

EXPLAINING THE GLOBAL WAGEINDICATOR COLLECTIVE AGREEMENTS DATABASE

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Abstract

As comprehensive databases documenting the provisions of collective bargaining agreements (CBAs) are limited, and existing databases are not standardized or comparable across countries, the WageIndicator Foundation established its Collective Agreements Database in 2012, which collects and categorizes collective agreements on a global scale. The WageIndicator Foundation operates national websites in 206 countries, providing labour-related content to the public and collaborates with social partners to collect and publish the full texts of CBAs, aiming to increase their use in negotiations. Over the years, the CBA Database team has collected and analysed 2210 CBAs from 67 countries, available in 27 different languages. The coding process involves answering a series of questions related to different aspects of the agreements, resulting in a dataset that includes coded data and selected clauses. The coding scheme consists of over 1,000 variables categorized into fourteen macro topics, covering various aspects such as wages, working hours, and gender equality. The WageIndicator Collective Agreements Database enables statistical analysis and comparative studies on different aspects of the CBAs and has been used in social dialogue projects and research reports in various regions, contributing to the understanding and improvement of labour conditions globally.

Keywords: CBA data, collective agreement database, collective bargaining, collective bargaining agreements, social dialogue

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1. What is a collective bargaining agreement?

When independent labour unions and employers (or employers' organizations) engage in negotiations to establish terms and conditions of employment and regulate their relationship, this process is known as "collective bargaining" (as defined by ILO Convention 154). The resulting written document from these negotiations is called a collective bargaining agreement (CBA). These agreements can be established either at the company level (involving one or multiple companies), at the sector level, or even at an inter-professional level, encompassing all workers within a country. A CBA sets the terms and conditions of employment, it is effective for a specified duration which is stated in the agreement itself but, unlike regular contracts, the parties' obligations do not end on the expiration date, unless a new CBA is negotiated by the social partners.

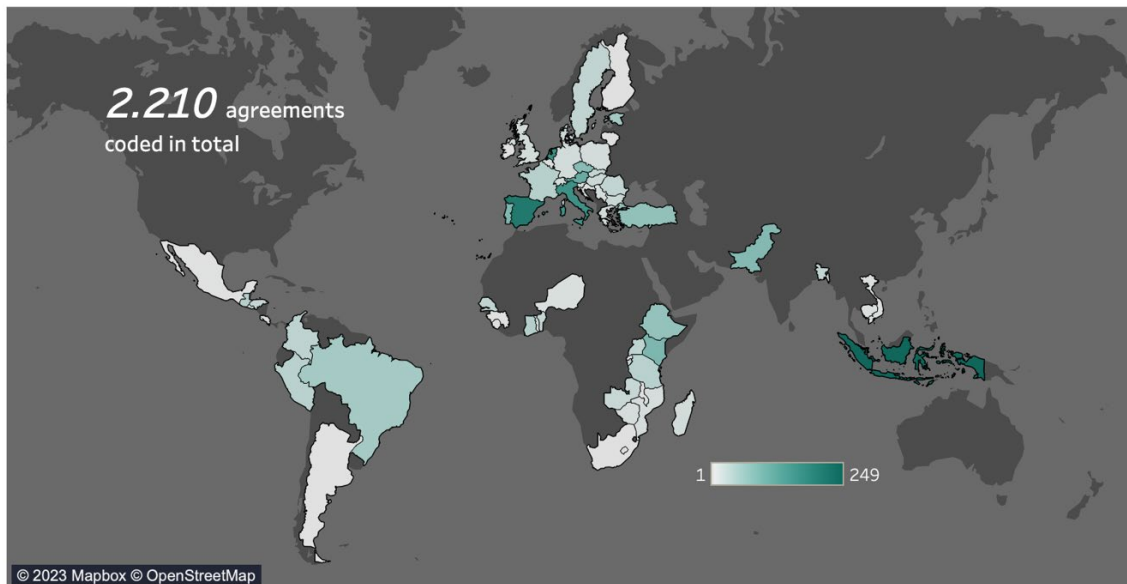
The significance of collective bargaining agreements is recognized worldwide; however, only a few countries maintain comprehensive databases documenting the provisions agreed upon in these agreements. Moreover, even in cases where such databases exist, such as in the UK, New Zealand, and Brazil, they are not standardized or comparable across different countries. Since 2012, the WageIndicator Foundation has been actively collecting and categorizing CBAs on a global scale within the WageIndicator Collective Agreements Database.

2. The WageIndicator Collective Agreements Database

The Collective Agreements Database was established by the WageIndicator Foundation in 2012. The foundation operates national websites in 206 countries (including territories and overseas areas) across all continents, catering to the general public with labour-related content. In 2021, these websites received a total of over 40 million visitors. Each website is presented in the respective national language(s) and aims to gather and provide information on wages, labour laws, collective agreements, career opportunities, and training. Established in the year 2000, the WageIndicator Foundation includes the University of Amsterdam and the Dutch Confederation of Trade Unions (FNV) in its Board of Overseers. As part of Development Aid projects in collaboration with social partners in the global south, WageIndicator began collecting collective agreements in December 2012 with the intention of publishing their complete texts on its websites. The primary goal was to enhance working conditions and attain decent wages by promoting the use and circulation of collective agreements in actual negotiations.

In all participating countries, social partners expressed great interest in publishing their CBAs, recognizing it as an effective and cost-efficient method of communicating the outcomes of their bargaining efforts to their constituents and a broader audience. These partners submit the texts of

their agreements to WageIndicator. Over the past eleven years, the team has collected, analysed and published 2210 collective agreements from 67 countries worldwide (see Figure 1 and Table 1 below). These agreements were available in 27 different languages.



Country	Number of CBAs
Argentina	1
Austria	111
Bangladesh	27
Belgium	8
Benin	23
Brazil	50
Bulgaria	20
Burundi	19
Cambodia	6
Colombia	30
Costa Rica	9
Croatia	7
Czech Republic	77
Denmark	17
El Salvador	13
Estonia	51
Ethiopia	66
Finland	3
France	36
Germany	14
Ghana	38
Greece	13
Guatemala	36
Guinea	1
Honduras	23
Hungary	19
Indonesia	249
Ireland	1
Italy	164
Kenya	90
Lesotho	5
Lithuania	3
Madagascar	13
Malawi	3
Malta	4
Mexico	2
Mozambique	11
Netherlands	170
Niger	7
Pakistan	82
Peru	34
Poland	12
Portugal	86
Romania	27
Rwanda	4
Senegal	28
Serbia	10
Sierra Leone	2
Slovakia	24
Slovenia	8
South Africa	3
Spain	211
Sweden	28
Switzerland	12
Tanzania	34
Togo	16
Turkey	68
Uganda	29
United Kingdom	13
Vietnam	5
Zambia	22
Zimbabwe	10

Figure 1 and Table 1 - Collective agreements included in the WageIndicator Collective Agreements Database in June 2023, per country (excluding transnational agreements). Source: [WageIndicator Collective Agreements Database](#) (2023).

For each collective bargaining agreement, the team addresses a questionnaire, which has been conceived as a comprehensive coding scheme in constant evolution, updated according to the most relevant topics emerging from the public debate at a global level. The annotated CBAs texts are published on the national websites, in national languages, where users can browse CBAs online, view CBAs visualizations and annotations, and use the CBAs comparison tool, which provides a unique opportunity to closely examine and compare the agreements across countries.

3. The collection process

The WageIndicator CBA Database applies three main approaches for gathering the collective agreements:

- a. Downloading from national registries (official national archives);
- b. Through smart Google searches;
- c. Directly asking the bargaining social partners (trade unions and employers' organizations) for full-text agreements.

In some cases, the latter turned out to be quite problematic when signatories are reluctant to share their CBAs. This happens for competitive reasons, or because CBAs are claimed to be available and accessible only for the signatories' parties. Overall, as in recent years CBAs have been published online more frequently, gathering CBAs has become easier, while for certain countries the collection process keeps being quite problematic and challenging.

4. Option of anonymity for the signatories and the CBAs collectors

The WageIndicator CBA Database is able to guarantee total anonymity - if explicitly requested - to both the signatories of the agreements as well as the people who would like to share them with the database team. In order to ensure anonymity to the correspondents, two options are provided:

- a. The CBA can be fully hidden to the public. This means that the text will not be published at all and it will only be coded and analysed internally, for research purposes;
- b. The CBA can be published but without showing any sensitive data regarding the signatories. All the referring data regarding the signatories are deleted by the team prior to publishing the text of the agreement on the WageIndicator website.

5. The coding process

Gathered CBAs can have various formats: Word, PDF, JPEG, or even a printed booklet. These formats need to be converted, or 'cracked', through an OCR (Optical Character Recognition) software. In a next

step, an HTML editor software is used to assign headings for titles, chapters, and articles. Then, the text can be uploaded in HTML format in the WageIndicator CBA Database.

The whole “conversion” process is a time-consuming effort, specifically in case of long full texts, in case of numerous tables and graphs, or in case the original text is in JPEG format. Once texts are uploaded on the database platform, they are ready to be coded.

The coding process consists of answering a series of questions and finding, for each question, the appropriate paragraph, the so-called ‘clause’, that answers that specific question. The collective agreements are annotated according to a coding scheme with more than 1000 variables and relate to fourteen macro topics (and related sub-questions): General CBA data, Job titles, Social security and pensions, Training, Employment contracts, Sickness and disability, Health and medical assistance, Work/family balance arrangements, Gender equality issues, Wages, Working hours, Workers’ Representation & Conflicts, New Technologies & Green clauses, and Coverage.

This process produces two datasets: one includes the data resulting from the coding, the other collects the clauses selected for each variable. The full list of questions is available in the WageIndicator Collective Agreements Database Codebook (Ceccon and Medas, 2022). The full collective agreements’ texts are stored in a separate dataset.

6. The team

The annotators working on the CBA Database are skilled and experienced professionals who are able to manage multiple languages. Figure 2 shows the countries potentially covered by all the languages spoken in the group of annotators. If it is necessary, the team can be expanded to include more languages.

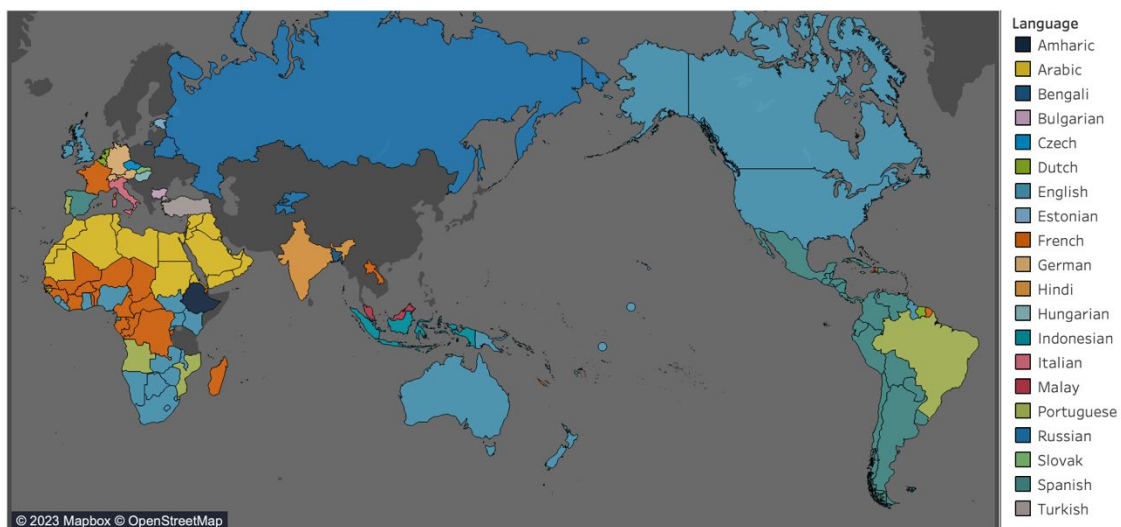


Figure 2 – Countries covered by the languages spoken in the group of annotators.

On top of the linguistic skills, all of the team members have a deep knowledge and understanding in the field of the industrial relations and collective bargaining. All the WageIndicator CBA Database coders can work remotely from different parts of the world, having the chance to instantly connect with other team members any time, online, by using an internal communication channel. This is a precious opportunity for sharing knowledge, new ideas or doubts regarding the annotation.

7. Output and outcomes of the database work

The WageIndicator CBAs database and its related coding scheme have been conceived as an international and comprehensive tool, in order to collect, host, analyse and compare collective agreements from all over the world, at all bargaining levels (national, sectoral, company, etc.). CBAs sampling is, each time, customized according to specific projects' requirements, in terms of countries, industries (based on NACE codes), coverage, bargaining level and time range.

The database allows to conduct reliable and customized statistical analysis, because it is accessible using statistical software. Comparative analysis, in particular, can be performed at many levels, such as cross-country comparison on some topics/provisions, changes over time in one country/sector/CBA, variations between different CBA types and qualitative analysis on specific clauses.

The database has been used in several Social Dialogue projects in EU, Asia, Africa and Latin America (<https://wageindicator.org/about/projects>), as well as in a number of reports and publications (for the most recent ones, see chapter 9. Bibliographical references).

8. Acknowledgements

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9. Bibliographical references

- Besamusca, J. (2021). [Collectively Agreed Wages in Europe](#). COLBAR-EUROPE. University of Amsterdam.
- Ceccon, D. & Medas, G. (2022). [Codebook WageIndicator Collective Agreements Database – Version 5 – February 2022](#). WageIndicator Foundation, Amsterdam.
- Ceccon, D. , Kahancová, M. , Martišková, M. , Medas, G. and Šumichrast, A. (2023). [LEVEL UP! Support and develop collective bargaining coverage](#). CELSI, Bratislava, and WageIndicator Foundation, Amsterdam.
- Cetrulo, A. (2021). [National Collective Bargaining Agreements in Italy: An Investigation on Wages and Remote Working](#). COLBAR-EUROPE. Institute of Economics & EMbeDS, Scuola Superiore Sant'Anna Pisa.
- Charni, K., Greenan, N., & Besamusca, J, (2021). [Feasibility of creating an EU database on working condition clauses in CBAs. The case of gender](#) (Deliverable 12.5), Leuven, InGRID-2 project 730998 – H2020.
- International Labour Organization (1981). [C154 - Collective Bargaining Convention, 1981 \(No. 154\)](#).
- Jansen, N. (2021). [Collective Bargaining in the Netherlands \(manufacturing, construction, commerce and the public sector\)](#). COLBAR-EUROPE. Amsterdam Institute for Advanced Labour Studies (AIAS-HSI).
- Medas, G., & Ceccon, D. (2021). [Contents and characteristics of the Spanish collective bargaining agreements](#). COLBAR-EUROPE. WageIndicator Foundation and University of Amsterdam.
- Peuchen, N., & Jansen, G. (2022). [Report on 'Collective Agreements, Low Wages and Covid'](#). BARCOVID Midterm Meeting. University of Amsterdam, Central European Labour Studies Institute, Sant'Anna School of Advanced Studies, WageIndicator Foundation, Amsterdam.
- Szüdi, G. (2021). [Collective Bargaining Agreements in the Visegrad countries](#). COLBAR-EUROPE. Central European Labour Studies Institute.
- Tijdens, K.G., Besamusca, J., Ceccon, D., Cetrulo, A., van Klaveren, M., Medas, G., & Szüdi, G. (2022). [Comparing the Content of Collective Agreements across the European Union: Is Europe-wide Data Collection Feasible?](#) E-Journal of International and Comparative Labour Studies, Volume 11 No. 02/2022.
- Tijdens, K.G. (2021). [Clauses and patterns within and across countries in four sectors in Europe - manufacturing, construction, commerce, public sector](#). COLBAR-EUROPE. Amsterdam, WageIndicator Foundation.
- Tijdens, K.G. (2021). [Feasibility of a Europe-wide data collection of Collective Agreements](#). COLBAR-EUROPE. WageIndicator Foundation.

Tijdens, K.G. (2021). [The wider bargaining agenda with a specific focus on the trade-off between clauses](#). COLBAR-EUROPE. WageIndicator Foundation.

van Klaveren, M., & Tijdens, K.G. (2021). [Transnational Company Agreements](#). COLBAR-EUROPE. WageIndicator Foundation.

WageIndicator Foundation (2023). [Collective Agreements Database](#). Amsterdam.

Collective Bargaining After Labour Law Reform in Indonesia: An Analysis on the WageIndicator Collective Bargaining Agreement Database

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Abstract

Introduction and research question - Indonesia passed the Omnibus Law - Job Creation Law No.11 of 2020 at the end of 2020 and its derivative laws in 2021 to attract foreign investment and create a more flexible labour market. To overcome its drawbacks trade unions focus on developing stronger Collective Bargaining Agreements (CBAs), as CBAs are a key trade union tool for negotiating better working conditions. This paper examines how the Omnibus Law has influenced the contents of CBAs in the Indonesian textile, garment, and footwear industries by conducting a comparative analysis of CBA clauses and provisions of a particular company, both pre- and post-Omnibus Law.

