally did so "illegally". This restricted their job opportunities. The lack of child care, in particular, made it difficult for mothers of young children to seek employment at all.

Employers have always had gender (and race) based recruitment policies. Sometimes these have been supported by male workers – particularly in the craft unions. Women have been restricted to certain jobs and sectors, and where women predominate wages tend to be lower\*\*.

It has been standard practice – until very recently – to pay women employees less than a man in the same job. Job security has been

threatened by pregnancy, sexual harassment and domestic problems. Also many of the low-grade jobs women do are increasingly being sub-contracted – to industrial cleaning and catering companies – which means retrenchments. Company benefits often discriminate against women regarding loans, pensions, housing and so on. Women are rarely considered for training or promotion, thus further increasing their chances of being axed when retrenchments occur.

Only 35% of African people employed in 1985 were women, mainly in the lowest paid jobs or sectors. The full implications of this statistic are disturbing when you consider that nearly half of women (excluding TBVC states) were also single mothers and household heads\*\*\*.

How successfully is COSATU struggling against these disadvantages found by women in the labour market?

COSATU's 1985 policy points to three broad fronts for this struggle. Women must have the freedom to seek paid work and to be

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\*\* See studies by TURP on the retail industry, and Jackie Cock on domestic service.

\*\*\* ANC Women's League paper on *Educational and Economic Position of Women*, 1991 page 5 – 6 - .

equally considered for jobs in a work environment which treats women as equals and is supportive of women workers.

Recently *SA Labour Bulletin* and the UCT Labour Law Unit surveyed COSATU affiliates to find out the extent to which collective bargaining has impacted on improving women's position in the labour market. The survey revealed that most unions have campaigned successfully for maternity rights and equal pay. New proposals on child care, fair evaluation of "women's work", affirmative action in recruitment and training are being formulated. The National Union of Metalworkers of South Africa (NUMSA) is leading this process, followed by the South African Municipal Workers Union (SAMWU) and the South African Clothing and Textile Workers Union (SACTWU). Most unions have tabled demands that these areas be bargained over.

This article discusses the impressive progress made in winning maternity rights for women, as well as the challenges of organising child care for working parents. In the next issue of *Labour Bulletin*, I will discuss the unions' agenda for improving the position of women workers in the workplace.

### Maternity rights

Maternity rights has been the most prominent campaign and to date, the most successful. The argument has been that although it is women who bear children, it does not follow that they should automatically be slotted into a secondary place in the labour market. Many women are single mothers and/or sole breadwinners who have as much of a need to earn a wage to support their dependants as do men. Trade unions have demanded employers accommodate pregnancy as an inalterable fact of life, and ensure women workers and their babies are not impoverished at this time.

In the process of collective bargaining around maternity rights, three important rights have been established: job security for women who interrupt work to have babies; financial support during maternity leave; and special

health considerations while pregnant.

However, job security is not yet an absolute right. In 1986, when the demand was first formally tabled by COSATU unions, this was the position: There was a statutory three months' maternity leave and normal unemployment benefits of 45% of wages for up to six months provided workers were not receiving more than 33% of normal wages during this period. But there was no provision for job security.

The Basic Conditions of Employment Act states a woman may not work from the last month of her pregnancy until the baby is two months' old. Most employers chose to interpret the Act to mean they had to terminate the woman's employment, without guaranteeing re-employment and unbroken service. The latter would become an issue during retrenchments and regarding service-related benefits like pensions, loans and bonuses.

