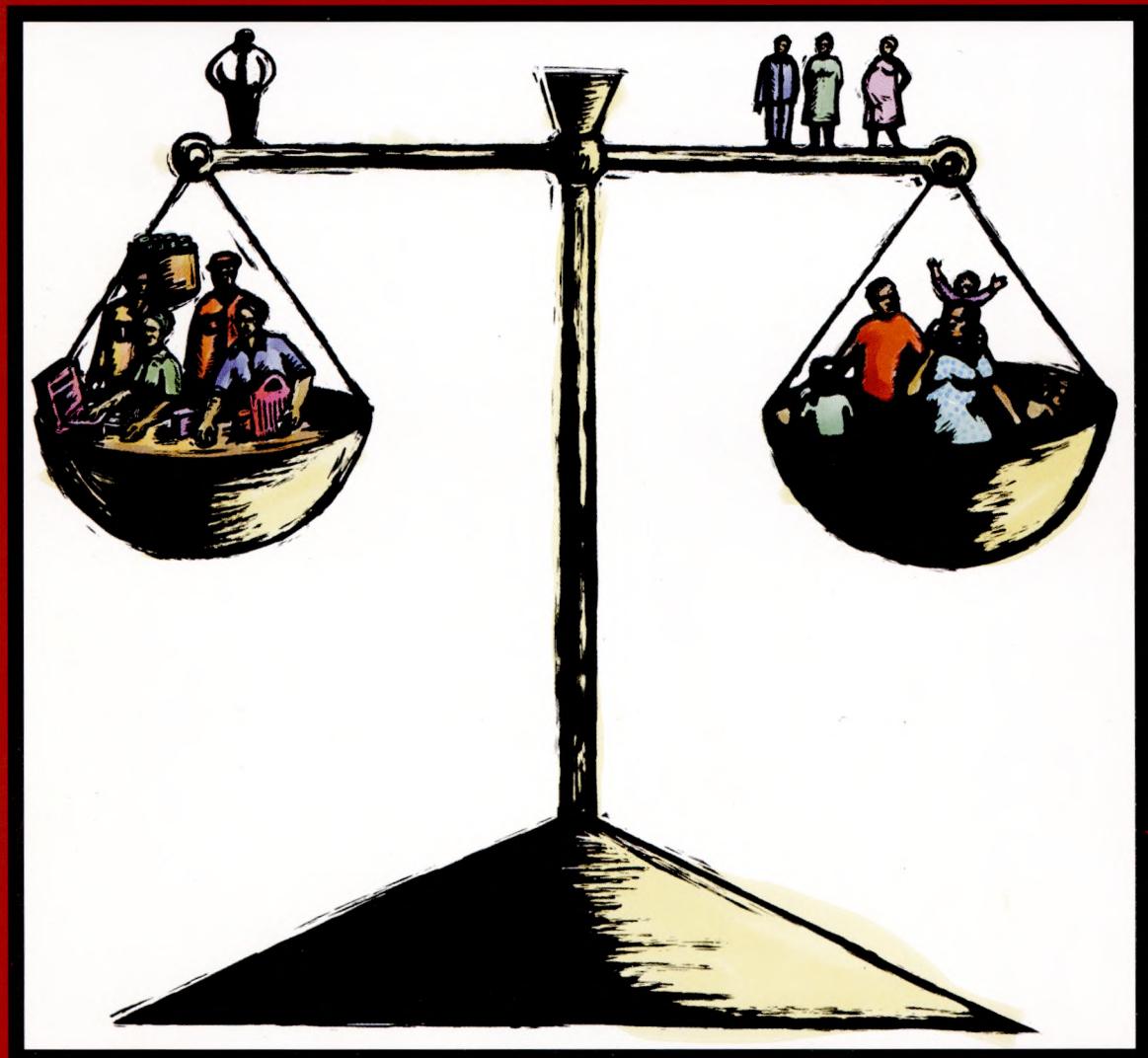


SALHA 17b: SACCAMU

Workers are Parents too

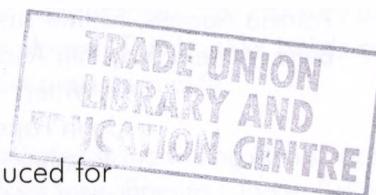
A Workers' Guide to Parental Rights



TU36.3.2

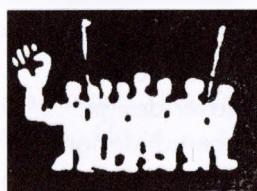
Workers are parents too!

**A worker's guide to parental rights
in South Africa**



Produced for

South African Commercial, Catering and
Allied Workers Union, Johannesburg



PROCESSED

by
International Labour Resource and
Information Centre, Cape Town



WORKERS ARE PARENTS TOO!
A worker's guide to parental rights in South Africa

© South African Commercial, Catering and Allied Workers Union, Johannesburg and International Labour Resource and Information Group, Cape Town

This material may be used for union education and non-profit organisations. We do request that such users acknowledge ILRIG and SACCWU. No part of this manual may be reproduced by any means for the purpose of profit without prior consent of the copyright holders.

First published in 2000

ISBN 0-620-26271-0

Production team

SACCWU reference group:

Patricia Appolis, Fihliwe Lusu, Brenita Cloete,
Bella Maneli, Judy Piti, Abduragmann Jacobs

Writer:

John Pape

Proofing:

Ingrid Brink

Design and layout:

Rosie Campbell

Illustrations:

Meg Jordi

Cover design:

jon berndt designs

Photographs: William Matlala

Reproduction: Image Mix

Printing: Logo Print

Funded by South African Labour Development Trust

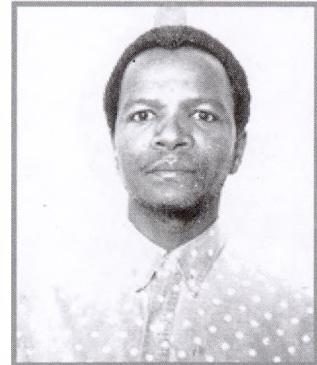


through the European Union



Foreword

This booklet is a follow-up to the Parental Rights' Manual for negotiators produced by SACCAWU in 1999. These publications have been the product of painful soul-searching. They are attempts to highlight the plight of women in the workplace and represent the uncompromising resolve of the union to challenge the inequalities and discrimination that workers, especially women, suffer as parents. This booklet is intended to assist negotiators, shop stewards and ordinary workers in knowing and exercising their parental rights. In order to win the struggle for parental rights, the understanding of worker rights must reach all the way to the shop floor. This booklet will help to make that understanding a reality.