Methodology and Data – This study uses coded collective agreements from the WageIndicator CBA Database to get an overview of company-level CBAs in the national context and analyze whether labour regulations have worsened CBA clauses and provisions. This paper analyzes 18 CBAs from nine companies that were signed before and after the Omnibus Law, taken from a dataset of 164 Indonesian textile, garment, and footwear company CBAs.

Contribution to literature and findings – The data highlights that obtaining CBAs after the Omnibus Law is challenging. These challenges originate from a shortage of established CBAs, which is due to the prolonged duration of the negotiation process. The findings indicate that post-Omnibus Law, collective bargaining agreements have mostly remained the same or improved. However, focusing only on Omnibus Law article amendments, it is evident that several companies have reduced their CBA provisions. It was found that five out of nine companies lowered their CBA provisions as regards to overtime hours and severance pay, and 4 out of 9 companies agreed to decrease the employment contract period clauses. On the other hand, the analysis found that other clauses were not affected by the Omnibus Law, such as training and gender equality, that were increased by 11,1% and 9,6%, respectively. This suggests that trade unions are improving other clauses to make up for the reduction in their CBA provisions

Keywords: Indonesia CBA, Omnibus Law, Job Creation Law, Collective Bargaining Agreement

Acknowledgement

The authors acknowledge gratefully the Laudes Foundation for funding improving working conditions in Indonesia, see <https://wageindicator.org/about/projects/makin-terang-improving-work-and-worker-representation-in-indonesia>. This paper solely reflects the opinion of the authors and does not necessarily reflect the official opinion of the funder.

Furthermore, we would like to express our deepest appreciation to Maarten van Klaveren and Kea Tijdens for their support and feedback, their constructive critiques and valuable input have improved the quality and clarity of our paper.

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I. Background

a. Collective Bargaining in Indonesia's Textile Garment and Footwear Industries

Despite the challenges posed by the COVID-19 pandemic, the textile, garment, and footwear industries have continued to make significant contributions to the Indonesian economy. The sector has had a substantial impact on the country's exports and provided employment opportunities for over 1.08 million workers in 2022. However, the sector has a history of neglecting labour regulations, which results in low wages, long working hours, unfavourable working conditions, and a lack of collective bargaining power for workers. Workers in the sector have organized into trade unions to represent their collective interests and to demand better working conditions. Collective bargaining agreements are one of the key negotiating tools that trade unions use to protect and demand worker rights.

A Collective Bargaining Agreement (CBAs) must be made between an employer or several employers and a trade union or several trade unions that have already been registered in the Ministry of Manpower. With these rules in place, a collective bargaining agreement can only be made with a company that has a recognized trade union (Izzati, 2022)

Indonesia's Labour Law (Law No. 13 of 2003) primarily governs the legal framework for collective bargaining in the country. The law further stipulates that businesses must engage in good faith negotiations with trade unions, provides the legal basis for the establishment of CBAs, and outlines the rights and obligations of both employers and workers in the CBA that extend beyond the scope of statutory or normative regulations.

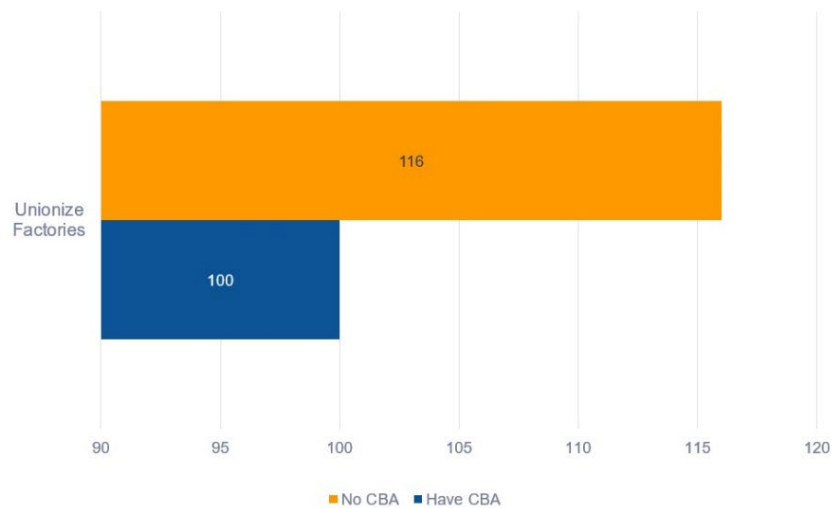
Despite the law guarantees freedom of association (FoA), the implementation of this FoA rights within companies faced various challenges. These challenges include apprehension among workers over union membership and resulting difficulties in organizing a trade union. As a result, there has been an ongoing decrease in the membership of trade unions year after year (AF.Sigit Rochadi, 2020). The trade union density has decreased over the past five years, based on the national data on trade union density that we were able to obtain. According to Indonesia's Central Bureau of Statistics (BPS), the country's union density rate was 11,76% in 2022 (Rizaty, 2023), this number shows a decline from the reported trade union density rate of 14.54% in 2017 (Jayani, 2019).

The development of Collective Bargaining Agreements (CBAs) may be impacted by the relatively low trade union density, as the ability of a trade union to engage in CBA negotiations is dependent upon its representation of more than 50% of the company's workers (Izzati, 2022). Based on data published by the Ministry of Manpower, the number of registered CBAs in March 2023 was 15,637 CBAs (Perjanjian Kerja Bersama (PKB) yang Didaftarkan, Maret 2023, 2023). This figure contrasts with the number of in total 1,247,660 companies that were listed in the Mandatory Labour Report application as of 31 December 2022 (Data Perusahaan yang terdaftar di WLKP Online Jan-Des Tahun 2022, 2023). While the implementation of a collective bargaining agreement is not legally mandated in all companies registered, the number serves as an indication for assessing the fulfilment of the right to organize and trade union engagement in collective bargaining in Indonesia. The data shows that a large proportion of workers do not have access to the benefits and protections provided by CBAs.

Another source of data used in this contribution stems from the WageIndicator Indonesia - Data Academy project with the five biggest garment trade union partners. This project aims to collect Decent Work Check (DWC) surveys, which serve to assess whether working conditions are compliant with the national Labour Law. In the period of 2017 - 2022, 229 factories with 13,216 respondents

participated in the DWC Survey in 216 factories were members of trade unions, and 104 companies had established company CBAs (Compliance with Law: Decent Work Check in Indonesia, 2022)

Graph 1. Decent Work Check Surveys targeted unionized factory in textile, garment, and footwear, categorize by collective bargaining agreement



The mere presence of a trade union within a company does not necessarily guarantee a decent process of implementing and enforcing CBAs. The current situation is that there are still many companies that do not have a CBA due to a lack of attention from employers who do not understand the intent and purpose of establishing CBA, which is sometimes considered to only benefit the workers, therefore employers are hesitant to participate in collective bargaining (Sugeng Prayitno, 2023). According to the regional trade union representative in West Java, even after CBAs are negotiated and approved, it is often difficult to ensure that employers comply with the requirements. Workers, particularly the leaders of trade unions at factory level, who attempt to enforce the terms of the CBA risk facing discrimination or reprisal (Sudiana, 2022).

The Job Creation Law, officially known as the Omnibus Law, passed in Indonesia in 2020, has raised concerns about the future of CBAs in the textile, garment, and footwear industries. The law aims to streamline regulations and promote economic growth. However, trade unions and labour activist both in Indonesia and international express strong resistance and critical analysis. They argue that the implementation of the Omnibus Law in Indonesia is anticipated to have major effects on worker protection (Mahy, 2022). The trade unions and labour activists are concerned about how the majority of Omnibus Law's clauses are unfavourable to workers. And the law's impact is on the decrease of workers' and trade union bargaining position, decreasing workers' and unions' power to negotiate CBAs (Serikat Buruh Bakal Gugat Perppu Cipta Kerja ke MK Karena Mayoritas Pasal 'Merugikan Pekerja', 2023).

The objective of this paper is to analyze the extent to which the Omnibus Law has thus far, that is, until June 2023, influenced the contents of CBAs in the Indonesian textile, garment and leather industry. This will be achieved by conducting a comparative analysis of the CBAs' content prior to and post-implementation of the Omnibus Law.

b. Changes in Indonesian Labour Law

On November 2, 2020, the Indonesian Parliament passed the Omnibus Law (Law No. 11/2020 on Job Creation). Court reviews and widespread protests resulted in numerous rejections of the Omnibus Law. In an effort to evade this, on December 30, 2022, the government published a Government Regulation that contained the same contents as the Omnibus Law. This regulation was promulgated as an Act by the House of Representatives on March 21, 2023, under the same title; Law No. 6/2023 on Job Creation.

The law revised several articles from the main existing Labour law, Law No. 13/2003 on Manpower. Although there have been some improvements in a number of labour protection topics, there have been more regressions as regards labour protection. The scheme below presents an overview of the main improvements and regressions.

Improvements	Law No. 13/2003 on Manpower	Law No. 6/2023 on Job Creation (Omnibus Law)
Compensation for contract workers upon termination	Non-existent	Compensation is payable at the rate of 1 month's wage for every 12 months of service.
The legal consequences of a contract violation terms	Fixed-term contract workers becomes permanent workers by law	Fixed-term contract workers become permanent workers by law and worker's years of service are computed from the date of fixed-term employment contract begin
Prohibition of probation period for contract workers	The probation period mandated by the employer is deemed invalid and void by law, and the worker is granted permanent status	In addition to the probation period considered invalid and void by law, the probation period is counted as working period
Employment termination notice	The employer is not required to provide written notice of termination to the workers, only to the industrial relations settlement	Employers are required to provide workers with written notice of termination of employment, stating grounds/reasons no later than 14 working days before the termination date
Unemployment benefit	Non-existent	Unemployment benefit schemes are given to workers who experience layoffs
Regression	Law No. 13/2003 on Manpower	Law No. 6/2023 on Job Creation (Omnibus Law)
Fixed-term employment contracts period	Could only last up to 2 years and be extended once for up to 1 year	Maximum length of fixed-term contracts, including extensions, is 5 years
The limitations of outsourcing certain types of work	Prohibited the use of outsourced workers in core job or any activities related directly to company's	There is no restriction on the type of work that can be outsourced

	production process (non-core business)	
The legal consequences of outsourcing implementation violations	In the event of a violation of the outsourcing implementation, the employment relation between the worker and the outsourcing company will be changed by law to the employment relation between the worker and the company providing the job	Removed from article
Overtime	Maximum of 3 hours per day and 14 hours per week	Maximum of 4 hours per day and 18 hours per week
Sabbatical leave	At least 2 months after workers have worked continuously for 6 years at the same company, and apply every multiple of 6 years of service.	Removed from article
Termination compensation for permanent worker	<p>Termination payments under Indonesian Labour law generally comprise three components: severance pay, long-service pay, and rights disbursement.</p> <p>The payment calculation is depended on the reason of termination</p> <p>1. Severance pay due to:</p> <ul style="list-style-type: none"> ● Merger: 2x severance pay ● Consolidation and release of companies: 1x severance pay ● Companies closing due to continuous losses: 1x severance pay ● Companies closing due to force majeure: 1x severance pay ● The grounds of worker's misconduct: 1x severance pay ● Pension (in case employers not register workers in the pension program): 2x severance pay <p>2. Long-service pay in the event of employment termination due to prolonged illness or a disability arising from a work injury: 2x long-service pay</p> <p>3. Housing or medical and healthcare allowances disbursement calculated as an additional 15% of total severance</p>	<p>1. Reduction of severance pay in the event of termination due to:</p> <ul style="list-style-type: none"> ● Merger: 1x severance pay ● Consolidation and release of companies: ½x severance pay ● Companies closing due to continuous losses: ½x severance pay ● Companies closing due to force majeure: ½x severance pay ● The grounds of worker's misconduct: ½x severance pay ● Pension (in case employers not register workers in the pension program): 1 ¾ x severance pay <p>2. Reduction of long-service pay in the event of employment termination due to prolonged illness or a disability arising from a work injury: 1x long-service pay</p> <p>3. Housing or medical and healthcare allowances removed from article</p>

	and service payment on the termination of employment	
Minimum Wage Formula (using cost of living survey)	The Wage Council used to conduct a market survey to determine the cost of living and recommend the results to the Governor as a reference for determining the minimum wage	The new formula has abolished the cost of living survey
Exemption for Micro and Small Businesses (MSMEs)	Non-existent	Exempts MSMEs from having to pay the minimum wage, severance pay, long-service pay, and compensation rights, except when agreed between workers and employer.

Source: (Ahmad, 2021)

Following the enactment of the Omnibus Law, many labour relations matters need to be resolved through individual work agreements, company regulations, and collective bargaining agreements. However, in many CBA negotiating processes in Indonesia, the normative legal basis is employed as an upper limit that must be maintained rather than a minimum provision. As a result, CBA advocacy and CBA negotiations have become increasingly difficult following the Omnibus Law - in addition to existing problems as sketched above.

The Omnibus Law has also led to a significant increase in the duration of negotiation processes for CBAs. Employers are eager to integrate the latest CBA into the framework of the Omnibus Law. Meanwhile, the trade union aims to preserve the current CBA while complying with the Labour Law.

II. Methodology

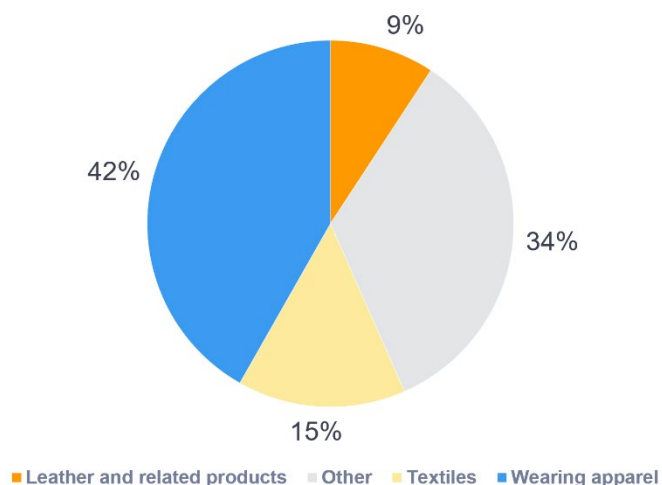
a. Indonesian WageIndicator CBA Database

The non-profit WageIndicator Foundation runs national WageIndicator websites in more than 196 countries with the objective of providing the public with comprehensive insights on wages, national Labour laws, and other employment-related information.

In terms of the CBA Database, WageIndicator has created a central web-based platform to upload, annotate, and code CBA texts using a predefined coding scheme. This allows for the comparison of agreement provisions for the coded topics at both the national and international levels, as well as access to the source texts of Collective Agreements.

For analysing the CBA content, WageIndicator has developed a coding scheme covering the topics assumed to be most common in collective agreements around the world. A detailed questionnaire with twelve main topics has been used to annotate Indonesian collective agreements. Ten of the topics examine the actual content of the CBA document, while the other two topics consist of general information about the agreement and its scope. Each and every main topic is looked into by a series of inquiries that thoroughly examine each individual subject (Medas & Ceccon, 2021). The database enables research on Indonesian CBAs content, including comparisons of CBA clauses/provisions within the same company across time.

Graph 2. Indonesian collective bargaining agreements by textile, garment, and footwear sectors



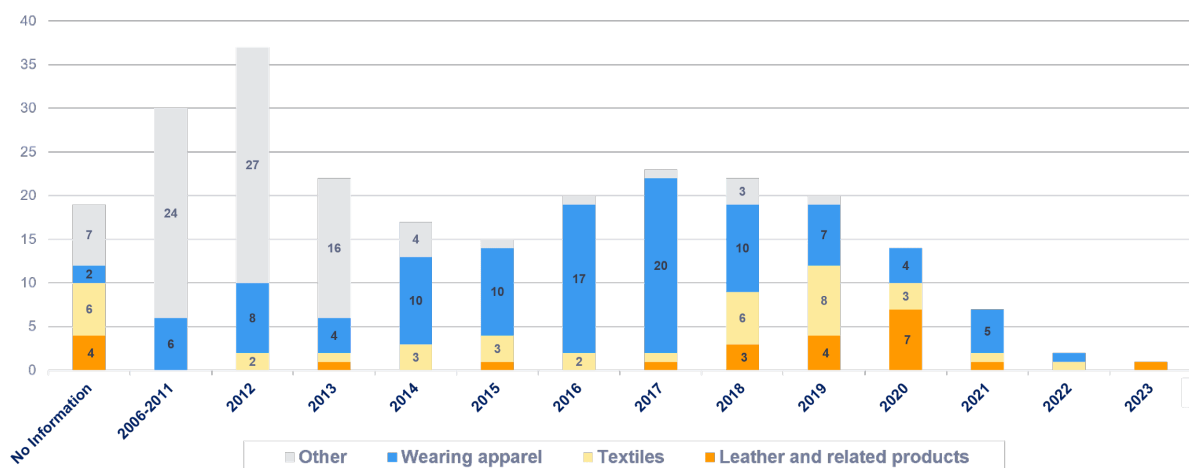
WageIndicator has collected and annotated a total of 249 Collective Bargaining Agreements (CBAs) from Indonesia, these include 247 CBAs negotiated between a single employer and its workers from 221 companies as well as two multi-employer CBAs covering ten companies and nine plantations. Multi-employer CBAs are different from single employer CBAs in that they involve cooperative negotiations between employers and trade unions of several different companies. These CBAs are frequently

preferred by companies that have things in common, such as similar locations, industries, and employment conditions.