### A question of job security

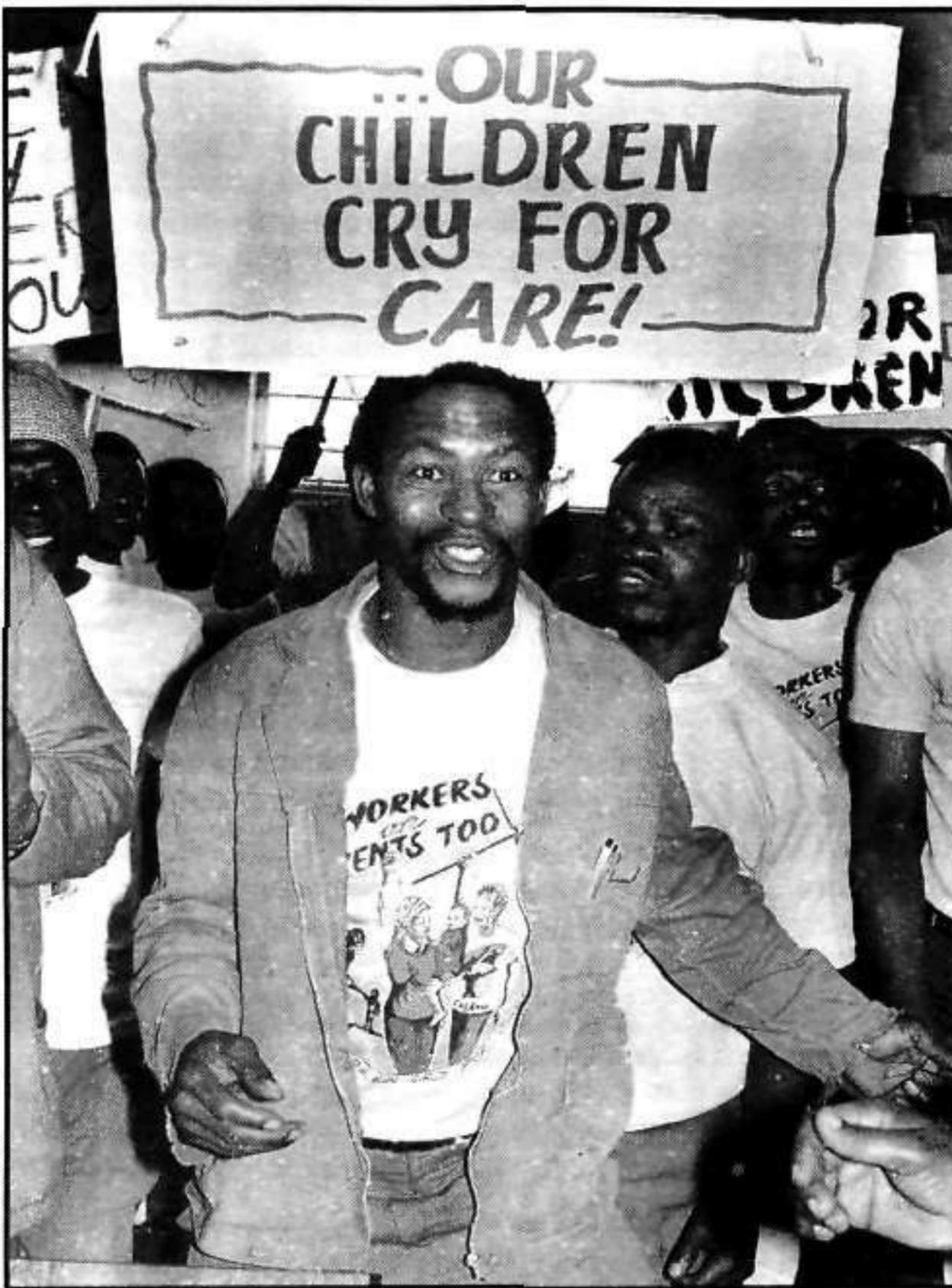
The burning issue then was job security. By 1990, the unions all felt job security and special health consideration of pregnant workers had been established across the board. Although there is no legislated job security, the industrial court has upheld arguments that the statutory protection for women having babies cannot be interpreted as licence to terminate employment\*.

Nevertheless, unions have signed away full job security by agreeing to length of service as a basis to qualify for maternity benefits, including job guarantees. Most employers insist on benefits being restricted to those with at least one or two years service.