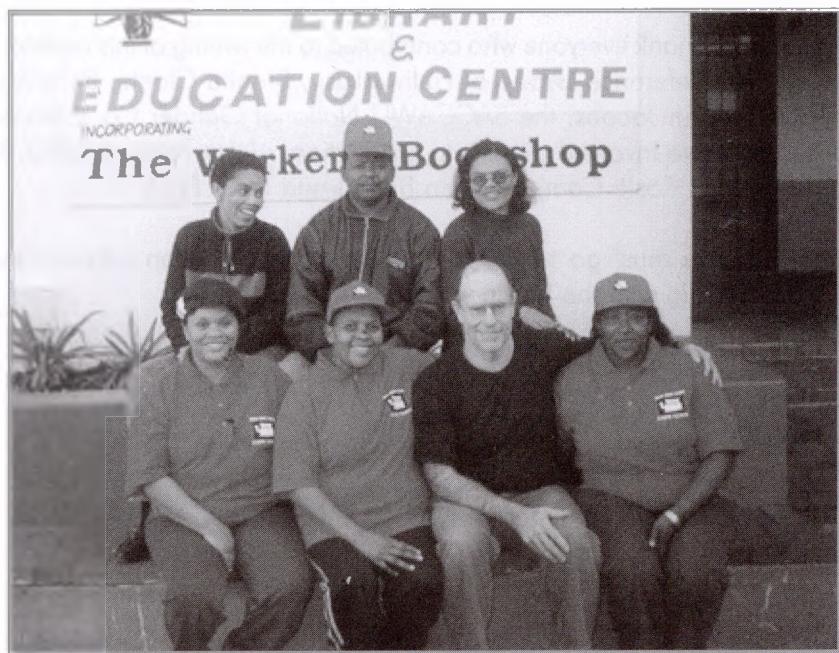
We wish to thank the commitment and dedication by all workers and union officials who have worked tirelessly for the realisation of the noble goal of parental rights and have forced the bosses to reason beyond dogmatic greed to maximise profits. Achievements won thus far have not been easy victories, nor can they be attributed to kindness or a change of heart by the employers. This booklet builds on our manual and further inspires us to translate our dreams into reality.

We would like to thank everyone who contributed to the writing of this booklet, especially the SACCAWU Reference Group of Fihliwe Lusu, Brenita Cloete, Bella Maneli, Judy Piti, Abduragmann Jacobs, the SACCAWU National Gender Co-ordinator, Patricia Appolis, and those involved directly in production: John Pape of ILRIG, Meg Jordi, William Matlala, Rosie Campbell, Jon Berndt and Logo Print.

Additional thanks must go to the funders, the South African Labour Development Trust in partnership with the European Union.

Forward with Parental Rights, Forward!

Bones Skulu
General Secretary



The SACCAWU-ILRIG team:

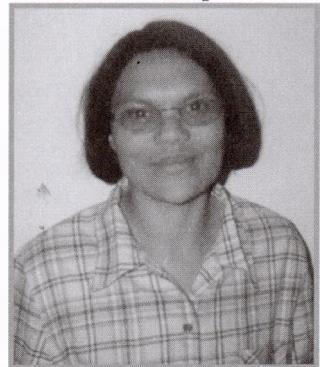
Sitting: Brenita Cloete, Judy Piti, John Pape, Fihliwe Lusu

Standing: Bella Maneli, Abduragmann Jacobs, Patricia Appolis

Introduction

One of the core principles of the SACCAWU Model Proposal on Parental Rights is to enable women and men in waged work to combine family and work, so that children are given the necessary care and attention.

This is one of the noble goals that SACCAWU in the Campaign for Parental Rights for workers is pursuing. Collective Bargaining remains the central activity of the Union – to improve the working conditions of its members, both women and men, thereby also improving their lives. Parental Rights challenges gender oppression. The Parental Rights Campaign on the one hand challenges the stereotypical view that only women are responsible for childcare. Men also have a role to play and thus Parental Rights also gives rise to provisions for men to participate in the lives of their children. The Parental Rights Campaign on the other hand also puts in place measures for women to combine work and family life. The importance of "Sharing the Load" should not be underestimated. It is the double burden that makes women not to participate in the union, they are denied employment opportunities and they are not able to realise their full potential.



The challenge becomes more intense in this era of globalisation, where more and more women are employed in atypical work without any social and other benefits. In our Parental Campaigns we need to include provisions for casuals, part time workers and other types of workers.

This booklet is a contribution to deepen the struggle to achieve Parental Rights for all workers not just SACCAWU members. Our task as gender activists is to raise awareness of our members of their right to look after their children, of the social responsibility of employers to workers children and the role the government should play. Implicit in this is the awareness raising on gender oppression. As gender activists, we need to take awareness raising further by mobilising members to fight for their rights – this struggle should be led by women through the gender structures. The booklet will make our task a little bit easier.

It is hoped that the booklet will serve as a useful tool when negotiating Parental Rights or talking to members about gender issues. We also encourage other unions to make use of the booklet to take forward the struggle for Parental Rights for all workers.

The struggle continues! Forward to Parental Rights! Workers are parents too!

Patricia Appolis
National Co-ordinator

Meet the team



Hello. My name is Lerato. I am a national negotiator for SACCAWU. I have been involved in the struggle for parental rights for workers for more than 20 years. You and I are about to take a journey together. I am your tour guide. I am going to take you on a tour of the issue of Parental Rights. But I won't be alone. I have lots of help. Let me introduce you to my team. Let me start with the Mokoena family - three generations of workers in our sector.

This is Comrade Anna Mokoena

Hello, these days I am a pensioner. But I spent twenty seven years as a worker in the retail sector. I also worked in the hotels for five years before that - during the days of real baaskap. I have a lot of interesting experience to tell you about. Amandla!