The CBAs originate from diverse sectors such as manufacturing, agriculture/forestry, mining, transportation, food & beverage, tourism, and medical, among others.

A comprehensive dataset of 164 company CBAs from the textile, garment, and footwear industries has been compiled and annotated. This dataset consists of 104 CBAs from the garment sector, 37 CBAs from the textile sector, and 23 CBAs from the footwear sector.

Graph 3. Indonesian collective bargaining agreements in textile, garment (apparel), and footwear signed by year



The signature year of the 249 CBAs in the WageIndicator CBA database ranges from 2006 to June 2023, as shown in Graph 3. In Indonesia, WageIndicator began actively collecting CBAs in 2013, although WageIndicator already collected CBAs with signature years prior to 2013. A large proportion of the CBAs collected in Indonesia stem from the garment, textile, and footwear industries, as explained below due to the cooperation between the garment trade unions and WageIndicator.

The low numbers presented above for 2021, 2022 and 2023 highlight the challenges encountered in establishing and obtaining collective bargaining agreements after the implementation of the Omnibus Law. According to factory management and trade union representatives in West Java, factories opted to postpone CBA negotiations during the period. If the CBA is negotiated, the duration will take longer. It may take up to 15 meetings to reach an agreement between employers and trade union to discuss severance pay, one of the topics that were changed by Omnibus Law (Sugiyana, 2022). Due to the issues mentioned above, WageIndicator had difficulty getting new CBAs because there are lack of CBA negotiation and CBAs were agreed upon between 2021 and 2023.

b. Data Collection Method

In Indonesia, WageIndicator focuses on gathering CBAs through trade union partners and/or by requesting registered CBAs at the local manpower department. Although WageIndicator is partnering with the five biggest garment trade union partners, requests for CBAs remain challenging due to the lack of a legal basis to upload full-text agreements on a website. However, with the WageIndicator CBA database, which is increasingly used by trade unions, gathering CBAs has become more convenient.

The collected CBAs can be in any format, including Word, PDF, JPEG, and even as a printed booklet. Trade unions at the factory level usually send their printed booklets to be processed and annotated by the WageIndicator team. To submit these files to a database, the files must be converted to text format. Amaya software is used by WageIndicator to assign headers after a CBA has been prepared into text in HTML format to be uploaded in the WageIndicator CBA Database system - COBRA. Texts can be annotated after the documents have been submitted to the platform by choosing the section of the text or the sentence that contains the response to the query according to the specified coding system (Tijdens, 2021).

c. Coverage

The present study undertakes a comparative analysis of the CBA clauses and provisions for a set of particular companies, both pre- and post-enactment of the Omnibus Law. Out of the textile, garment, and footwear CBAs that WageIndicator has gathered, 18 CBAs from nine companies have been signed both prior to and post to the enactment of the Omnibus Law. These nine companies consist of three in the footwear industry, five in the garment sector, and one in the textile sector. Table 2 shows the profiles of these nine firms.

Table 2. Profiles of companies with CBAs signed prior to and after the Omnibus Law

No.	Company Name	CBA period	Start date	End date	Region	Sector / Line of Business	Number of Workers*	Brand supplied**
1	A	2019 - 2021	01/01/2019	01/01/2021	Purwakarta, West Java	Garment	2470	-
		2021 - 2023	19/05/2021	19/05/2025				
2	B	2017 - 2019	01/09/2017	31/08/2019	Tangerang, Banten	Footwear	21956	Nike
		2020 - 2022	23/12/2020	22/12/2022				
3	C	2017 - 2019	23/08/2017	23/08/2019	Semarang, Central Java	Garment	3527	Adidas, Fanatics,
		2021 - 2023	17/05/2021	17/05/2023				

								H&M, Nike, PVH
4	D	2019 - 2021	01/01/2019	01/01/2021	Bekasi, West Java	Garment	178	-
		2021 - 2023	31/01/2021	31/01/2023				
5	E	2018 - 2020	07/01/2018	06/01/2020	Purwakarta, West Java	Footwear	1454	Nike
		2022 - 2024	07/01/2022	06/01/2024				
6	F	2018 - 2020	01/08/2018	31/07/2020	Bogor, West Java	Garment	322	-
		2021 - 2023	02/08/2021	02/08/2023				
7	G	2015 - 2017	05/06/2015	05/06/2017	Bogor, West Java	Garment	1215	-
		2021 - 2023	01/04/2021	31/03/2023				
8	H	2020 - 2022	01/04/2020	31/03/2022	Tangerang, Banten	Footwear	9300	Nike
		2023 - 2025	01/03/2023	28/02/2025				
9	I	2019 - 2021	26/08/2019	25/08/2021	Purwakarta, West Java	Textile	1000	-
		2022 - 2024	26/08/2022	25/08/2024				

* The information regarding number of workers has been obtained from trade unions at the plant level through surveys conducted in December 2022

** The information regarding brands supplied has been obtained from both the public brand facility list compiled by Open Supply Hub and by the trade unions at the plant level.

The WageIndicator has encountered challenges in obtaining company CBAs following the implementation of the Omnibus Law, mostly attributable to the limited number of CBAs that have been successfully negotiated and signed during this period. As a result, there lack of CBA samples to compare in this study.

III. Research Findings

Comparing CBA content post and prior to the Omnibus Law based on WageIndicator CBA Database coded topics in nine renewed company CBA

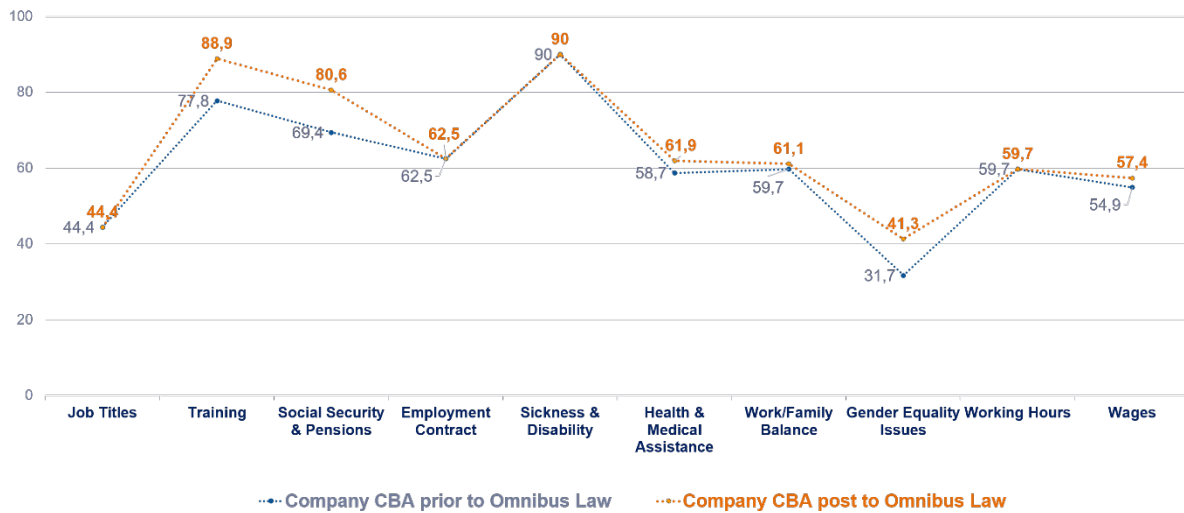
The analysis uses coded collective agreements to determine whether the clauses and provisions in the CBA have improved or deteriorated as a result of worsening labour regulations. As described in the CBA database Manual, there are 10 main topics covered in detail by the CBA contents: (1) Job titles, (2) Training, (3) Social Security and Pensions, (4) Employment Contracts, (5) Sickness and Disability, (6) Health and Medical Assistance, (7) Work-Family Balance Arrangements, (8) Gender Equality Issues, (9) Working Hours, (10) Wages. The list of variables is included in the codebook of the dataset (Ceccon & Medas, 2022).

Each main topic is investigated by sub-questions so that it can be thoroughly analyzed. This paper undertakes an analysis of 110 sub-topics that are associated with the 10 main topics above. The graph 4 is then measured as a percentage of the number of coded sub-topics covered in the CBA content compared to the total number of 110 sub-topics investigated by sets of sub-questions from WageIndicator. It should be noted that the assessment of an improvement is determined by two key factors. Firstly, the inclusion of new clauses within the CBA in cases where there was previously no

regulation. Secondly, the extent to which provisions are enhanced, such as an increase in the number of annual leave days from 12 to 16.

Graph 4 presents a comparison of data obtained from CBAs before and after the implementation of the Omnibus Law, categorized by coded main topic. The percentage calculates the number of sub-questions included in each sampling company's CBAs before and after the Omnibus Law.

Graph 4. Comparison on average percentage of each WageIndicator-coded main topics in nine renewed company CBAs

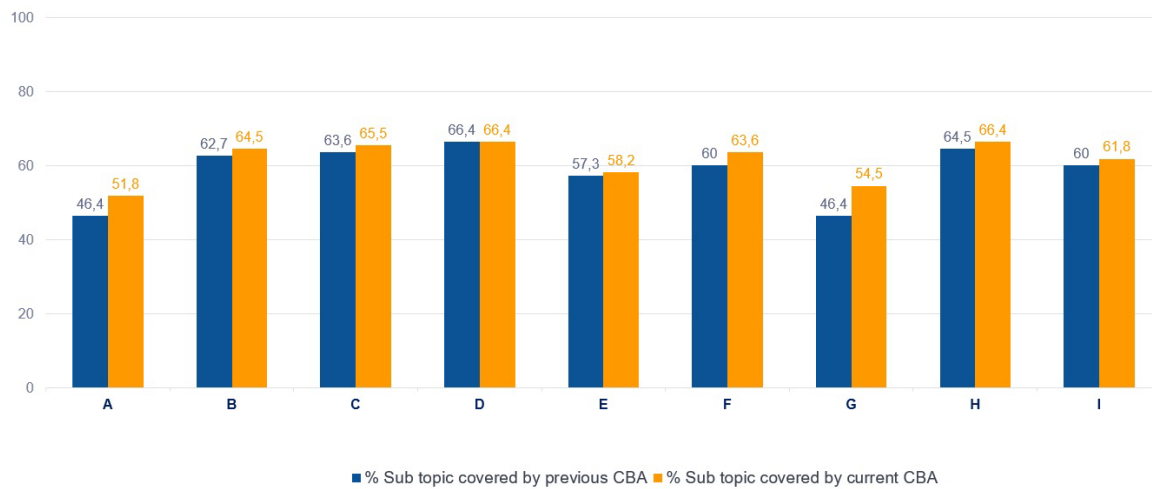


Improvement is seen in six of the main topics measured: training, social security and pensions, health and medical assistance, work and family balance, gender equality, and wages. The remaining main topics (job titles, employment contracts, sickness and disability, and working hours) remained unchanged. The highest improvement rate is in social security and pensions (11.2%), followed by training (11.1%) and gender equality (9.6%).

The main topics that are experiencing notable improvement are those that are not affected by the Omnibus Law, either due to the absence of regulatory amendments or the Omnibus Law's enabling of improvements in those areas. An example of changes cause by Omnibus Law includes a novelty regulation in terms of the unemployment benefit scheme, known as *Jaminan Kehilangan Pekerjaan*, in the domain of social security and pensions.

Graph 5 displays the average percentages of all sub-topics of the nine renewed company CBAs post and prior Omnibus Law, categorized by company. Prior to the Omnibus Law, the CBA content in all nine companies covered on average 58% of the 110 sub-topics measured by WageIndicator sub-questions. Company D has the highest proportion of WageIndicator sub-topics incorporated in its CBA, accounting for 66.4% (73 out of 110 topics), whereas companies A and G have the lowest proportion, at 46.4%. Following the implementation of the Omnibus Law, the figures improved on average from 58% to 61%. Notably, of the companies with high starting positions in their CBA, company D did not experience any change, while company H saw an increase to 66.4%.

Graph 5. Comparison on average % of all WageIndicator coded sub-topics of the nine renewed company CBAs post and prior Omnibus Law, categorized by company

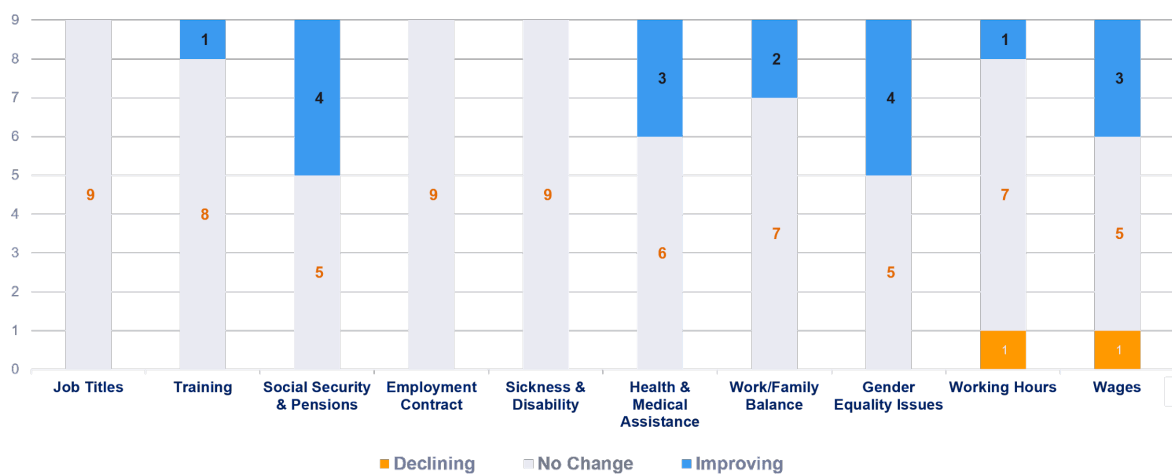


The majority of the company CBAs, specifically eight out of nine, have upgraded their CBA clauses and provisions. One CBA, however, has remained unchanged. Company G demonstrated the most significant enhancement in their CBA, achieving an 8.1% increase. Company A also exhibited notable progress, with a 5.4% improvement in their CBA.

The data suggests that companies that have lower starting positions in their CBAs possess greater potential to increase the number of clauses and improve the provisions of their CBA compared to those that currently hold top positions.

Graph 6 shows 10 main topics identified in the CBA prior and post Omnibus Law, which have been classified based on the number of companies that have included CBA clauses and/or provisions regarding these topics.

Graph 6. Number of companies that change the clauses and/or provision in their Collective Bargaining Agreement, categorized by coded main topics



Within the section concerning working hours and wages, it is noticed that one company has experienced a decrease in their CBA clauses and/or provisions. However, it is noteworthy that there

are several companies that have demonstrated improvement, with one company exhibiting improvement in working hours and three companies showing progression in wages. Four companies have successfully improved their CBA clauses and provisions in relation to gender equality, social security and pensions.

Based on the available data, all nine companies have maintained their collective bargaining agreements (CBAs) related to job titles, employment contracts, sickness and disability. It is evident that trade unions have demonstrated their commitment to preserving the provisions outlined in their previous CBA from being reduced, despite the overlapping implementation of the Omnibus Law and the COVID-19 pandemic, which posed another major challenge.

Following the implementation of the Omnibus Law, trade unions have engaged in negotiations that prioritize gender equality clauses in their CBA. These clauses address issues such as discrimination, sexual harassment, and workplace violence. The sub-topic of sexual harassment has resulted in improvements to the CBAs of three companies. Additionally, two companies have included provisions aimed at mitigating workplace discrimination and promoting gender equality, while one company added measures to address workplace violence to their CBA. It is also interesting to note that within the nine renewed company CBAs, there was no exclusion of women workers belonging to certain groups (such as contract and outsourced workers) from the clauses and provisions of gender equality in their respective CBAs. This may be due to a growing awareness of gender mainstreaming in nine factories observed in this study. Trade unions are negotiating for improvements to clauses that are not affected by the Omnibus Law, eg: gender equality clauses in order to compensate for the loss of other clauses as a result of declining regulations in the Omnibus Law.

In response to a request from their members, most of the trade unions have focused on enhancing wages in the CBA negotiation processes. Notably, new pay scale clauses have been introduced in one company, and two companies increased their CBA provisions for transport and meal allowances.

Improvements in health and medical assistance are seen in one company that incorporated relevant clauses related to COVID-19, while two others have enhanced their provisions for protective clothing/gears and health insurance.

Another notable improvement is within the work and family arrangements, where one company is including clauses on breastfeeding breaks and discrimination related to maternity, while another company is enhancing their provisions for the health and safety of pregnant workers.