Only SACCAWU has won recognition that this is discrimination and that all pregnant women are entitled to the right to work and job security. In much of the retail sector, even those workers pregnant at the time of employment are entitled to leave and job guarantees. They do, however, forfeit payment during maternity leave.

The government has recently proposed that discrimination based on pregnancy be outlawed. It would be interesting to see how

\* *CCAWUSAMs Mabula vs Asda Supermarket, 1989*



*Parental rights: impressive progress*

*Photo: William Matlala*

Paid maternity benefits are still largely seen by employers as an expensive and risky "investment" with no guarantee of a "return". Management fears women will either not come back to work or will not stick around long enough to be worth the investment. Without child-care provision, this effectively precludes women from being able to return to work and forces them into poverty. Or alternatively, it forces women back at the earliest opportunity, to the detriment of the babies left in the care of whichever other desperately poor women can take them on.

It is a negative and short-sighted view, and a self-fulfilling prophecy. Employers have to encourage women to see a future for themselves in

the industrial court would interpret such a law in respect of employers who refuse to hire pregnant women or to grant leave, job guarantees and even material benefits to women pregnant at the time of employment or soon after.

### **Useless without pay**

The next step was financial support. Employers were being persuaded to give special consideration to the health of pregnant workers, grant leave and offer limited job security, but payment during leave was asking a bit much! Many employers argued they were already contributing to pay for maternity leave through the Unemployment Insurance Fund (UIF). But so were workers, and UIF only gave them less than half their normal income. This, at a time when more rather than less money was required.

the enterprise and make it worth their while to come back.

In 1986, the issue was propelled on to the central collective bargaining demands of all affiliates regardless of the proportion of women members in those unions. Most unionists interviewed attributed this to six months' paid maternity leave being a central demand of the Living Wage Campaign.

By 1992, the average won was three months supplementary pay and paid leave for ante and post-natal care. But there are still many sectors which do not pay any maternity benefits at all. These include most of mining, municipalities, finance and sectors organised by NEHAWU and TGWU.

SACCAWU's retail workers have set a high standard with six to nine months at an effective

75% of normal pay, a few fringe benefits like goods and medical aid contributions, and adoptive rights. NUMSA has achieved its goal of six months' paid leave. It should be noted that the UIF Act limits workers to receiving an additional 33% of wages from employers or else they forfeit their right to claim UIF maternity benefits. Women on maternity leave therefore cannot earn more than 78% of normal wages unless employers are willing to pay full wages.

In light of the effectively restricted leave, inevitable where there is insufficient financial support, and the ever growing numbers of women seeking paid work, child care is becoming an increasingly desperate need. While maternity negotiations are ongoing, child care is next on the agenda of most COSATU unions.

### Personal challenge

An interesting spin-off of the maternity rights campaign was paternity rights, and the redefinition of the struggle as being one for parental rights. Given the low number of women negotiators and often rank-and-file members, it's worth speculating whether paternity rights helped to give male negotiators a stake in the bargaining around maternity rights. COSATU women are often heard grumbling in various forums about how male negotiators just drop demands, like those around maternity, because they do not have a personal stake in the results.

Paternity leave of one day for men in auto, three on average for PPWAWU, CWIU, SACCAWU (retail), SACTWU (textiles) and in a few NUM companies, has been negotiated over the last few years.

SACCAWU's approach from 1988 onwards was that the issue was one of parental rights rather than maternity rights. This did not necessarily empower women through increased representation on negotiating teams, but it did sensitise men negotiators to a range of personal challenges regarding their role in the domestic sphere. These agreements established the right to up to 10 days' leave at the time of birth, and a greater role in child care for those who

wanted this.

### Battle far from over

To summarise then, women workers have made major gains regarding maternity rights over the last six years. They have achieved job security for longer-serving workers, a norm of three months' pay during maternity leave, and special consideration for the health and safety of pregnant workers. This has contributed to the development of a work culture which is more accommodating of women workers.