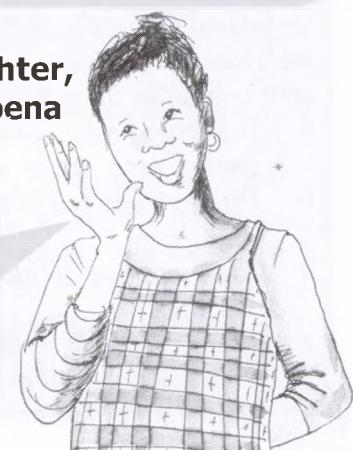
This is her son, Comrade Nape Mokoena



Eita. I am a shop steward. I have been in the union since 1983. I am going to tell you about some of the first victories in the struggle for Parental Rights. Forward with Parental rights, Forward!

This is the granddaughter, Comrade Nomsa Mokoena

Ola, ola. I am the daughter of Comrade Nape Mokoena. I am 17 years old. I have just begun to work as a casual worker at the checkout of a supermarket. It is very exciting but we have problems. I will tell you about them later. Wathint abafazi! Wathint imbokolo!



A worker's guide to parental rights in South Africa

So that is one part of my team – the Mokoena family. But my team also has two other delegates: a paralegal adviser and an international delegate. Let's meet them.

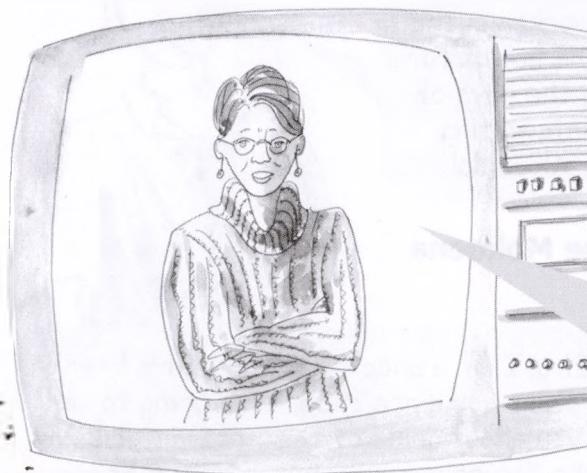
This is our paralegal, Comrade Yolisa

Hello, comrades. I will be giving you a bit of background on your legal rights as a parent and a worker. I will be meeting you in Chapter three. Remember – you have your rights you must use them.



This is our international delegate, Ms Johanneson

The last member of our team is Ms Johanneson. We will be visiting her by satellite in Geneva, Switzerland.



Hello, I am from the labour movement in Europe. We also have had struggles for Parental Rights in my country. I have visited many countries trying to assist workers to win gains around parental rights. I will tell you about some of my experiences. I think in your country you say: Phambili ngema Parental Rights, Phambili!

As you can see, I do have quite a strong team. We will make sure that your journey is useful and enjoyable. By the time you have finished your journey through this booklet, we hope you will know a lot about parental rights. You should be able to tell us and your comrades at work about:

- ▶ The struggle for parental rights in your own SACCWU, other South African unions, amongst other South African workers and even around the world
- ▶ The methods you can use to motivate and negotiate for parental rights at your workplace
- ▶ The responses management is likely to give you when you put forward your demands
- ▶ Your legal rights in the area of parental rights, particularly as spelled out in the Labour Relations Act (LRA) and the Basic Conditions of Employment Act (BCEA)
- ▶ The future of the struggle for parental rights for workers.

Chapter 1: A brief history

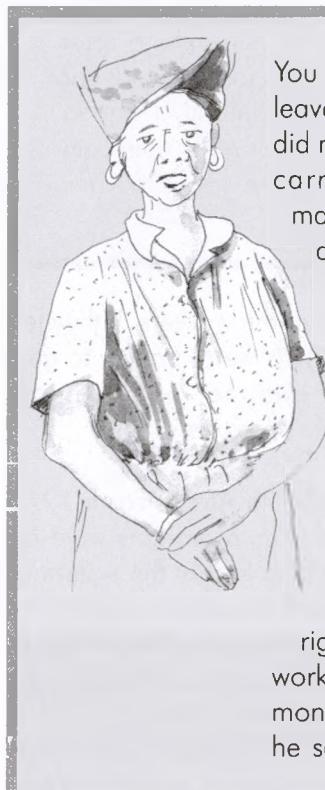
Let us begin our journey. We need to begin by answering one simple question:

What are parental rights?

Parental rights are the rights of workers to raise and look after the welfare of their children. At SACCAWU we believe that workers have the right to a balanced and full life. They must be able to work effectively but their work must not be so demanding that they cannot also play their role in the family, especially as fathers and mothers. The basic parental rights are:

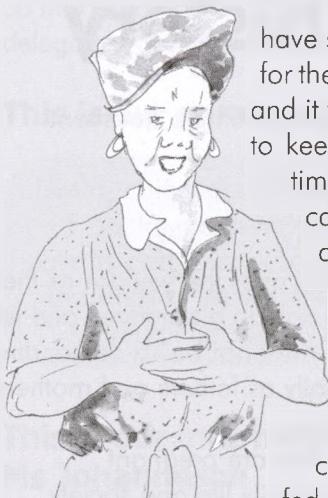
- ▶ Women must not be discriminated against because they are pregnant
- ▶ Women and men must be able to participate fully in family life and society
- ▶ Pregnant women, infants and children must receive the necessary care.

Now that we know exactly what parental rights are, let us look at how workers have fought for parental rights in South Africa. Let's ask Cde Anna Mokoena to tell us what it was like, when she gave birth to Cde Nape in 1965.



You see, in those days, there was nothing like maternity leave. They had never heard of parental rights. In fact, we did not even have a union. Long back in 1965, when I was carrying Nape, I had to hide my condition from management. I was working in a restaurant as a cook's assistant. I sometimes would squeeze my tummy with a tight belt or wear very loose clothes.