Company I is one of the companies that is making advances in improving their CBA in terms of work and family arrangements. They managed to negotiate effectively for the addition of two new clauses on health and safety for pregnant workers, such as the elimination of any risks associated with working while pregnant and the provision of specialized uniforms for pregnant workers. Another additional development is related to ensuring the provision of breastfeeding breaks and time off for nursing mother within their CBA. One of the strategies employed by the trade union in this company is to include traditions/norms that are in force and implemented, but not explicitly laid out in the CBA. Trade unions may face uncertainty regarding changes in the company's policies if they are not stated in a written agreement, which could result in the sudden revocation of established traditions and norms.

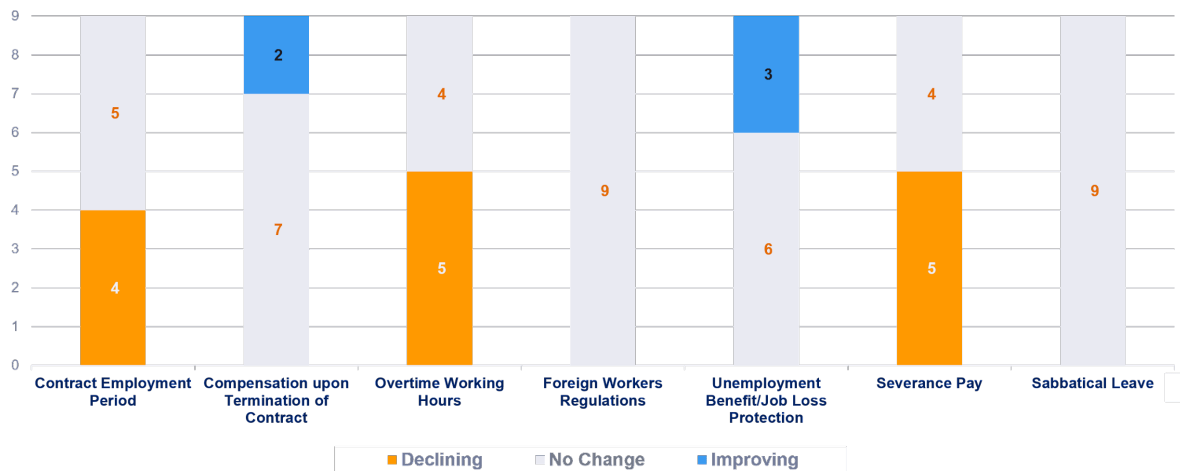
The impact of the amendment's articles in the Omnibus Law on the content of CBA

The preceding section of this contribution outlines the changes that were made to labour regulations resulting from the amendments introduced in the Omnibus Law. As the sub-topics analyzed within the WageIndicator CBA Database did not cover all the changes affected by the Omnibus Law, a

comparative analysis was conducted by examining the complete text of collective agreements for the specific clauses and/or provisions associated with the amended articles of the Omnibus Law.

The previous section’s data indicates that, in general, collective bargaining agreements negotiated after the enactment of the Omnibus Law have either remained the same or exhibited a slight improvement. However, upon closer examination and focusing only on the changes made to the articles within the Omnibus Law, a decrease in CBA provisions is evident (see Graph 7).

Graph 7. Categorization of companies that underwent changes to the sub-topics in their CBA due to amendments article in Omnibus Law



a. The impact of the declining articles within the Omnibus Law on the clauses and/or provisions of Company CBAs

There are four companies adjusting their CBA regarding the duration of contract employment periods with the Omnibus Law, where the maximum length of fixed-term contracts including extensions, is prolonged to five years instead of three. Another five companies implemented the old CBA clauses where fixed-term contracts are limited to a maximum duration of two years, with the possibility of extension for a period of up to one year. After the end of this period, it has been stipulated that contract workers will be granted permanent worker status.

It was found that five companies have adjusted their CBA provisions related to overtime hours, to allow the maximum amount of overtime to be set at 4 hours per day and 18 hours per week. Yet, four companies did not modify their CBA provisions regarding overtime, remaining 3 hours per day and 14 hours per week.

In terms of severance pay, five companies have reduced their severance pay provisions from their previous CBA, adjusting to what is regulated in the Omnibus Law. This provision reduces severance pay for termination due to merger, consolidation, release, closure due to continuous losses or force majeure, misconduct, or pension. Additionally, long-service pay may be reduced in the event of employment termination due to prolonged illness or a disability arising from a work injury that prevents the employee from working for more than 12 months, and housing or medical and healthcare allowances may be removed. The remaining four companies have stuck to the terms outlined in their preceding CBA.

b. The impact of the improving articles within the Omnibus Law on the clauses and/or provisions of Company CBAs

In response to the lowering of CBA provisions related to contract employment duration, overtime hours, and severance benefits, various trade unions have tried to include the beneficial aspects of the Omnibus Law, including post-termination compensation, and unemployment benefit/job loss protection.

Only two companies included additional provisions in their CBAs regarding the compensation of contract workers upon their termination. The remaining seven companies did not incorporate this aspect into their CBA. As a result of the Omnibus Law's introduction of a new regulation for unemployment benefits, three companies have included new clauses on unemployment benefits/job loss protection in their CBAs.

The Omnibus Law has introduced certain amendments that may potentially reduce the provisions previously agreed upon in the Collective Bargaining Agreement (CBA). In response, trade unions have obviously put efforts to safeguard these provisions. Many trade unions are currently advocating for a "CBA without Omnibus Law". As a consequence, trade unions are withholding their agreement towards the beneficial improvement introduced by the Omnibus Law, which resulted in no improvement in compensation for contract workers and job loss protection. Trade unions tend to favour employment contract clauses that automatically grant the permanent worker status to workers after a maximum of three years of employment, as opposed to the five-year period stipulated by the Omnibus Law, since workers can be contracted for a longer period.

IV. Conclusion

The trade union movement has faced challenges in recent times due to a decrease in trade union density, a decrease of 2.78% are recorded from 2017 up to 2022, which impact the ability of workers and trade union to participate in CBA negotiations. The implementation of the Omnibus Law, coinciding with the COVID-19 pandemic, has further complicated matters for trade unions as they strive to prevent employers from using the Omnibus Law to restructure their workforce. The Omnibus Law's amendments to its employment status-related clauses have increased the flexibility of the labour market: they allowed employers the freedom to use contracted or outsourced workers who can be contracted for a longer period and with no restrictions on the type of work that can be outsourced.

Establishing CBAs has become one of the most important strategies trade unions use in negotiating better working conditions. The comparative analysis in this paper reveals that several trade unions have been forced to accept a reduction in CBA provisions as a result of the Omnibus Law. Five out of nine companies lowered their CBA provisions as regards to overtime hours and severance pay, and four out of nine companies agreed to decrease the provision of employment contracts, which result in a worker's employment status.

However, in general, trade unions are making their utmost to safeguard the provisions agreed upon in their prior CBA from being decreased due to amendments introduced by the Omnibus Law. Each of nine companies has upheld the clauses and provisions related to job titles, employment contracts, sickness, and disability within their respective collective bargaining agreements. In normative clauses such as wages, new pay scale clauses have been introduced in one of nine companies, and two companies increased their CBA provisions for transport and meal allowances. Similarly, concerning health and safety one company added new clauses on COVID-19 and two others have improved the provisions of protective clothes and insurance.

The proof of trade union leverage is shown by their ability to negotiate improvements in non-normative clauses, specifically those regarding gender equality, by including clauses on discrimination, sexual harassment, and workplace violence into their collective bargaining agreements. In work and family arrangements, clauses on breastfeeding and discrimination related to maternity have been added in one company, while another company enhances its provision for the health and safety of pregnant workers.

It may be observed that there has been a shift in the interpretation of the essence of the collective bargaining agreement, under which the employer and trade union mutually agree to establish their own regulations, regardless of any changes in national laws. It is worth noting that the national Labour law serves as the normative legal basis, and it is used as an upper limit that must be maintained rather than a minimum provision. As a result, CBA advocacy/negotiation became increasingly difficult following the Omnibus Law due to trade unions' reliance on national Labour law. Therefore, in the event of a regression in legal standards, CBAs tend to follow, particularly in a company where the trade union lacks the power and ability to engage in collective bargaining.

References

- AF.Sigit Rochadi, A. P. (2020). *Hubungan Industrial Era Demokrasi*. Jakarta: Pensil 324.
- Ahmad, I. (2021). *Labour Law Reform in Indonesia: A Comparison with International Labour Standards*. Amsterdam: WageIndicator Foundation and FNV Mondiaal.
- Besamusca, J. a. (2015). *Comparing collective bargaining agreements for developing countries*. International Journal of Manpower, Vol. 36 No. 1, pp. 86-102.
- Ceccon, D., & Medas, G. (2022). *Codebook WageIndicator Collective Agreements Database – Version 5 –*. Amsterdam: WageIndicator Foundation.
- Compliance with Law: Decent Work Check in Indonesia*. (2022). Retrieved from Wageindicator.org: <https://wageindicator.org/labour-laws/labour-law-around-the-world/decent-work-check/compliance-with-the-law-decentworkcheck-in-indonesia>
- Data Perusahaan yang terdaftar di WLKP Online Jan-Des Tahun 2022*. (2023, 3 21). Retrieved from SATU DATA KETENAGAKERJAAN: <https://satudata.kemnaker.go.id/data/kumpulan-data/1148>
- Izzati, N. R. (2022, August 2). Deregulation in Job Creation Law: The Future of Indonesian Labor Law. *Padjajaran Journal of Law*, pp. 191 - 209.
- Jayani, D. H. (2019). *Pusat Data dan Ekonomi Indonesia Databoks*. Retrieved 2023, from <https://databoks.katadata.co.id/datapublish/2019/10/17/kepersertaan-serikat-pekerja-menurun>
- Klaveren, M. V. (2021). Minimum wages in Indonesia: informality, politics and weak trade unions in a large middle-income country. In D. G. Irene Dingeldey, *Minimum Wage Regimes - Statutory Regulation, Collective Bargaining and Adequate Levels* (pp. 191 - 205). Abingdon-on-Thames: Routledge.
- Mahy, P. (2022, April 12). Indonesia's Omnibus Law on Job Creation: Legal Hierarchy and Responses to Judicial Review in the Labour Cluster of Amendments. *Asian Journal of Comparative Law*, pp. 51 - 75. Retrieved from <https://www.cambridge.org/core/journals/asian-journal-of-comparative-law/article/indonesias-omnibus-law-on-job-creation-legal-hierarchy-and-responses-to-judicial-review-in-the-labour-cluster-of-amendments/3F547D86D2D559A10AD212AD3C122E18>
- Medas, G., & Ceccon, D. (2021). *Contents and characteristics of the Spanish collective bargaining agreements* . No. 6; COLBAR-EUROPE Reports.
- Okky Ocktavianti, M. A. (2021). Legal Protection and Fulfillment of the Outsourcing Workers Rights after the Enactment of Law Number 11 Year 2020 Concerning Job. *Advances in Social Science, Education and Humanities Research*, 618.
- Perjanjian Kerja Bersama (PKB) yang Didaftarkan, Maret 2023*. (2023, May 2). Retrieved from SATU DATA KETENAGAKERJAAN: <https://satudata.kemnaker.go.id/data/kumpulan-data/1170>
- Rizaty, M. A. (2023, May 11). *Baru 11,76% Buruh Indonesia Berserikat pada 2022*. Retrieved from DataIndonesia.id: <https://dataindonesia.id/sector-riil/detail/baru-1176-buruh-indonesia-berserikat-pada-2022>

Serikat buruh bakal gugat Perppu Cipta Kerja ke MK karena mayoritas pasal 'merugikan pekerja'. (2023, January 2). Retrieved from BBC News Indonesia: <https://www.bbc.com/indonesia/articles/cl78d0g9revo>

Sudiana, D. (2022, July 29). (D. Feby, Interviewer)

Sugeng Prayitno, A. (2023). Implementation Of Law Number 11 2020 Concerning Employment Creating In The Making Of Collective Labor Agreements. *Jurnal Birokrasi dan Pemerintahan Daerah*.

Sugiyana, E. D. (2022, May 18). (D. Feby, Interviewer)

Tijdens, K. (2021). *Clauses and patterns within and across countries in four sectors in Europe - manufacturing, construction, commerce, public sector*. No. 2; COLBAREUROPE Reports.

Tijdens, K. (2021). *Feasibility of a Europe-wide data collection of Collective Agreements*. No. 10; COLBAREUROPE Reports.

Tijdens, K., Van Klaveren, M., & Pralitasari, N. (2018). *Compliance with Labour Law and Minimum Wages in the garment industry in Indonesia*. WageIndicator Foundation.

Female friendly clauses in collective bargaining agreements

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**Paper prepared for presentation at the
“8th Conference of the Regulating for Decent Work Network”
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at the International Labour Office Geneva, Switzerland
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Abstract

Women account for almost 50% of the global workforce. However, Female Labour Force Participation varies across countries. Do countries with higher Female Labour Force Participation rates address gender equality and work/family balance issues better through their CBAs? Or is it only the female-dominated industries that have a higher percentage of female-friendly clauses in their CBAs? Cross-Continental (Asia, Europe, Africa, Central and South America) analysis shows that almost eight in ten CBAs include clauses on work/family arrangements and four in ten do so on gender equality. With 30 weeks of maternity leave, CBAs in Croatia have the longest leave, whereas Mozambique has on average only 8.5 weeks of maternity leave. Other gender equality and work/family balancing clauses include health and safety, paternity leave, parental leave, and breastfeeding and childcare. More than 2000 agreements are analysed using 11 gender equality and 24 work/family balancing clauses to provide a comparative view of the female-friendly CBAs across continents.

Keywords: CBAs, Cross-Continental, FLFPR, Women,

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1. INTRODUCTION

The potential women workforce is almost 50%, however, the global labour force participation rate for women is only about 50%, whereas that of men is almost 80% (ILO, 2017). One of the biggest barriers affecting women's participation in the labour market is the work-life balance.

Through collective bargaining, representatives of a group of employees, usually a labour union, negotiate terms and conditions of employment with an employer or representatives of the company. The purpose of collective bargaining is to reach a mutually acceptable agreement that governs the working relationship between the employees and the employer.

A collective agreement, also known as a labour agreement or a collective bargaining agreement (CBA), is a legally enforceable contract that is the result of the collective bargaining process. It describes the employees covered by the agreement's rights, obligations, and working circumstances. Wages, working hours, benefits, job security, grievance procedures, and other employment terms and circumstances are normally covered by the collective agreement. It acts as a thorough agreement that both parties must follow for the term of the contract, which is typically a few years.

Governments as well as researchers suggest that including women friendly and gender equality clauses may encourage more women to participate in the labour market. Using WageIndicator's CBA data base (WageIndicator, 2023) this research paper presents a cross-country analysis (Besamusca and Tijdens, 2015) of female-friendly clauses included in the CBAs and also checks for its relationship with female labour force participation rate (FLFPR) in the respective country. Further, sectoral as well as firm-type analysis is conducted to understand which sectors and firm-types include female-friendly clauses in the CBAs.

2. DATA AND RESEARCH METHODOLOGY

The research paper uses WageIndicator Foundation's CBA database (WageIndicator, 2023). Since the content of the CBA is analysed, the unit of analysis is the agreement (Ceccon and Ahmad, 2018). The database contains more than 2000 CBAs, annotated for questions related to 12 topics, as mentioned in Box 1, consisting of 749 variables (Ceccon and Medas, 2022).

Box 1: Topics covered in WageIndicator CBA database

General CBA data	Job titles	Social security and pensions	Training
Employment contracts	Sickness and disability	Health and medical assistance	Work/family balance arrangements
Gender equality issues	Wages	Working hours	Coverage

This research paper focuses only on 35 variables from the CBA database that relates to questions regarding work/family balance arrangements and gender equality issues. While the paper studies all female-friendly clauses within the CBAs, it streamlines the analysis by categorising them into six main themes as seen in Table 1:

Table 1 – Themes of Female-friendly clauses in CBAs

CBA Clause	Number of Clauses
Maternity Leave	8
Health and Safety	7
Breastfeeding	7
Paternity Leave	2
Gender Equality	11

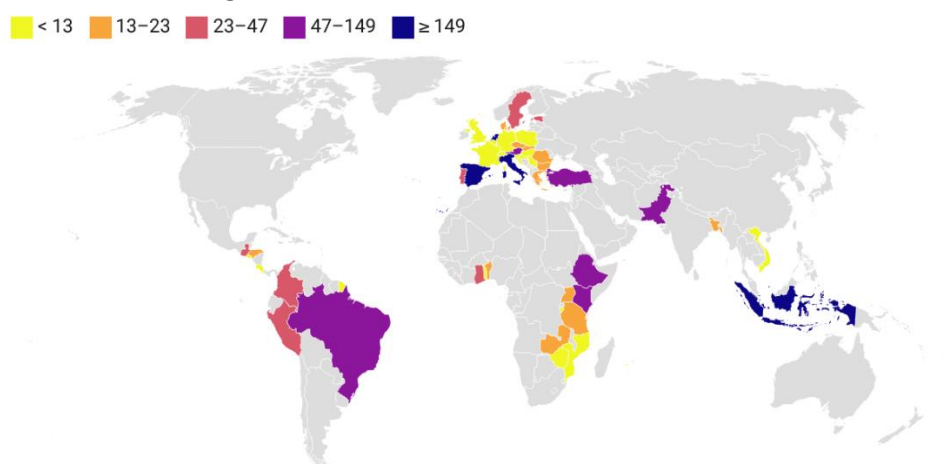
Specific details regarding the individual clauses are presented in Appendix 1.