But the right to work still needs to be established for pregnant work seekers. Almost all employers would refuse to hire a pregnant woman. Women who turn out to have been pregnant at the point of being hired, could be penalised shortly afterwards.

The whole issue of paid leave has a long way to go. Although the principle has been established, payment is limited both by employers and the UIF Act. There are serious implications for children's well-being (particularly in view of the lack of child care) and impoverishment of families.

### Child care

Parental rights thus far have only dealt with pregnancy, birth and the immediate period thereafter. But there is a bigger social question of what happens to the children while parents are at work (or seeking work).

Any child-care system for working class people that does exist is thanks only to non-government organisations' efforts or informal networking of women in the townships. Many children are sent to the rural areas to be cared for by relatives. The state, and even less so employers, have played almost no role in the provision of child care. It's been considered an absolutely private responsibility of parents – read mothers.

A significant number of women are single mothers and sole breadwinners. The economic climate and new social relations means there are many more women who have to seek paid work and cannot rely on a male breadwinner. The lack of child care means many women must seek jobs that can accommodate this –

domestic work, part-time work, informal sector work, notably child-minding. Women often have to take regular time off to sort out child-care problems when their systems break down, which is not popular with bosses. Or they have to leave work altogether. This impacts on their ability to compete equally in the labour market – they do not have the same opportunity to develop skills and gain work experience.

Child care has been on the agenda of COSATU since 1985. But it is only really since 1990, thanks to efforts of the COSATU national women's sub-committee, that the profile of the issue has been raised.

### **Broad commitment**

Eight of the 13 unions surveyed have tabled a broad demand for child care to employers. Many retail employers, the auto sector, municipalities and the post office have agreed to negotiations. From 1983 onwards, SACCAWU won commitments from employers to get involved in the issue. After a day of action in September 1990, a few employers with whom CWIU, SACTWU and TGWU dealt initiated plans for child-care facilities, but the unions were minimally involved. That year, CWIU tabled the issue broadly with little success. In 1991, NUMSA got auto sector employers to agree to negotiate child care. The same year, the Construction and Allied Workers Union (CAWU) unsuccessfully raised the issue at plant and industrial council level, but CAWU admits "this has not been vigorously pursued".

Last year, SAMWU and POTWA won a commitment to negotiate child-care facilities in the bigger workplaces. NEHAWU and FAWU say they are working on proposals before they table the demand. NUM does not have plans to raise the issue, claiming it is a non-issue for them as most of their members live far away from their families. PPWAWU and TGWU have not considered the issue yet.

Many employers are chomping at the bit wanting to get involved, seeing possible benefits – being regarded as 'socially responsible', earning tax rebates, building

worker loyalty. Yet not one union knows what it is going to put on the table.

There have been circular debates about where facilities should be located – at work or in the community. NUMSA and auto employers have explicitly agreed to deal with child care as a community issue. Other unions are tentatively taking the approach that facilities should be located wherever workers decide they want them.

The caution is related to two main issues. The one is how to address child care as a broad social issue involving parents, the state, employers, child-care workers and community organisations. The other is whether formal creches are the most appropriate form of child care given the expense involved and the existing system of home-based child care which provides informal employment to many otherwise destitute women.

COSATU needs to put more resources into researching and networking with other organisations around this issue or the impasse will remain. It is an issue that should be integrated into negotiations around restructuring the public service, particularly with regard to the role local government could play in delivering and/or regulating child care, job creation and delivery of social services. The South African Domestic Workers Union (SADWU), as organisers of child-minders and SAMWU, in their relationship with local government, could play a particularly important role here.

### **The next step**

The progress towards establishing basic maternity rights is a great step forward towards giving women equal access to the labour market. But the fact is that not all women workers are mothers of small children. And even with these rights, women's work is still undervalued and generally restricted to certain poorly paid jobs and sectors.

The next step is for unions to tackle the discrimination women face in recruitment, training and promotion – in short, affirmative action. ☆

**NEXT ISSUE: Affirmative action**