Then one day, my supervisor, an old white man looked at me and said, "You're gaining a lot of weight, Anna. What is happening? Are you stealing lots of cakes?" I had nothing to say but, "No, sir." The next day I was called into the manager's office. He told me I would have to go away, that I might embarrass his customers if I were pregnant in the restaurant. "Besides, he asked, "what if you give birth right here? What will we do?" I begged him to let me work for another week. What else could I do? I needed money for food, to pay rent, and to prepare for Nape. But he said, "No, you must go away. Come back when you



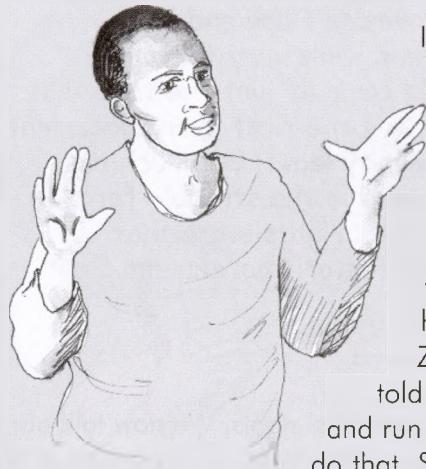
have sorted yourself out." He didn't even give me a sweet for the baby. I suffered for those two months. It was summer and it was very hot. I had to beg from relatives and friends to keep food on the table. My husband had left by that time to go and work in Cape Town, far away. He never came back. I was all alone. A friend delivered Nape at her house. Four days after the birth, I was knocking at my boss' door, begging to get my job back. But he refused. "I am sorry, we've found another girl. She's young, no children, no responsibilities. With you people and your children, there is always something: I have to take the child to the clinic...there is no-one to look after my baby. I am fed up with these stories. Fed up. Voetsek."

So my job was gone and I had nowhere to go. There I sat with a new born baby. No job, no money, nothing. I went up and down trying to find work. I took my young sister with me. She would look after the baby while I went into the stores and companies looking for work. Then I would feed the baby in between asking for jobs. We shared half a loaf of bread for the whole day. There was nothing else. Nothing. Finally after one month I found a job as a cleaner in a supermarket. And I stayed there. Eventually I started working at the check out. I stayed there until I retired in 1993. Things changed a lot during those years. But my son can tell you more about that later.

So you can see that in the old days, life was very hard for women workers. If they fell pregnant they could lose their job. There was no union to help them, no law to give them support. But they also had another problem – their own men. In those days many men thought that children were only the responsibility of women.

But during the 1970s many things changed for workers in South Africa. From 1972 onwards, workers began to form trade unions. Across the country workers went on strike, demanding their democratic right to organise. They also fought the system of apartheid, joining with community structures, students, church leaders to oppose the evil system of racial segregation. During these years, workers in our own sector began to organise. The Commercial, Catering and Allied Workers' Union (CCAWUSA) was formed in 1975. CCAWUSA then joined together with other unions to form SACCAWU in 1989. One of the key issues that both CCAWUSA and SACCAWU took up was that of parental rights. But in the early days, we didn't even call it parental rights.

Comrade Nape is going to tell us about those days.



In 1983 I began working at OK Bazaars in Pietersburg. I was a typical man. I chased after women, drank beer and never paid any attention to children. Then it happened, I fell madly in love. And before long, you know what happened. She fell pregnant. I wanted to run away. But then I went and told my mother. Oooh, she was hot, I mean she was angry. As they say in Zulu: *Uvutha amalangatye ngumsindo*. She told me that my father had left her with a baby and run away and that no son of hers was going to do that. She gave me a real tongue lashing. By the time she was finished I felt so low I thought I could look up to a frog. So I went back to my girlfriend and told her I would stand by her, that I would support the child and her. I had taken a big step. But I did not know that the hardest part was yet to come.

My girlfriend worked at the supermarket as well. Now we both knew that if management found out, she would be on the street. We did not know what to do. But by that time there was the union. She had heard someone talking about something called "maternity leave". We asked the shop steward what "maternity leave" meant. He said that with maternity leave a mother could be paid for a certain period while she had a baby and looked after it. He said the union was fighting to get maternity leave into their agreement with management. He asked us if we would help to support the campaign. We talked to other workers. We handed out union leaflets. We even invited workers to our house to talk about the issue. We were very lucky. When my girlfriend was four months pregnant, the union signed the agreement. This was 1983 – the first maternity leave agreement in the history of South Africa between the then CCAWUSA and OK. My girlfriend got four months off on full pay and got her job back when she returned. Things were very different from my mother's day. The union had taken a giant step. But there were still many other challenges to tackle. You will hear about some of them later.



As you have seen, Comrade Nape and his girlfriend were very fortunate. Their child came at just the time that CCAWUSA won the first ever agreement on maternity leave. But much has happened in the struggle for parental rights since that first historic agreement.

Firstly, we no longer just talk about maternity or mothers' rights. We now talk about parental rights. Maternity leave is only part of parental rights. Our position is that both men and women must share in the responsibilities of raising children and that employers must recognise the role of both men and women.

The union has won many victories. Agreements on parental rights have been signed with different companies. For example in 1988 we won an agreement with Pick 'n Pay which gave women nine months maternity leave paid at 75%. Fathers also get eight days paid leave during the time of birth. These agreements did not come easily – we had to struggle. We demanded, we went on strike, we spent days and days in negotiations.

Other unions within COSATU and the other federations have campaigned around the issue of parental rights. They have put forward demands for employers to provide childcare facilities and other support for working parents.

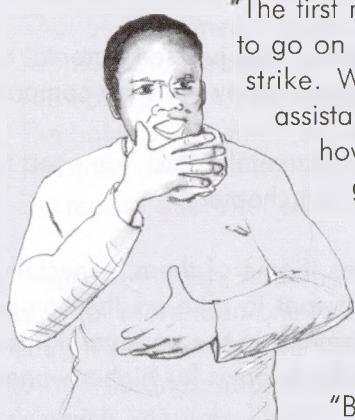
Since 1994, the government has passed a number of new laws which support parental rights. Comrade Yolisa is going to brief you on these in Chapter 3.

As I told you earlier, I have been involved in many negotiations and struggles around Parental Rights. So in the next chapter I am going to tell you a little bit about how to go about these negotiations. I hope my experience will be useful to you.



Advice for negotiators

Many SACCAWU comrades have experience of negotiating for Parental Rights. This is the advice they have for us on how to win your struggles:



"The first method we used was to threaten the company to go on strike...our company was very much afraid of strike. We also got support from the workers and assistance from SACCAWU. They gave us training in how to negotiate the issues of parental rights...We got support from meetings and gave workers education about why this parental rights was important."

Evelyne Maseko, Shop steward and National Negotiator for Diskom

"Be properly mandated by members...go to the members, let them tell you exactly their experiences, how do they view changing their lives when they have an agreement. (Then) you go to management and talk as if you were that worker yourself...it is not enough to say: 'this is a SACCAWU document and go to the company...there are many issues involved. Where does this worker sleep? She may sleep on the floor. If you go to the company you can say the worker cannot afford to buy a bed...Can you loan her money to buy a bed?"