The analysis is presented in four parts:

1. The binary CBA clauses by theme are analysed to gain insights into the provisions and policies implemented in different countries in the main themes mentioned in Table 1. In each CBA and for each theme, the CBA's were given a "score" by calculating the number of clauses it includes in each them. Finally, these scores were averaged out and converted to percentages across countries/continents/sectors and used in the analysis.
2. Additionally, we examine CBA clauses with continues variables, which involve specific quantitative measures such as paid leave days and nursing break length and duration.
3. We also conduct a sector-wise and firm-type analysis of the female-friendly CBA clauses.
4. Lastly, we compare the average FLFPRs and female-friendly CBA clauses across the World for the countries in the WageIndicator CBA database.

The paper focuses on the analysis of 1668 CBAs from 47 countries (see Figure 1). Only those countries with more than five CBAs in the WageIndicator CBA database and between the years 2012 and 2022 are considered for data analysis.

Figure 1: Number of CBAs across the countries



By conducting this comprehensive analysis, the paper aims to gain insights into the presence and extent of provisions that promote and support the rights and well-being of female workers within collective bargaining agreements across different countries and regions. The research paper also uses the FLFPR from 2012 to 2021 obtained from the ILO database (ILOSTAT, 2023). The paper employs

visualisations and tables as analytical tools. The analysis is conducted on a country-wise and region-wise basis, allowing for an exploration of female-friendly clauses in the CBAs.

3. MAIN FINDINGS

3.1 Analysis of Binary Variables in the CBA clauses

3.1.1 Maternity Leave Clauses in CBAs – Country Level Analysis

Percentage of maternity leave clauses in CBAs across countries are presented in Figure 2. Regarding the inclusion of maternity leave terms in Collective Bargaining Agreements (CBAs), African countries are at the top and bottom of the scale. Zimbabwe and Kenya stand out as leaders in this regard, with an astounding average of 80% of maternity leave clauses. These countries prioritise the well-being and assistance of working moms by including robust maternity leave provisions in their CBAs.

Burundi, on the other hand, trails substantially behind, with a remarkable absence of any kind of maternity leave clauses. Ethiopia and Ghana are also amongst the top, with 65%+ of maternity leave clauses in their CBAs, on average. Further, the European countries, France and Italy are amongst the top 5 at 75%.

Figure 2: Percentage of Maternity Leave Clauses in CBAs – Country Level Analysis

The female-friendly clauses related to maternity leave have been grouped and the graph shows us country-wise, the percentage of clauses all the CBAs on average include.

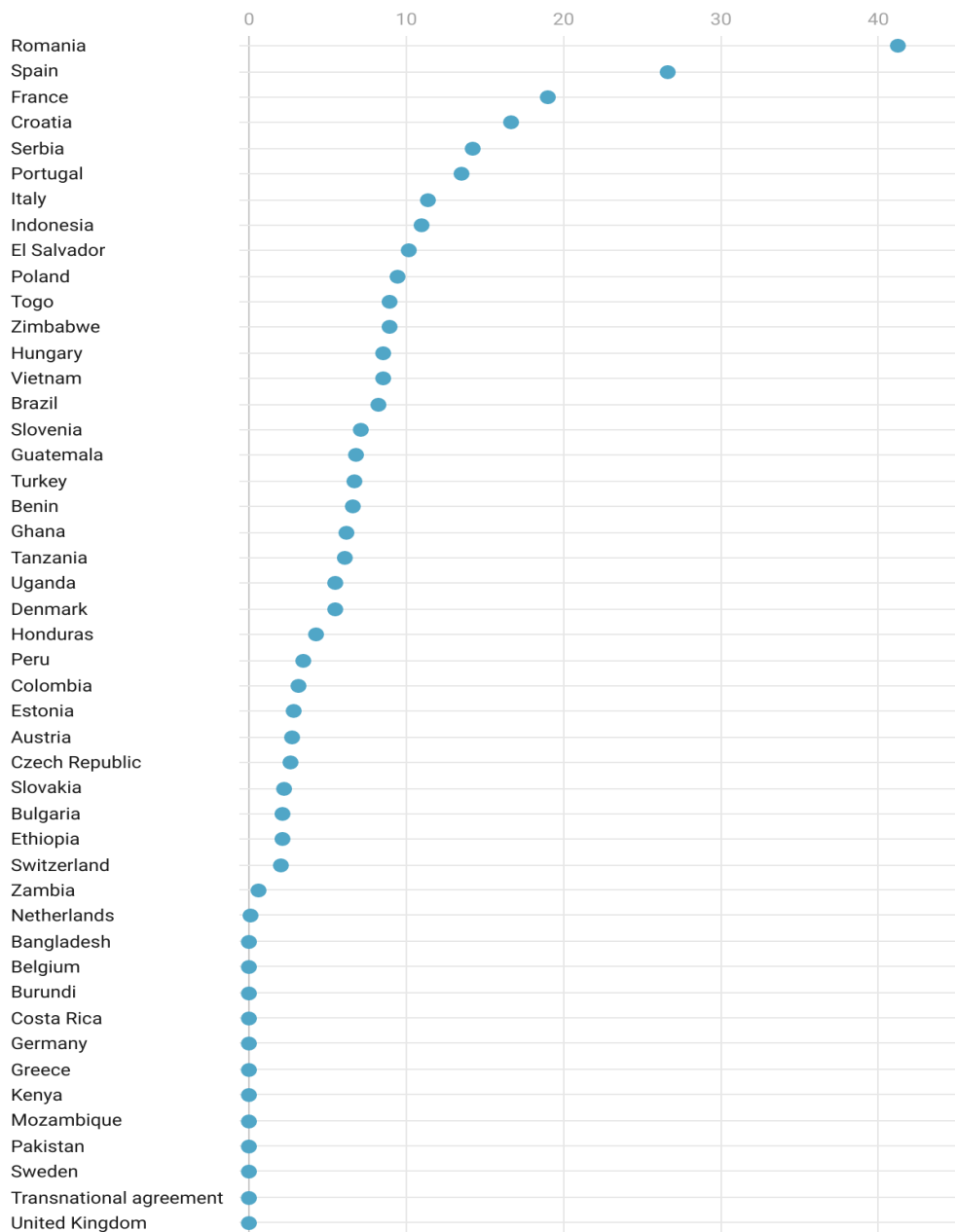


3.1.2 Health and Safety Clauses in CBAs – Country Level Analysis

The analysis of Collective Bargaining Agreements (CBAs) reveals a concerning trend regarding the inclusion of female-friendly health and safety clauses across most countries. A majority lie between 0 to 10% of health and safety clauses in their CBAs, on average as seen in Figure 3. However, European countries distinguish themselves by exhibiting a more robust approach to female-friendly health and safety clauses in their CBAs. In fact, all top 7 positions are held by European nations in this regard. Taking the lead is Romania, which stands out with the highest percentage of health and safety clauses at 41%. This demonstrates Romania’s commitment to ensuring a safe and healthy working environment for women. The prominence of European countries in prioritising female-friendly health and safety legislation demonstrates a commitment to building a workplace that protects female employees’ well-being. Nonetheless, other countries must follow suit and prioritise the inclusion of similar sections in their CBAs in order to promote gender equality and protect the health and safety of all workers, particularly women.

Figure 3: Percentage of Health and Safety Clauses by Country

The female-friendly clauses related to the health and safety of female workers have been grouped and the graph shows us country-wise, the percentage of clauses the country's CBAs include, on average.

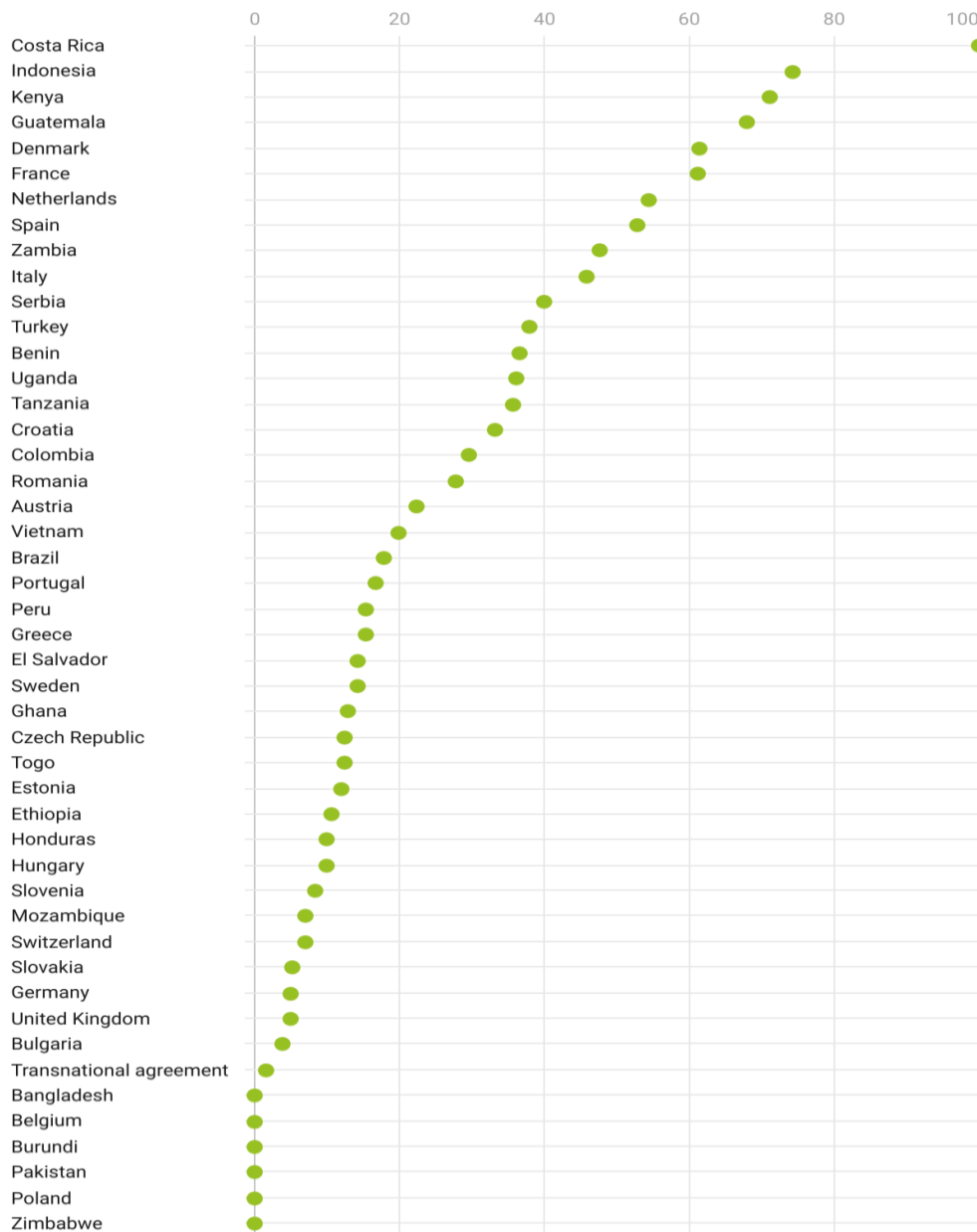


3.1.3 Paternity Leave Clauses in CBAs – Country Level Analysis

Paternity leave clauses in Collective Bargaining Agreements (CBAs) show no distinct regional trend. Instead, countries worldwide showcase varying levels of progress in this aspect. Many countries have made significant strides in recognizing the importance of paternity leave and incorporating clauses to support it in their CBAs. As seen in Figure 4, Costa Rica takes the lead by including paternity leave clauses in all of its CBAs, demonstrating a strong commitment to supporting fathers in balancing their work and family responsibilities. This comprehensive inclusion sets a notable example for other countries to follow. Indonesia and Kenya also deserve recognition for their efforts, as they include over 70% of these clauses, on average, in their CBAs. This indicates a growing recognition of the role fathers play in caregiving and highlights a commitment to promoting gender equality in parental leave policies. On the other end of the spectrum, countries such as Pakistan, Burundi, Bangladesh, Belgium, and Poland lag behind in terms of including paternity leave clauses in their CBAs. These countries have yet to prioritise and address the importance of paternity leave as a means to support fathers and foster gender equality in parenting responsibilities.

Figure 4: Percentage of Paternity Leave Clauses by Country

The female-friendly clauses related to paternity leave have been grouped and the graph shows us country-wise, the percentage of clauses all the CBAs on average include.



3.1.4 Breastfeeding Clauses in CBAs – Country Level Analysis

When it comes to breastfeeding clauses in Collective Bargaining Agreements (CBAs), Zimbabwe emerges as a frontrunner with an average inclusion of 30% of such clauses as seen in Figure 5. This highlights Zimbabwe's commitment to supporting breastfeeding mothers in the workplace and promoting a conducive environment for their needs. Notably, Central American countries showcase commendable progress in this area. El Salvador and Guatemala join the ranks of the top 5 countries with significant inclusion of breastfeeding clauses in their CBAs. Furthermore, European countries also excel in prioritising breastfeeding clauses. Turkey and Spain secure their positions among the top 5, demonstrating their dedication to supporting breastfeeding mothers through robust provisions in their CBAs.

Figure 5: Percentage of Breastfeeding Clauses by Country

The female-friendly clause related to breastfeeding have been grouped and the graph shows us country-wise, the percentage of clauses the country's CBAs include, on average.



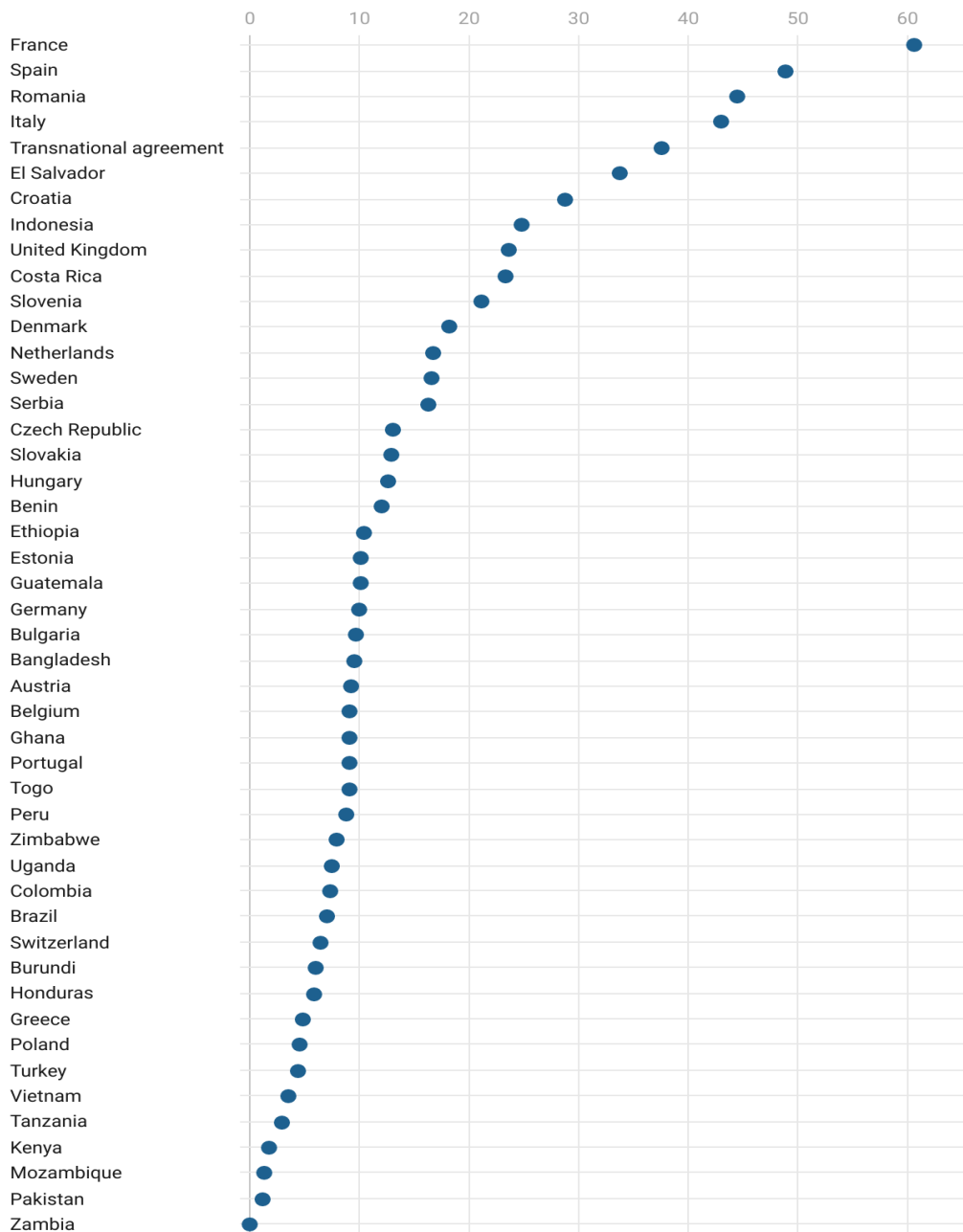
3.1.5 Gender Equality Clauses in CBAs – Country Level Analysis

When it comes to gender equality clauses, European countries take the lead, showcasing a strong commitment to promoting gender equality in the workplace as presented in Figure 6. Spain, Romania, and Italy stand out by including over 40% of these clauses, on average, in their CBAs. France, in particular, incorporates 60% of these clauses in its CBAs. Interestingly, transnational agreements also demonstrate a commendable performance in promoting gender equality. These agreements, which involve cooperation among multiple countries, prioritise the inclusion of gender equality clauses in their CBAs. This reflects a collective effort to address gender imbalances and create more inclusive and equitable working environments on a broader scale. However, there is room for improvement in several regions. African countries, including Tanzania, Kenya, Mozambique, and Zambia, along with Asian countries like Vietnam and Pakistan, have a significant opportunity to enhance the inclusion of

gender equality clauses in their CBAs. By doing so, these countries can take significant strides towards empowering women in the workforce and reducing gender disparities.