Gab Sidlayi, SACCAWU National Negotiator

At the end of the day you need to know your aims and objectives...everyone must be conscientised and you put all proposals forward and you must separate parental rights...if we had not separated the issue it would have been delayed...

Sipho Masuku, SACCAWU Negotiator at 3M in the early 1990s

Chapter 2: Negotiating parental rights

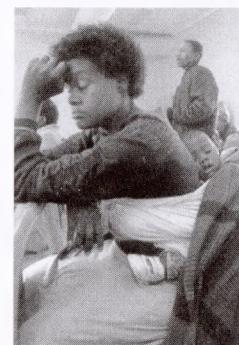
Let me start out by making one point: negotiating parental rights can be a problem. You need to do your homework, because there are lots of obstacles in the way:

- ▶ Many bosses are ignorant on the issue themselves. They just see parental rights as another way in which workers are trying to grab money from the company.
- ▶ There are laws and regulations which talk about parental rights. You need to be familiar with them. We will discuss these in the next chapter.
- ▶ There is also the problem of our own comrades. Some of them, especially the men, are ignorant on these issues. They don't want to take up the campaign because they think it is not their responsibility. Some even see parental rights as a bargaining chip that they can throw away in order to press for higher wages.

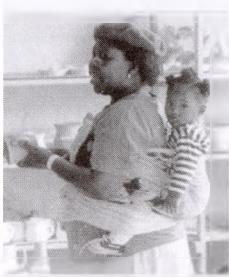
But even though there are obstacles, we can win the struggle. Here are a few tips for you when you have to negotiate and campaign around parental rights.

Tip number one: You need to understand the politics of the issue

The struggle for parental rights is part of the struggle for gender equality. As long as we have not won parental rights at the workplace, women will have to shoulder extra responsibility because they bear children. The struggle for parental rights is based on the idea that childcare is a social responsibility that must be shared by everyone – women, men, employers and the state.



Tip number two: You need to understand the contribution that parental rights makes to the development of healthy children



According to many medical studies, early infancy is a key part of a child's life. If a small infant has love and security in this period, they will have built a strong foundation for later life. For the first year of their life, children need to spend lots of time with their parents in order to develop properly.

Tip number three: Health and safety at work is part of the struggle for parental rights

Another important part of the link between parental rights and children's development is the issue of Health and Safety at work. Hazardous work or work that is very strenuous can have serious effects on women's and men's role as parents. Some of the problems related to poor health and safety at work are:

- ▶ Male and female infertility (inability to have children)
- ▶ Change in women's monthly menstrual cycle
- ▶ Spontaneous abortion (a child dies inside the mother before birth)
- ▶ The baby is born premature (very early)
- ▶ The baby is very small at birth
- ▶ The child does not develop normally
- ▶ Decreased desire for sex.

For pregnant women, work that requires standing for more than three hours a day or bending for more than one hour per day may endanger the safe delivery of a baby. Similarly, if women who are pregnant have to work long or irregular hours, the extra stress and tiredness may lead to premature birth or spontaneous abortion. Doing work which requires lifting heavy loads may have the same result.

Apart from the dangers of these types of work, there may also be risks due to having to work with hazardous chemicals or gases. For example, if the mother of a young infant works with certain cleaning solvents their breast milk may cause their baby to become jaundiced (yellow coloured due to the liver not working properly). Some women also experience problems of decreased fertility or spontaneous abortions if they have to work with metals like lead or certain gases. Lastly, men's fertility can also be affected by exposure to chemical pesticides like DBCP.



Workers are parents too!

The Union Grows, Maternity Rights Grow

From 1977 to 1985 CCAWUSA (which became SACCAWU in 1989) grew from 1 000 members to 50 000 members. During this period the union won South Africa's first maternity leave agreement in 1983. Negotiators at the OK Bazaars forced management to agree to guarantee women their jobs for up to a year after going on maternity leave. But there was no paid leave in the agreement!

From Maternity Rights to Parental Rights

Up until the mid-1980s many workers thought that raising children was only women's work. But the union changed its demands from maternity rights to parental rights. The union's view was that both men and women were parents, so both should share in the responsibility of raising children.

1988: The historic Pick 'n Pay Agreement

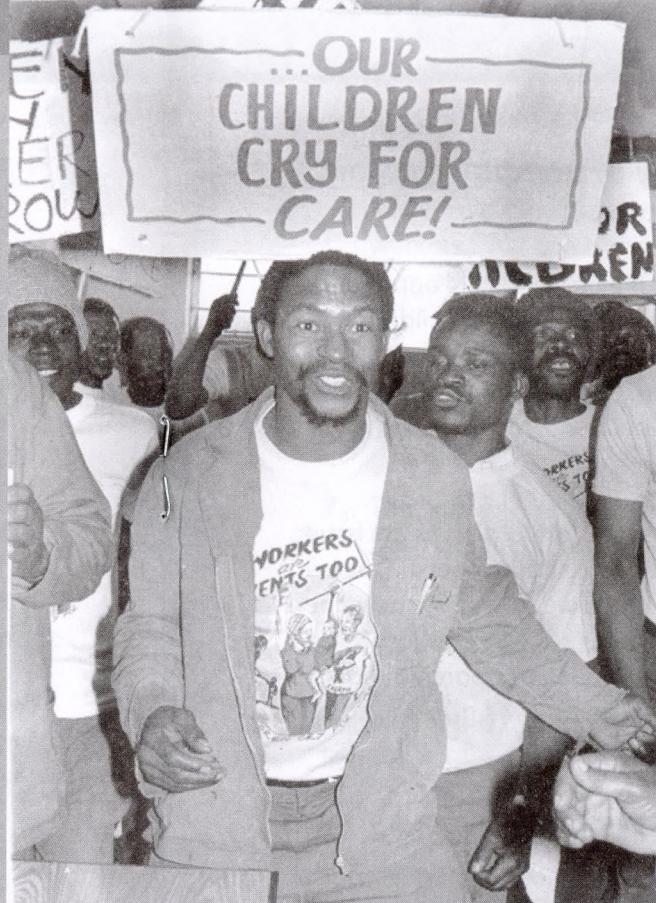
This agreement acknowledged the right of women and men to combine "holding a job" and leading a "normal family life." It also said the company has "a social responsibility towards the support and healthy maintenance of parents and their children."

The 1990s: Many victories

During the 1990s SACCAWU won many Parental Rights agreements with Makro, Diskom, Click's, Foschini, 3M but...

Today Globalisation Attacks Parental Rights

Nowadays many workers are being retrenched. Others are employed as casuals or on a contract basis. Sometimes employers deny them their legal right to maternity leave. The struggle for Parental Rights continues!!



Voices of SACCAWU in the struggle for parental rights

It was a hell of a struggle. We negotiated the whole day and half the night...Workers demonstrated at lunch time during negotiations. The bosses threatened to withdraw fringe benefits like end of the year bonus.

Sipho Masuku, SACCAWU Negotiator at 3M in the early 1990s

We still have male comrades who don't see a need to stay with their wives when they are on maternity leave...80% need something like a wheelbarrow to get them to see the need."

Evelyne Maseko, Shop Steward and national Negotiator for Diskom

"The fastest way to lose your job in a shop or factory (in the 1970s) was to become pregnant."

Article in the Weekly Mail newspaper, 1987

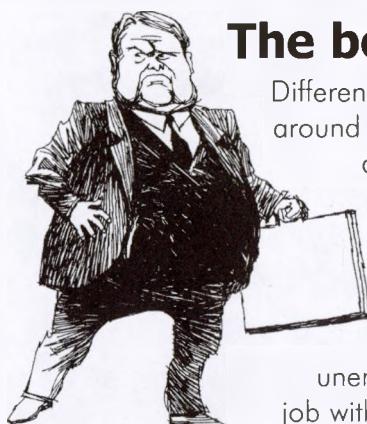
Tip number four: South Africa has a history of unequal support for parental rights which needs to be redressed

As Comrade Anna Mokoena has told us, black workers in the past had little opportunity to exercise their parental rights. Moreover, because of apartheid, black children had fewer chances to attend creches, to receive proper medical care during infancy, and to get adequate food and nutrition. The struggle for parental rights for workers is also part of the struggle to overturn the inequalities of the past and make sure that all children have an equal opportunity to develop.

These are just some of the points you will need to know if you start to discuss the issue of parental rights with your employers. As I said before, I have been in many negotiations on this issue, so I know that you have to be prepared. Why? Because the bosses will come with their own arguments against you. Let me just give you a few examples of what I have heard bosses say when we raise the issue of parental rights. These are some of their arguments. After I summarise their points I will give you some hints on how to answer what the bosses say on these arguments.

The bosses' arguments:

Different employers take different approaches to our demands around parental rights. Here are seven of their most common arguments:



1. The "asinamali" argument: "We have no money. I would like to be able to help you, but if we provide benefits that are not offered by other companies, we won't be able to compete. Besides there are lots of unemployed people out there who will be glad to have your job without exercising their parental rights."
2. The "too many babies" argument: "You people just have too many babies. It is time you started taking responsibility for your actions. It is not my job to look after your children. I did not decide to have the children, you did."
3. The "your government must do it for you" argument: "You people have elected a government that has passed laws on this issue. We will follow the law. Why should we give you more than the government requires?"
4. The "we can't help everyone" argument: "We are satisfied to give the benefits to permanent, full-time workers, but we cannot take responsibility for casuals and part-timers. Plus, we certainly aren't going to provide benefits to someone who just started work last month."

5. The “you must be more productive” argument: “Your proposals ask for too much leave. We can only grant all this leave if we have more productivity from the workers. We can’t give up leave without getting anything in return. One good turn deserves another.”
6. The “how do we know you are the father” argument: “We understand the need for women to have time off, but this idea of paternity leave for fathers is ridiculous. Sometimes, we don’t even know if the man is really the father of the child.”
7. The “gatvol” (fed up) argument: “We are gatvol. I may grant the leave this time but there is an easy solution to this: we just won’t employ any more women.”

Answers to the bosses arguments

As you can see I have heard lots of excuses from bosses for not wanting to hear about parental rights. So how did we handle these arguments: Well, here’s a few clues to help you:

1. The “asinamali” argument: You have heard this one before in all wage negotiations. There are different ways to attack this one. You can ask for their financial documents to see if they are telling the truth. You can also argue that their profits will not grow if they have unhappy, unproductive workers.
2. The “too many babies” argument: Does management have the right to tell people how many children to have? Never.
3. The “your government must do it for you” argument: The government only provides basic minimums for workers who are not organised. We have conditions better than the legal minimum in many other areas, why not in parental rights?
4. The “we can’t help everyone” argument: The bosses haven’t read the labour laws. According to the Basic Conditions of Employment Act, all workers, including casuals are entitled to at least the minimum benefits. If your union has organised casuals, they must be part of the bargaining unit.
5. The “you must be more productive” argument: One of the purposes of parental rights is to protect the health and psychological well being of worker-parents. A healthy and happy worker is more likely to be a productive worker than one who is dissatisfied.
6. The “how do we know you are the father?” argument: This is an anti-worker argument and a racist argument. If one worker has abused parental rights in the

past it does not mean that other workers are no longer entitled to their rights. If one employer beats his workers with a cane or pours silver paint on them, does that mean we should say that all employers abuse their workers? Moreover, it is the right of workers to determine how they want to organise their families and their lives. Whether parents are married, whether they are homosexual or heterosexual, whether they practice monogamy or polygamy is not the concern of employers.

7. The "gatvol" argument: Remind your boss that this is now a democratic government. The constitution guarantees gender and racial equality. Your boss has no right to be gatvol. Down with baaskap!

These are just a few points
that might help you think about what
might happen in your negotiations.
Let me add two other points:



1. It might help to practice your negotiations before you actually have to do them. You could do a drama or role play. Some of the workers could be the employers' delegation and others of you could be the workers' delegation. Go through a mock negotiations session for a few minutes. Then discuss amongst yourselves whether you think your worker delegation did its job properly. Ask comrades to make suggestions about what could be improved.
2. You should try to negotiate parental rights separately from your wage negotiations. Otherwise, parental rights will likely fall off the bargaining agenda early as part of the give and take of negotiations.

Lastly, as I said before,
you need to know your legal rights before
you start to negotiate. Let us now talk
with our paralegal who will tell us what
the law says on parental rights.

Chapter 3: Your legal rights

Hello, do you remember me?
I am Cde Yolisa, your paralegal.
Let me briefly spell out what
the law has to say on this issue.

There are three acts which cover the legal side of parental rights. These are:

- ▶ The Labour Relations Act (LRA)
- ▶ The Basic Conditions of Employment Act (BCEA)
- ▶ The Unemployment Insurance Fund Act (UIF Act)

Let me cover these one by one.