Figure 6: Percentage of Gender Equality Clauses by Country

The female-friendly clause related to gender equality have been grouped and the graph shows us country-wise, the percentage of clauses the country's CBAs include, on average.

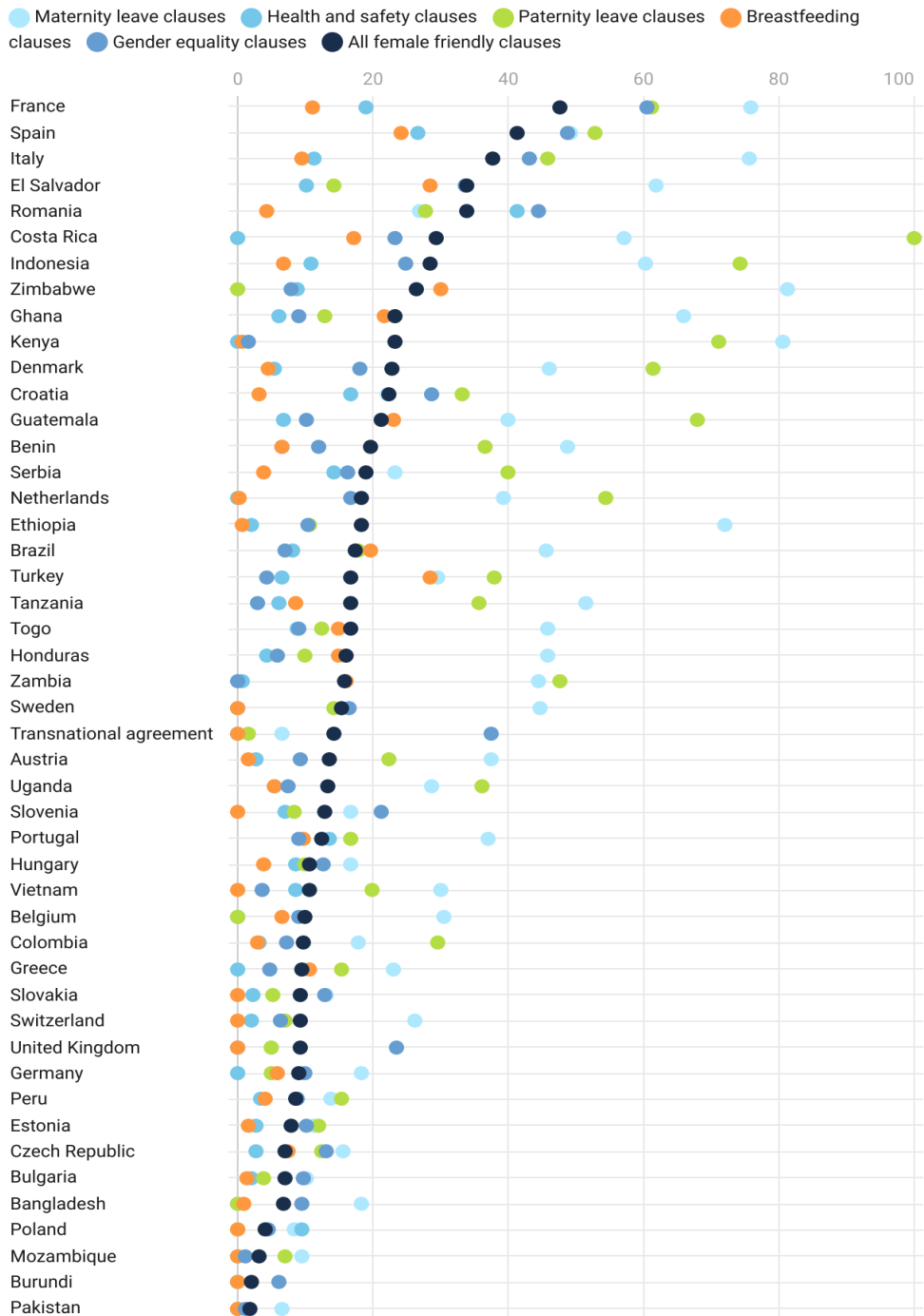


3.1.6 Female-friendly clauses by Country - Average

An analysis of the CBA data reveals several noteworthy trends in CBAs across countries. Firstly, a majority of countries' CBAs exhibit a significant inclusion maternity and paternity leave clauses. Remarkably, all of Costa Rica's CBAs included all paternity leave clauses as seen in Figure 7. However, when examining the overall average, it becomes apparent that there are areas where CBAs are lacking. Specifically, there is a notable scarcity of breastfeeding clauses, and gender equality clauses across most countries. The CBAs in France, on average have 47.57% of all the female-friendly clauses, the highest in the world while Pakistan has the lowest, at 1.8%.

Figure 7: Summary of Female-friendly Clauses by Country

The female-friendly clauses have been grouped by themes and the graph shows us country-wise, the percentage of clauses all the CBAs on average include.



3.1.7 Percentage of Female-friendly Clauses by Region

The analysis of collective bargaining agreements (CBAs) across different regions reveals trends that align with the earlier observations. It is notable that, regardless of the region, CBAs universally exhibit a low proportion of breastfeeding and health and safety clauses.

The CBAs in all the regions have on average, 40-50% of the paternity leave clauses we are studying. South America's CBAs, have a lower percentage of paternity leave clauses, with an average of only 20%. Furthermore, when considering the overall inclusion of female-friendly clauses, South America's CBAs exhibit the lowest percentage among all the regions.

Figure 8: Percentage of Female-friendly clauses by Region

The female-friendly clauses have been grouped by themes and the graph shows us region-wise, the percentage of clauses all the CBAs on average include.

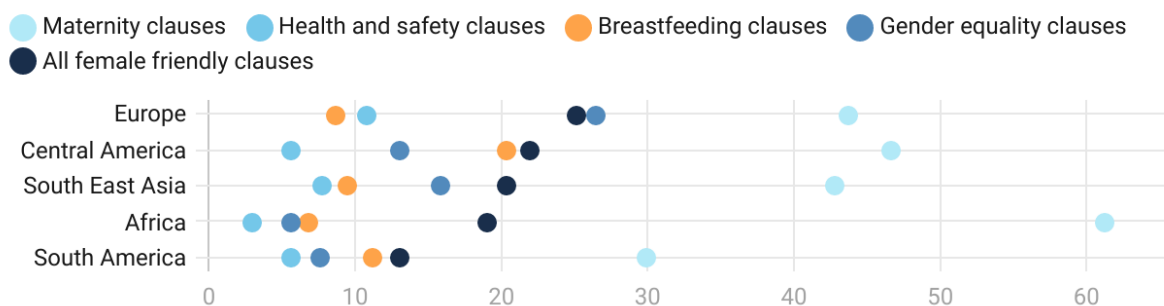


Table 2 Percentage of Female-friendly Clauses by Region

The female-friendly clauses have been grouped by themes and the graph shows us region-wise, the percentage of clauses all the CBAs on average include.

Region	Maternity clauses	Health and safety clauses	Breastfeeding clauses	Gender equality clauses	All female friendly clauses
Africa	61	3	7	6	19
South East Asia	43	8	9	16	20
Europe	44	11	9	26	25
Central America	47	6	20	13	22
South America	30	6	11	8	13

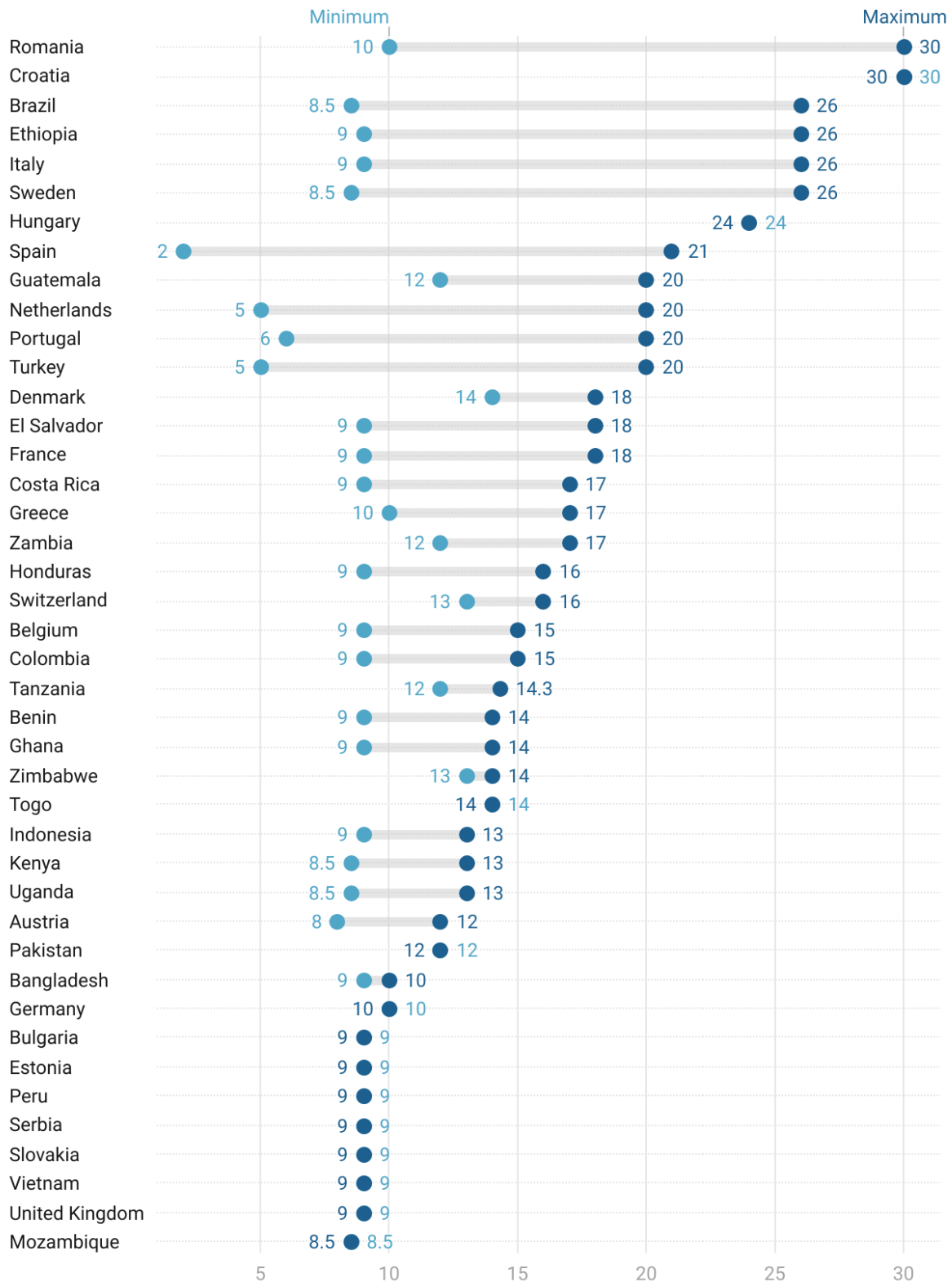
3.2 Analysis of Continuous Variables in the CBA clauses

3.2.1 Maternity Leave in CBAs – Country Level Analysis

As seen in Figure 9, there is huge disparity across the countries when it comes to maternity leave. All CBAs from Croatia have the 30 weeks of maternity, which is currently the highest amongst all the countries. Romania also has a maximum of 30 weeks, however, there are also CBAs which mention only 10 weeks. Mozambique has the lowest maternity leave at 8.5 weeks. There is no clear regional trend that can be established, however many European countries lie at the bottom of the chart when it comes to maternity leave.

Figure 9: Maternity Leave Duration in CBAs by Country

The graph displays the country-wise range of the total duration of maternity leave in consecutive weeks covered in the CBA



3.2.2 Region-wise Percentage of Pay during Maternity Leave and Paternity Leave

The Table 3 describes the average percentage pay provided to workers during their maternity and paternity leave across regions. As can be seen, majority of CBAs provide 99-100% of pay in both cases. Thus, there is not much variation across the countries and regions. Only Africa's paternity leave on average is at 97%, which is lower than other regions, but still a high percentage.

Table 3: Region-wise Pay Percentage during Maternity and Paternity Leave

The table displays the average pay during maternity and paternity leaves based on our CBAs

Region	%pay during maternity leave	%pay during paternity leave
Africa	100	97
South East Asia	100	100
Europe	99	99
Central America	100	100
South America	100	100

3.2.4 Region-wise Length and Duration of Nursing Breaks

The Table 4 displays the length of daily breastfeeding breaks accessible to mothers, in hours. The provisions mentioned in collective bargaining agreements (CBAs) varied depending on the region. Except for South East Asia, where the average duration of nursing breaks is one hour, CBAs in all other regions normally provide two hours for these breaks. However, South East Asian CBAs stand out because they provide breastfeeding breaks until the kid reaches 13 months of age, which is substantially longer than in other regions. Nursing breaks are only offered in South America until the kid is 7 months old, but they are available in all other regions until the child is 10 months old. The findings reveal that, while most regions adhere to a conventional duration of 2 hours for nursing breaks, there are variances in the duration and age restriction for which these breaks are offered. South East Asia stands out for its longer nursing breaks, which may reflect a greater emphasis on maternal and child well-being in that region.

Table 4: Length and Duration of Nursing Breaks by Region

Region-wise duration of daily breastfeeding breaks, as provided by the CBA and the duration of the entitlement to breastfeeding breaks (age of the child in months).

Region	Duration	Length
Africa	2	10
South East Asia	1	13
Europe	2	10
Central America	2	10
South America	2	7

3.3 Sector-wise and Firm-wise Analysis of Female-friendly Clauses in CBAs

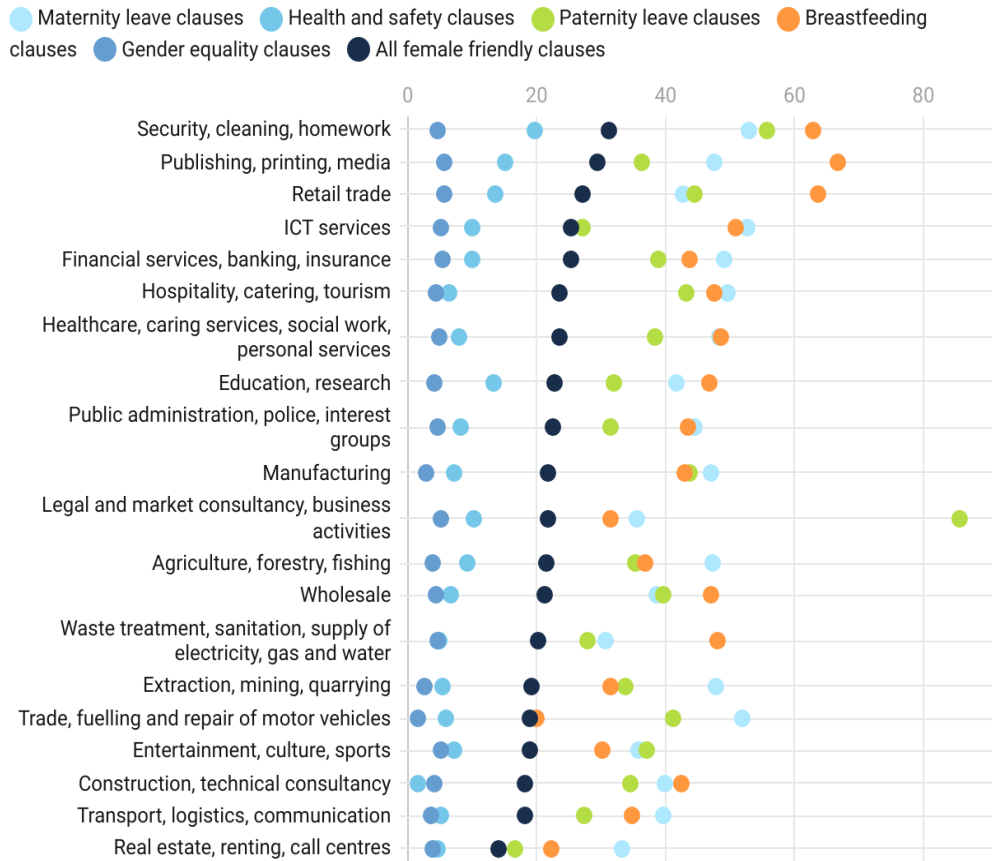
3.3.1 Percentage of Female-friendly Clauses by Sector – Global Analysis

In the realm of security, cleaning, and homework sectors, collective bargaining agreements (CBAs) tend to include a substantial proportion of provisions that are conducive to fostering a female-friendly work environment. The sector on average has 31% of these female-friendly clauses and most sectors are above the 20% mark. However, certain areas lag behind in terms of incorporating

female-friendly measures into their CBAs. Specifically, the real estate, renting, and call centre sectors exhibit the lowest percentage of such provisions, standing at a mere 14%.