The LRA

The LRA protects women from being dismissed for becoming pregnant. You remember that Cde Anna Mokoena was dismissed from work when she was pregnant with Nape. According to Section 187 (1) (e) the dismissal of an employee because of pregnancy, intended pregnancy, or any reason related to pregnancy is automatically unfair. Section 186 of the Act says that it is unfair also, to refuse to give a woman her job back after she has gone for maternity leave – as long as the leave was taken in terms of the law, a collective agreement or a contract.

In other words – you cannot be dismissed for being pregnant or taking the maternity leave that is due to you. That is the law.

The BCEA

The BCEA gives us the details of maternity leave and paternity leave. Mothers are entitled to the following:

Four months in a row of maternity leave. The leave can start any time after four weeks before the expected date of birth. In other words, if you are expecting on 30 June, you can begin your leave any time after 2 June, which is exactly 28 days before 30 June. From the date you start your leave you are entitled to stay away for four months without returning to work. However, if you have problems or complications with pregnancy you may begin your leave more than 28 days before the expected date of birth. To do this you will need a letter from a doctor or a registered midwife.

No work for six weeks after giving birth. The law says you cannot start work sooner than six weeks after delivery. If you want to start earlier, you must have a letter from a doctor or midwife saying that you are fit to do so.

Six weeks leave after a miscarriage or stillbirth. If you have a miscarriage in the last three months of your pregnancy, you are entitled to six weeks of maternity leave. If your baby dies at birth (stillbirth), you are also entitled to six weeks maternity leave.



These are your rights. But you also have certain responsibilities in terms of the law.

Your responsibilities

According to the law, you also have some legal responsibilities concerning maternity leave. You have to notify your employer, in writing, of the date when you intend to take maternity leave and the date you intend to return to work. You must notify your employer at least four weeks before you intend to go on maternity leave.

Paternity leave

The BCEA does not grant "paternity leave" – that is, special leave for fathers when their children are born. However, the BCEA does include three days per year of "family responsibility" leave. This leave can be used by workers to attend to family matters including assisting the mother during the time of birth or looking after a sick child. The father can choose when to take this leave. We recommend that fathers discuss when it is best to take that leave with their partners.

The UIF Act

The UIF Act deals with the issue of how much you will be paid while on maternity leave. At present the law says that you are entitled to receive 45% of your last wage from the Unemployment Insurance Fund. The employer is then permitted to add up to 33% of your wage. This means that you would receive 78% of your total wage during your four months of maternity leave.

Let us see what that means in practice.

If you earn R600 per week, you would receive:

45% of R600 = R270

33% of R600 = R198

Total = R468

So, you would receive a little more than three-quarters of your last wage or R468. Under the present law, if your employer pays more than 33%, then you are no longer entitled to claim the 45% from UIF.

How much can you claim?

There are limits to how much you can claim. Firstly, to make any claim at all, you need to have been employed for at least thirteen weeks during the year before the expected date of birth.

To get the UIF portion of the benefits (45% of your wage) you need to have been employed for some time. The amount you are able to receive depends on how long you have been employed. Under the UIF system your employer contributes 1% of your wage to the UIF. According to the maternity leave benefit, you can claim 45% of one week's wage for every six weeks your employer has been contributing to the UIF for you. Let us see what this means.

As we saw on page 14, if you earn R600 per week, 45% of your weekly wage is R270. You would be entitled to R270 for every six weeks you have been with your employer (as long as the employer has made the UIF contributions). So if you had worked for your employer for 18 weeks, you would be entitled to 18 divided by 6 or three amounts of R270. Your total benefit would then be three times R270 or R810.

On the other hand, let's say you had worked for your employer for three years (or 156 weeks). To find out how much you are entitled to we would divide 156 by 6. This would give us 26 weeks. Therefore you would be entitled to 26 weeks of maternity benefits at the rate of R270 per week. In fact, 26 weeks of benefits is the maximum you are allowed under the law.

To find out how much UIF you are entitled to, you must perform the following calculation:

Step 1

Take the amount of your last weekly wage before going on leave (use a rough figure if you have not yet gone on leave).

Step 2

Multiply that wage by 0,45. This will give you the amount you will receive per week.

Step 3

Take the number of weeks your employer has contributed to UIF on your behalf (this should be the same as the number of weeks you have worked). Divide that number of weeks by six. That will give you the number of weekly payments of maternity leave you are entitled to receive.

What about maternity leave for parents who adopt children?

If you adopt a child, you are entitled to the same benefits, including UIF as those who bear children. You can receive those benefits at any time within a year of the adoption as long as you have proof that you are the adopting parent. Unfortunately, UIF benefits only apply to women who adopt, not to men.

A last word from your paralegal

I have tried to spell out the law for you. With the Basic Conditions of Employment Act of 1997, workers won many gains in terms of parental rights. Most importantly, maternity leave was extended from three months to four months and, for the first time, men were given the right to take "family responsibility" leave.

But despite these gains, the law still has a number of problems. These are likely to be the target of future parental rights' struggles. Let me spell out a few of these problems for you.

1. The system of payment is still not enough. Many workers cannot survive on 78% of their wage. Most struggle to survive even on a full wage. Until maternity leave is fully paid, many mothers will be forced to cut their leave short in order to get more money.
2. The link of UIF to maternity leave creates problems for mothers who may become unemployed. The UIF benefit is supposed to pay you in case you lose your job. But if you have been paid money for maternity leave from your UIF benefits, the amount you have received will be deducted from your UIF account. So if you have used up all your UIF benefits for maternity leave and then get retrenched, you will not be entitled to any unemployment benefits.
3. As it stands, the law discourages employers from supporting maternity leave. At present, if an employer wanted to pay a worker more than 33% of their wage during maternity leave, that worker would lose the 45% from the UIF. Hence, if an employer wanted to be generous, the worker would actually lose out.



The struggle over UIF

Since the BCEA was put in place in 1997 there have been ongoing debates and discussions around restructuring the UIF in terms of maternity leave payments. However, as of the time of writing this booklet, no changes had been made to the old Act. What I have presented to you here is in terms of the old Act. A new Act is expected in 2000 or 2001.

4. There are some ways in which the law discriminates against men as fathers. For example, the family responsibility leave of three days is very short. This could be particularly problematic if the mother is employed but the father is unemployed.
5. Employers do not pay UIF for many workers. This means that these workers cannot claim maternity leave benefits. The types of workers generally not covered by UIF include:
 - ▶ Domestic workers
 - ▶ Casual workers who work less than eight hours per week
 - ▶ Short-term contract workers
 - ▶ Workers in the informal sector.

So you see the law is helpful to workers in many ways. But you need to be vigilant to exercise your rights effectively and correctly.

If you have doubts, ask someone from your union. Don't take no for an answer. Parental rights are not just women's rights, they are workers rights and human rights. As a union paralegal I must tell you to remember the

Xhosa proverb: *usana olungakhaliyo lifela emgelekweni*. That is, a child who does not cry will die on its mother's back. In the struggle for parental rights this proverb tells you that you must not be shy or ashamed to stand up for your rights! We have fought for them, we must exercise them to the full!



So you have heard from the legal member of our team, Cde Yolisa. We hope you are now clued up on your rights and are ready to exercise them to the fullest.

Now I want to take you to the next stop on our tour — our only international destination. Via satellite we are going to speak to Cde Johannesson from the International Labour Organisation in Geneva, Switzerland. She will tell us about the struggle for parental rights internationally.



Chapter 4: Our satellite connection to Geneva, Switzerland

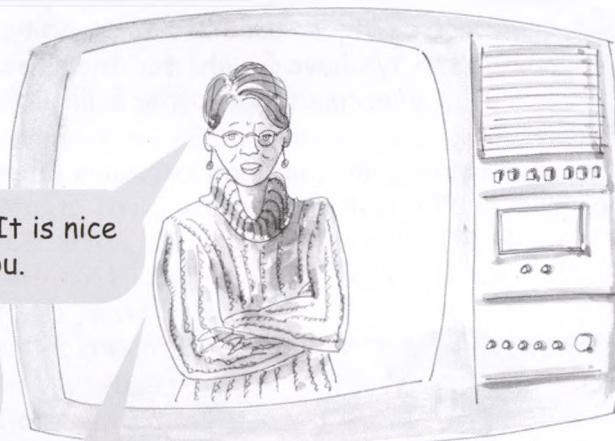


As you know, a trade unionist has to wear many hats. In this chapter I am going to be an interviewer. I am going to ask our sister there in Switzerland about the international experience of Parental Rights. She has worked in the trade unions in Europe for many years and has also worked closely with the International Labour Organisation (ILO).

Hello, Comrade Johanneson, how are you?

I am fine, Lerato. It is nice to talk to you.

First of all, can you tell us: what is the ILO?



The ILO is the International Labour Organisation. It is a membership organisation made up of national governments. Nearly every country in the world belongs to the ILO. One of the main purposes of the ILO is to set international standards for workers.

Sister Johannesson, can you tell us when the struggle for Parental Rights began in the ILO?



The actual struggle probably began when the first woman worker got pregnant. But officially we can say that as early as 1919 the International Labour Organisation had passed a resolution in support of three months maternity leave for women workers. But since then workers around the world have taken up the issue in many ways.



Can you explain a little bit more about this?



In many countries, workers have struggled through their unions to win victories. In some countries, these victories have come about through pressurising employers, in other countries the tactic has been to put pressure on the government. It is amazing to see how many countries have parental rights benefits. For example, women municipal workers in

Denmark can go on leave eight weeks before the expected date of birth. But such important victories are not only in the industrialised countries. In Mexico, airline cargo workers are entitled to 32 weeks of maternity leave, fully paid. In Belize, in Central America, the government pays 80% of a woman's wage and employers are asked to cover the balance of 20%.



What has the ILO done to advance parental rights?

We have tried to set standards. By now 120 countries around the world meet our minimum standard of twelve weeks maternity leave. South Africa is one of those. We have also pushed countries to sign our conventions.

These conventions contain basic standards. Governments which sign the conventions are actually agreeing to enforce the standards. For example, our Maternity Protection Convention 103 of 1952 and our Minimum Standards of Social Security Convention 102 help to lay down basic conditions for family benefits, maternity benefits, and medical aid. Of course it is not always easy to get countries to put in practice what they have signed. That is a political problem which can become quite complicated.



How do you see the future of parental rights for workers?



We have made many gains but there are also many people who are trying to push us backwards. In particular, the idea of "flexibility" which seems to come with globalisation, seems to be undermining our gains. Women are special targets for becoming flexible, that is, being employed as casuals, part-timers or home-based workers.

As the Chief of our Conditions of Work branch, F J Dy-Hammer, said: "in all parts of the world, working women are faced with the threat of job loss, suspended earnings, and increased health risks due to inadequate safeguards for their employment."

If women think their jobs are under threat, they will be much less likely to press for additional demands. The same goes for men. How many men will fight for paternity leave if they think they may not have a job when they return?

Thank you very much for the information you have brought to us. We know that Parental Rights is not only a struggle for South African workers but for workers around the world.



But at the same time you have alerted us – there may be problems in our struggle to further advance parental rights. You have used those big words that keep hitting us, flexibility and globalisation. Maybe we need to explore them a bit further in terms of looking at the future. And as I always say, there is no one who can talk about the future better than those who will have to live in it. By that I mean the youth of today, our young workers like Cde Nomsa Mokoena. Let us see what she has to say.

SACCAWU's Model Proposal

Although many gains around parental rights have been won, no workers have yet reached the targets which SACCAWU has put forward in its model proposal.

These include:

- ▶ one year fully paid maternity leave
- ▶ three months fully paid paternity leave
- ▶ job guaranteed up to 24 months after the birth of the child
- ▶ the right to a day off per month to attend ante-natal classes
- ▶ tight restrictions on pregnant women in terms of
 - lifting,
 - overtime
 - exposure to heat
 - chemicals and proper equipment.

There is still a long struggle ahead!



Over the years SACCAWU has won many gains on the issue of parental rights. But there is still much more to be won. This booklet is intended to help workers to be fully informed about their parental rights and to take the issue forward at their workplaces.

This booklet is a followup to the SACCAWU Manual for Parental Rights Negotiators published in 1999. 'Workers Are Parents too' was produced for SACCAWU by International Labour Resource and Information Group (ILRIG).

International Labour Resource and Information Group (ILRIG)

P.O.Box 1213
Woodstock

7915

South Africa

Ph: +27-21-4476375

Fax: +27-21-448 22 82