Figure 10: Percentage of Female-friendly Clauses by Sector

The female-friendly clauses have been grouped by themes and the graph shows us sector-wise, the percentage of clauses all the CBAs include, on average.

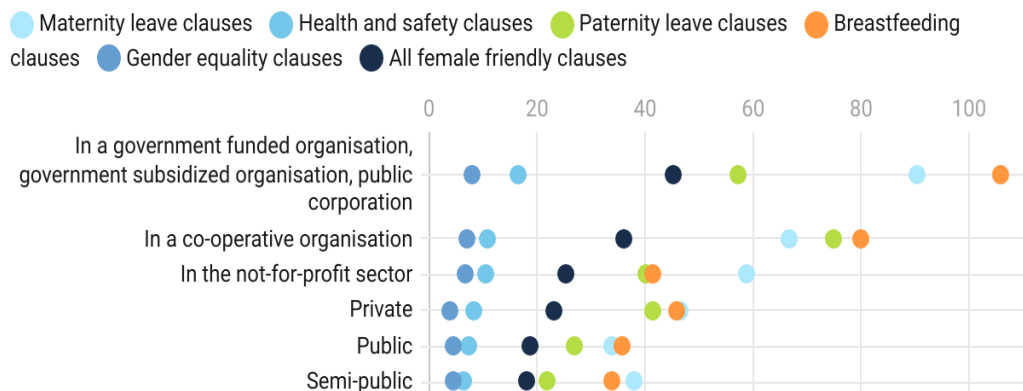


3.3.2 Percentage of Female-friendly Clauses by Firm Type – Global Analysis

Collective bargaining agreements (CBAs) in government-funded organizations stand out by having the highest percentage of female-friendly clauses, including more than 40% of female-friendly clauses. However, all firms lack in terms of gender equality and health and safety clauses.

Figure 11: Percentage of Female-friendly Clauses by Firm Type

The female-friendly clauses have been grouped by themes and the graph shows us according to firm types, the percentage of clauses all the CBAs include, on average.

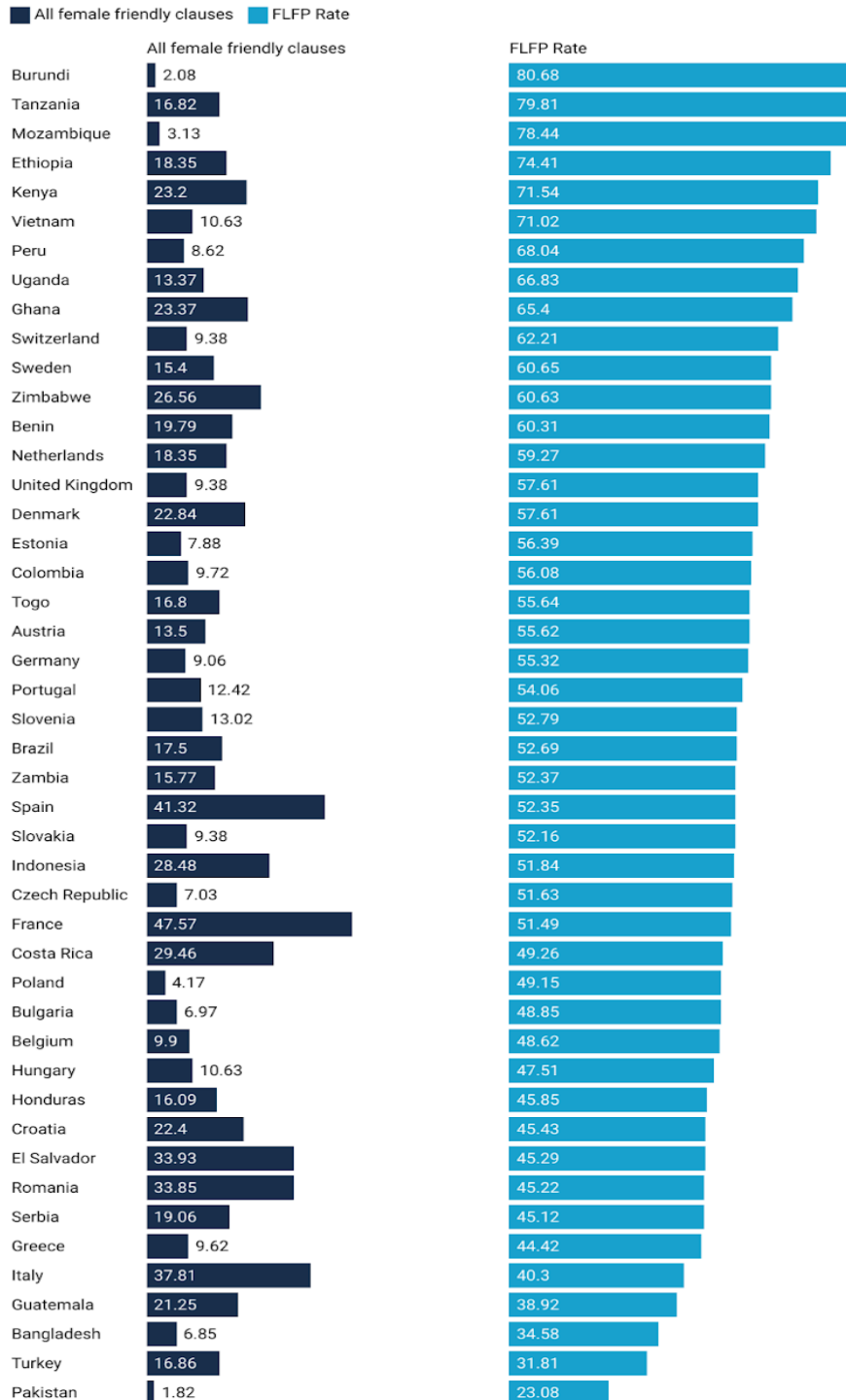


3.4 Female Labour Force Participation Rate and Female-friendly CBA Clauses – Country Level Analysis

The average FLFPR is determined by calculating the average FLFPRs spanning the years 2012 to 2021 for all the countries. Conversely, the average female-friendly clauses in collective bargaining agreements (CBAs) are computed for the years 2012 to 2022 (as seen in Figure 7).

Figure 12: Female-friendly CBA Clauses and FLFPRs by Country

This graph illustrates the relationship between female-friendly clauses the country's CBAs include, on average over the years 2012-2022 and the average FLFP over the years 2012-2021.



Upon examining the data in Figure 12, it becomes apparent that there is no significant correlation between FLFP rates and the presence of female-friendly clauses within CBAs. This suggests that there might be other influential factors at play such as societal norms, educational opportunities, and economic conditions when it comes to determining FLFPRs (Klasen, 2019). While CBAs play a crucial role in shaping workplace policies and conditions, they do not encompass all industries and job sectors.

4. Conclusion

The analysis of 35 female friendly clauses in CBAs using the WageIndicator CBA database provides insights in to gender equality and work/family balance status of 47 countries. Most countries include maternity clauses in their CBAs, however African countries perform better in this aspect. All countries in question perform poorly on gender equality clauses and breastfeeding clauses. Overall, European countries include more female friendly clauses as compared to the regions. However, this does not translate in to improved FLFPRs.

References:

Besamusca J and Tijdens K (2015) Comparing collective bargaining agreements for developing countries. *International Journal of Manpower* Nikolaos Askitas And Professor Klaus F. Zimmermann P (ed.) 36(1)

Ceccon, D., & Ahmad, I. (2018). Do Collective Agreements increase Equality and promote Work-Life Balance ? Evidence from WageIndicator Database. Paper prepared for presentation at the “Industrial Relations in Europe Conference (IREC) 2018” at Leuven (Belgium) on 10-12 September 2018. WageIndicator Foundation, Amsterdam

Ceccon, D., Medas, G. (2022). Codebook WageIndicator Collective Agreements Database – Version 5 – February 2022. WageIndicator Foundation, Amsterdam.

ILOSTAT (n.d.) Statistics on women. Available at: <https://ilostat.ilo.org/topics/women/> (accessed 14 June 2023).

Klasen, S., 2019. What explains uneven female labor force participation levels and trends in developing countries?. *The World Bank Research Observer*, 34(2), pp.161-197.

ILO (2022). The gender gap in employment: What’s holding women back? (n.d.). Available at: <https://www.ilo.org/infostories/en-GB/Stories/Employment/barriers-women#intro> (accessed 13 June 2023).

WageIndicator Foundation (n.d.) Collective Bargaining Agreements - Data Collection Overview. Available at: <https://wageindicator.org/about/researchlab/cba-database> (accessed 14 June 2023).

World Bank Open Data (n.d.) World Bank Open Data. Available at: <https://data.worldbank.org> (accessed 14 June 2023).

APPENDIX 1

QUESTIONS:

Section: Work/Family Balance Arrangements

MATERNITY LEAVE

- Does the agreement contain clauses on work and family arrangements (including pregnancy, maternity/paternity leave and childcare)?
- Does the agreement contain clauses on paid maternity leave?
- What is the total duration of maternity leave in consecutive weeks?
- Are all female employees eligible for paid maternity leave?
- Does the agreement provide for the % of basic wage to be paid during maternity leave? What percentage?
- Does the agreement contain clauses on job security for women wishing to return to work after maternity leave?
- Does the agreement contain clauses that prohibit (any form of) discrimination related to maternity?

HEALTH AND SAFETY

- Does the agreement contain health and safety clauses related to pregnancy and/or breastfeeding?
- Does the agreement contain clauses ensuring that pregnant or breastfeeding workers (and not ALL Women) are not obliged to perform dangerous or unhealthy work?
- Does the agreement contain clauses requiring the employer to carry out a workplace risk assessment on the safety and health of pregnant or nursing women and inform them accordingly?
- Does the agreement contain clauses ensuring that alternatives to dangerous or unhealthy work are available to pregnant or breastfeeding workers (namely, elimination of risk, adaptation of working conditions, transfer to another post, paid leave with right to return to work)?
- Does the agreement contain clauses on time off for prenatal medical examinations?
- Does the CBA contain clauses against screening for pregnancy before regularising non-standard workers?
- Does the CBA contain clauses against screening for pregnancy before promotion?

PATERNITY LEAVE

- Does the agreement have clauses on paid paternity leave?
- What is the total duration in days of paid paternity leave at the time of delivery?
- Does the agreement provide for the % of basic wage to be paid during paternity leave? What percentage?

BREASTFEEDING AND CHILDCARE

- Does the agreement contain clauses on time off (breastfeeding breaks) and/or facilities for nursing mothers?
- What is the duration of breastfeeding breaks?
- What is the duration of the entitlement to breastfeeding breaks (age of the child in months)?
- Is there any clause providing that breastfeeding break has to be considered as working time and paid accordingly?
- Does the agreement contain clauses on employer-provided nursing facilities?
- Does the agreement contain clauses on employer-provided childcare facilities?

- Does the agreement contain clauses on employer-subsidized childcare facilities?

Section: Gender Equality Issues

- Does the agreement contain any clauses concerning equality?
- Does the agreement contain clauses on equal pay for work of equal value?
- If yes, does the clause make a special reference to gender?
- Does the agreement contain clauses addressing discrimination at work?
- Does the CBA contain clauses on equal opportunities for promotion for women workers?
- Does the CBA contain clauses on equal opportunities for training and retraining for women workers?
- Does the CBA contain clauses which provide for a gender equality trade union officer at the workplace?
- Does the agreement contain clauses addressing sexual harassment at work?
- Does the agreement contain clauses addressing violence at work?
- Does the agreement provide for a special leave for workers subjected to domestic or intimate partner violence?
- Does the agreement provide for support for women workers with disabilities?

Understanding Collective Bargaining Agreements In Turkey

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on Ensuring decent work in times of uncertainty
at the International Labor Office Geneva, Switzerland
10-12 July 2023**

Abstract

Collective bargaining in Turkey is subject to two different regimes, namely the public and private sector. Public sector CBAs are concluded at the national level to cover all sectors, especially regarding wages and social rights. Additionally, CBAs are concluded at the national level for 11 different service branches. In the private sector, trade unions are organized at sector level and CBAs are concluded at the workplace and enterprise level. The CBA-Database has 68 CBAs for Turkey of which 25 were concluded by public servants' trade unions and 43 by the workers trade unions. It should also be noted that 13 of the relevant CBAs were concluded after the May 2020 period and are the renewed versions of the old CBAs in the CBA-Database. This situation has a very important place in terms of evaluating the reflection of the corona period on CBAs. Thus, the strengths and weaknesses of the collective bargaining system in Turkey will be made visible.

Keywords: CBAs, Turkey, Trade Unions, Database, Collective Bargaining

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I. Background

a. The legal framework of the collective bargaining system in Turkey

The framework of collective bargaining in Turkey is determined by two separate laws for workers and civil servants. Collective bargaining rights of civil servants in Turkey are regulated by the Law No. 4688 on Civil Servants' Unions and Collective Bargaining Agreement, which entered into force in 2012 (Keser, 2014). The Trade Unions and Collective Bargaining Law No. 6356 regulates the trade union rights and freedoms of workers working in the private and public sectors (Yankın, 2017; Astarlı, 2013).

In this context, it should be noted that there are two different collective bargaining regimes in Turkey. Within the scope of these two different systems, it is seen that the structure of collective agreements differs in terms of scope, level and parties. In the sub-headings, the characteristics of collective bargaining and collective agreements concluded within the scope of both systems will be discussed separately, taking into account the CBAs which annotations are entered into the COBRA system (COBRA is the web-based system for the WageIndicator Collective Agreements database).

b. Scope and Level of Collective Bargaining Agreement

If we do not count civil servants in Turkey, collective bargaining agreements covering workers are at the workplace or enterprise level. Group collective bargaining agreement is another type of agreement defined within the scope of Law No. 6356. A group collective bargaining agreement is an agreement concluded between a labor and employers' trade unions that includes the workplaces and enterprises in the same sector of more than one member employer. In the group collective bargaining agreement, more than one employer is a member of a single employer trade union and is established in the same sector. There are also a limited number of group collective bargaining agreements signed between employers and worker trade unions in Turkey (Alpagut, 2022).

Collective agreements are signed only for civil servants within the scope of Law No. 4688 at national and sectoral level. When group collective bargaining agreements are taken into account, the group collective agreements especially signed in the metal sector include the highest number of workers after the civil servants collective bargaining agreement in Turkey.

Another type of CBA defined and recognized within the scope of Law No. 6356 in Turkey is framework agreements. Framework agreements can be signed between employers' and workers trade unions on vocational training, occupational health and safety, social responsibility and employment policies. However, it should be noted that framework agreements are not a common practice in Turkey. In Turkey, no CBA is signed at the sectoral or national level for workers covered by Law No. 6356. On the other hand, for civil servants, the collective bargaining agreement covering all service lines regulates the general rights and wages of civil servants. In addition, CBAs are signed at the level of service branches as an additional part of general CBA for civil servants.

c. Duration of collective agreements

In conjunction with the economic development of Turkey, duration of collective agreement could be the subject of dispute in the process of collective bargaining. For the civil servants the duration of public CBAs are two year. Common practice throughout Turkey for two years. In addition, considering the Collective Bargaining Agreements signed within the scope of Law No. 6356, it is seen that the common practice is 2 years. However, Law No. 6356 states that the duration of Collective Bargaining Agreements can be minimum 1 year and maximum 3 years.

d. Benefiting from collective agreements

According to Law No. 6356, trade union members benefit from CBAs. However, workers who are members of another trade union or who are not members of a trade union can benefit from the CBAs by paying solidarity fees. Trade union approval is not required to benefit from the CBAs with solidarity fees. The solidarity fee can not exceed the membership fee. In practice, the solidarity fee is generally as much as the union membership fee. In the civil servants CBAs, all civil servants benefit from the signed CBAs without solidarity fee etc. It does not matter whether being trade union member or not for civil servants (Süzek, 2018).

e. Collective agreement signing authority

According to the Law No. 6356, the authority to sign a CBA at the workplace and enterprise level depends on exceeding the sector and workplace/enterprise threshold. For the workplace CBAs; the trade unions that represents one percent of the workers in the sector in which it is established and represent more than half of the workers in the workplace and has the most members in that workplace is authorized to sign collective agreements. For the enterprise level CBAs; the trade union, which represents one percent of the workers in the sector in which it is established and represent forty percent of the workers in the enterprise and has the highest number of members in that enterprise, is authorized to sign collective agreements.

For the civil servants collective agreement; Public Employers' Delegation on behalf of the public administration and Civil Servants Trade Unions Delegation on behalf of the civil servants attend collective bargaining negotiations. President of the Public Employer Delegation on behalf of the public administration and Public servants trade union confederation with the highest number of members and trade union with the highest number of members in each services branch have the signing authority civil servants CBA.

f. Parties of the collective agreement

For Workplace and Enterprise CBAs; workers trade unions, employer or employers trade unions, for Group CBAs; workers trade unions and employers trade unions, for civil servants CBAs; Public Employers' Delegation on behalf of public administration and Public Servants Trade Unions Delegation are the parties of collective agreement.

The Public Employers' Delegation is under the chairmanship of the Deputy President or minister appointed by the President of the Republic, consists of representatives of ministries and public institutions and organizations determined by the President. Public Servants Trade Union Delegation is chaired by the representation of The confederation with the highest number of members in terms of

the total number of members of the affiliated trade unions. One representative to be determined by the trade unions with the highest number of members in each service branch and one representatives which determined by the each confederations in the first, second and third place in terms of total number of members, based on the number of members of the affiliated trade unions.

II. Methodology

a. Turkish WageIndicator CBA Database

The COBRA system, a web-based platform created by Wageindicator, allows CBAs from more than 196 countries around the world to be uploaded to the system and annotated. Wageindicator allows the annotation of CBAs under 12 main headings (1-Job Titles, 2-Training, 3-Social Security & Pensions, 4-Employment Contracts, 5-Sickness & Disability, 6-Health & Medical Assistance, 7-Work/Family, Balance Arrangements, 8-Gender Equality Issues, 9-Working hours, 10-Wages, 11-Workers' Representation & Conflicts, 12- New Technologies & Green Clauses) through the questionnaire form created within the scope of the COBRA system. Collective agreements uploaded to COBRA in html format are evaluated for each headings mentioned. The aforementioned titles are inspired by the regulations that are most heavily involved in collective bargaining agreements around the world. In addition, each main heading consists of many sub-questions that give the chance to analyze the relevant subject in depth (Medas ad Cecon, 2021). This inquiry also allows to make a national and international comparison between the CBAs.

CBAs concluded in Turkey were also obtained in pdf, jpeg and word formats, then converted to html format and uploaded to the COBRA system, and their annotations were entered by answering the aforementioned questions (Tijdens, 2021). In this context, there are a total of 69 CBAs for which annotations were entered within the COBRA system, and it should be noted that 25 of these CBAs cover civil servants within the scope of Law No. 4688, and 44 of them cover public and private sector workers within the scope of Law No. 6356.

It should be noted that the CBAs signed for civil servants contain very general provisions, and the comprehensive economic and social rights of civil servants are handled within the scope of the relevant legislations. For this reason, it is seen that the answers to many questions in the annotations entered into the COBRA system for the CBAs signed for civil servants are negative. Although the rights regarding the questions in the COBRA system are granted to the civil servants by laws, it should be noted that the relevant headings are not included in the CBAs. Therefore, in this study, CBAs concluded for civil servants are excluded from the scope in order to make a sound evaluation. In addition, if an existing (but expired) CBA in the database is renewed, the expired CBA is excluded from the scope of this study. Because it has been noted that there is no significant difference between the renewed CBA and the expired CBA in terms of the provisions it contains.

In this context, analysis was carried out on a total of 28 CBAs for which explanations were entered into the COBRA system. 14 of these CBAs belong to private sector and 14 of them belong to public and semi-public. It should be noted that 11 of these CBAs were signed after 2020. This situation is especially important in terms of the answers given to the questions about the pandemic process.

Table 1. Profile of Analyzed Turkish CBAs

	Sector	Start Date	End Date	Private/ Public	Trade Union Name	Workplace/ Enterprise Name
1	Energy	01.03.2022	29.02.2024	Public	TES-İS	İSKİ
2	Metal	01.07.2021	31.12.2023	Private	OZ CELİK-İS	THY Technical
3	Communication	01.01.2022	31.12.2024	Sem-Pub	OZ İLETİŞİM İS	TURKSAT
4	Energy	01.03.2021	28.02.2023	Public	TES-İS	TEDAS
5	Energy	01.03.2021	28.02.2023	Public	TES-İS	EUAS
6	Transportation	01.01.2022	31.12.2023	Sem-Pub.	Hava-İs	THY A.O.
7	Energy	01.03.2021	28.02.2023	Public	TES-İS	Energy and Natural Resources Ministry
8	Energy	01.03.2021	28.02.2023	Public	TES-İS	İLBANK
9	Commerce Bureau Education	01.01.2021	31.12.2022	Public	OZ-BURO-İS	Culture and Tourism Ministry
10	Energy	01.03.2021	28.02.2023	Public	TES-İS	DSİ
11	Energy	01.03.2021	28.02.2023	Public	TES-İS	TEİAS
12	Food Industry	01.02.2015	31.01.2017	Public	Seker-İs	Sugar Industry
13	General Industry	01.03.2016	28.02.2018	Public	Hizmet-İs	The Istanbul Metropolitan Municipality
14	General Industry	01.03.2016	28.02.2018	Private	Hizmet-İs	İSPARK
15	Transportation	01.01.2017	31.12.2018	Private	TDS	Istanbul City Lines
16	General Industry	01.03.2016	28.02.2018	Private	Hizmet-İs	İETT
17	Energy	01.03.2017	28.02.2019	Sem-Pub.	Petrol-İs	Istanbul Energy Industry and Trade Inc.
18	Commerce Bureau Education	01.03.2019	28.02.2021	Public	Tez-Koop İS	Ministry of Youth and Sports
19	Transportation	01.01.2018	31.12.2019	Private	TUMTİS	DHL
20	Commerce Bureau Education	01.03.2016	28.02.2019	Private	Tez-Koop İS	MS
21	Commerce Bureau Education	01.01.2019	31.12.2020	Private	Sosyal-İs	Metro Gross
22	Commerce Bureau Education	01.01.2018	31.12.2020	Private	Sosyal-İs	Lufthansa Call Centre

23	Commerce Bureau Education	15.01.2018	14.01.2020	Private	Sosyal-İs	İZFAS
24	Commerce Bureau Education	01.01.2019	31.12.2021	Private	Sosyal-İs	Amnesty International
25	Transportation	01.01.2019	31.12.2021	Private	TUMTİS	UPS
26	Commerce Bureau Education	01.01.2018	31.12.2019	Private	Sosyal-İs	UNİBEL
27	Commerce Bureau Education	01.04.2019	31.03.2022	Private	Tez-Koop-İs	British Council
28	Transportation	01.01.2018	31.12.2020	Private	TUMTİS	Aras Cargo

Of the cCBAs included in the study, 8 belong to the energy sector, 5 to transportation, 9 to Commerce Bureau Education, 3 to general industry, 1 to metal, 1 to food industry and 1 to communication sector. While the majority of the CBAs are for two years, it was noted that two CBAs in the trade and office sectors were signed for 3 years.

III. Research Findings

Job description, training, trial period and social security

It is seen that 11 of 28 CBAs include a **job description or job classification system**. While job description was included in only one CBA, job classification was included in 10 CBAs. It should be noted that job classification systems are classified in CBAs with names such as job group, job classification scale, job value grades.

In 16 of 28 CBAs, regulations regarding **training and apprenticeship** are included. While training provided to workers was mentioned in all of the 16 CBAs, but only 7 of them mentioned apprenticeship opportunities. It has been observed that all of the 8 CBAs that include regulations regarding apprenticeship opportunities are in the energy sector.

According to the labor law, the **trial period** is at most two months. With a collective agreement, this period can be extended up to four months. It is noteworthy that 27 of 28 CBAs include a trial period. It was observed that 3 of these CBAs had a trial period of 120 days, 9 of them 30 days, 5 of them 60 days and 10 of them 90 days of trial period. It is noteworthy that all CBAs with a trial period of 120 days are concluded in the Commerce Bureau Education.

Only 5 of 28 CBAs included regulations on **social security and pension**. In these CBAs, the employer pays a contribution to the disability fund for its employees. It is understood that the employer does not contribute to the unemployment fund and pension fund in any of the CBAs. The fact that both unemployment insurance and pension arrangements are regulated within the scope of special laws on the subject is one of the main reasons why these rights are not included in the collective bargaining agreements. Also 24 CBAs have clauses on sickness and disability. It was noted that in 14 of these 24

CBA, workers were paid in cases of disability due to work accident. In addition, all 28 CBAs contain regulations regarding the provision of health and medicine support to workers. It should be noted that within the scope of the right to social security, this support is provided to the workers within the scope of the law. However, it should be noted that the mentioned right covers the relatives of the workers only in 8 CBAs. Considering that only 1 CBA includes employer's contribution regarding health insurance, it is understood that the regulations in the CBAs do not include a protection above the legal regulations for health and medicine aids. However, considering the legal framework regarding working life and the right to social security in Turkey, it should be underlined that all insured workers are covered by health insurance. In addition, 5 CBAs signed in the public sector included regulations regarding the right of regular or yearly medical checkup or visits. It is also noteworthy that only 1 CBA included regulations regarding Covid-19.

Working hours

All analyzed CBAs have clauses on standard working hours, schedules, holidays. It has been observed that in the vast majority of CBAs, daily and weekly working hours are determined. In this context, it should be noted that working 8 hours a day is common in general. While the weekly working hours are accepted as 45 hours in the majority of the CBAs, only 6 CBAs accept the weekly working hours as 40 hours. According to the labor law in Turkey in Turkey, work exceeding 45 hours per week is considered overtime. 27 CBAs include compensation for overtime work. In addition, in case of working on Sundays, premium is given in 13 CBAs. Additional payments for Sunday work can be determined as Number of days of regular wage or Percentage of regular wage.

CBAs regulations related Wages

According to the Turkish labour law, the wage is paid at least once a month. This period can be reduced for up to one week with individual employment agreements or collective agreements. According to the labour law, the wage is paid at least once a month. This period can be reduced for up to one week with individual employment agreements or collective agreements. The equalization period is two months and can be extended up to four months by collective agreements.

Wages are the main causes of disputes in the collective bargaining process in Turkey. Increase of wages is usually calculated separately for each year in a two-year agreement. The increase is reflected in the wage in 6-month periods. (Exm. 1st Six Month, 2nd Six Month, 3th Six Month and 4th Six Month). Increases by seniority is common practice in Turkey. Usually after equally increases. Wage increases are given according to seniority additionally. Consumer price indexes and inflation are also taken in to consideration in wage increases. It was noted that the wage regulations in all CBAs included in the scope of the research are compatible with the mentioned conditions and processes.

Occupational health and safety

Another important issue regarding collective bargaining agreements in Turkey is occupational health and safety. In this context, the legal framework provides workers with a very detailed scope of protection. Occupational Health and Safety Law No. 6331 includes the rights and obligations of workers and employers regarding occupational health and safety. It should be noted that the articles in the CBAs

generally refer to the relevant law and in this context, the obligations brought by the law are mentioned. In accordance with the stated determination, it has been observed that workplace policies regarding occupational health and safety are in all CBAs included in this study. However, it should be noted that the number of CBAs regulating occupational health and safety training is extremely limited. In this context, while occupational health and safety trainings were mentioned in only 6 of 28 CBAs, it is noteworthy that 5 of these CBAs were signed in the public sector. In addition, in a total of 10 CBAs, the agreement contain health and safety clauses related to pregnancy. But there is not special health and safety provisions during pregnancy.

Regulations on social rights

Education allowance, military allowance, marriage allowance, fuel aid, funeral assistance or related benefits, maternity allowance, disability assistance, travel assistance, clothing aid, cleaning materials and kitchen packages, feast bonuses, determination of work equipment by workers are additional rights issued by the employer, which are arranged in CBAs generally in Turkey. Permissions for trade union activities are also covered and determined by CBAs. For example, 24 of the CBAs analyzed within the scope of this study provide funeral assistance or related benefits for employees. Paid leave in case of death of relatives can be counted among the common arrangements in CBAs.

Additionally breast feeding rooms, nursery, maternity leave, maternity allowances are the most common regulations in CBAs. There are advanced regulations in a very limited number of CBAs. Although paid maternity leave was regulated in 15 of the analyzed CBAs, just as in other rights related to social security, the basis for the said right was established by laws. Whether it is mentioned in the CBA or not, the laws regulate to working life entitle the woman workers who gives birth to paid maternity leave for a total of 16 weeks, 8 week before the birth and 8 weeks after the birth. In multiple pregnancies, this leave period may increase, and afterwards the female worker has the right to request unpaid leave. The existence of the aforementioned legal regulations may prevent the issue from being directly mentioned in the CBAs. Paid paternity leave is also very common in the CBAs concluded in Turkey. Although its duration was short, 25 of 28 CBAs included paternity leave regulations. It is seen that this leave varies between 5 and 6 days in case of paternity. Giving the relevant leave in case of adoption is one of the strengths of the CBAs concluded in Turkey. Additionally 12 CBAs contain clauses on employer-provided childcare facilities. However, despite all these regulations, only 4 CBAs contain clauses addressing discrimination at work. In this context, the sensitivity of the CBAs examined towards gender is not at the expected level. In short, the CBAs analyzed within the scope of this study are not gender-blind, but it will be difficult to state that there is a high level of sensitivity.

Conclusion

Intensity of competition between trade unions in Turkey is among the important obstacles to access to collective agreement texts. Many unions are hesitant to share the collective agreement texts with the public. Therefore, the difficulty of accessing the collective bargaining agreement texts is among the important limitations of this study. This situation also delays the creation of a database on collective bargaining agreements in Turkey.

Considering the findings obtained within the scope of the study, it is seen that the content of CBA is concentrated in certain areas. The main subject of CBA is wages and wage supplements in both the public and private sectors. Inflation is one of the most important factors in determining the wage level. Considering this effect, wages in Turkey within the scope of collective bargaining are updated according to consumer prices in semi-annual periods. The qualifications, responsibilities and contributions of the workers to production also have an important place in determining the wages within the scope of the CBAs. CBAs in Turkey include important regulations in terms of job security, working hours, occupational health and safety and guaranteeing union rights, in addition to wages. When CBAs are evaluated in terms of social rights, social benefits and maternity rights come to the fore.

References

Alpagut, G. & Namlı, M., 2022. *İşkolu Barajının Toplu Sözleşme Hakkı Karşısında Değerlendirilmesi ve İstatistiklere İtirazın Yetki Başvurusuna Etkisi* . Çalışma ve Toplum , 1 (72) , 65-92 . Retrieved from <https://dergipark.org.tr/tr/pub/ct/issue/68168/1060859>

Astarlı, M., 2013. *6356 Sayılı Yeni Sendikalar ve Toplu İş Sözleşmesi Kanunu'nun Sendikal Güvenceler Konusunda Getirdiği Değişiklikler ve Hukuki Sonuçları* . Ankara Hacı Bayram Veli Üniversitesi Hukuk Fakültesi Dergisi , 17 (2) , 141-184 . Retrieved from <https://dergipark.org.tr/tr/pub/ahbvuhfd/issue/48109/608371>

KESER H, 2014. *4688 SAYILI KAMU GÖREVLİLERİ SENDİKALARI VE TOPLU SÖZLEŞME KANUNU UYARINCA KAMU GÖREVLİLERİ SENDİKALARI ÜYELİĞİ*. Marmara Üniversitesi Hukuk Fakültesi Hukuk Araştırmaları Dergisi, 20(1), 543 - 566.

Medas, G. & Cecon, D., 2021. *Contents and characteristics of the Spanish collective bargaining agreements* , s.l.: No. 6; COLBAR-EUROPE Reports.

Süzek, S., 2018, İş Hukuku, Beta Yayınları, İstanbul.

Tijdens, K., 2021. *Feasibility of a Europe-wide data collection of Collective Agreements*, s.l.: No. 10; COLBAREUROPE Reports.

Yankın, F. B., 2017. *6356 SAYILI SENDİKALAR VE TOPLU İŞ SÖZLEŞMESİ KANUNU'NUN SENDİKALAR HUKUKU AÇISINDAN BİR DEĞERLENDİRMESİ* . Trakya Üniversitesi İktisadi ve İdari Bilimler Fakültesi E-Dergi , 6 (1) , 1-18 . Retrieved from <https://dergipark.org.tr/tr/pub/trakyaibf/issue/30831/282240>