



Implementation Guide for the
Inter-American
Model Law on
CARE



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La Comisión Interamericana de Mujeres (CIM) es el principal foro generador de políticas hemisféricas para la promoción de los derechos de las mujeres y la igualdad de género. Creada en 1928 - en reconocimiento de la importancia de la inclusión social de las mujeres para el fortalecimiento de la democracia y del desarrollo humano en el continente americano - la CIM fue el primer órgano intergubernamental establecido para promover los derechos humanos de las mujeres.

Implementation Guide for the Inter-American Model Law on Care

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Table of Contents

5	1. Presentation
8	2. Introduction
12	3. Process and Methodology Used to Create the Inter-American Model Law on Care
15	4. Comprehensive Conceptual Framework For The Adoption of a Law On Care
23	5. General Recommendations to Design And Adopt a National Law
26	6. Legal Considerations and Practices on the Contents of the Inter-American Model Law On Care
26	Chapter I: Principles and General Provisions
29	Chapter II: Recognition and Value of Care
31	Chapter III: The Right to Care
38	Chapter IV: Redistribution of Care and Co-responsibility
54	Chapter V: National Care System
75	Chapter VI: Caregiving and Global Value Chains
86	7. EUROsociAL+ Message
88	8. Annexes
88	Annex 1: International Standads Which Support the Chapters Of The LMIC
93	Annex 2: Illustrative Table of Licenses and Co-Responsibility By Country



Implementation Guide for the Inter-American Model Law on Care

“All human beings are born from a mother’s womb, and become free and equal in terms of dignity and rights thanks to the immense dedication of care, attention and love from one generation to another, which must be shared between men and women, the community and the state, as a fundamental civilizing task for our species, thanks to which everyone can be endowed with reason and conscience, and by virtue of which they must behave fraternally towards each other throughout their adult lives.”¹

1 Carrasco, Cristina y Enric Tello (2013), “Apuntes para una vida sostenible”, Tejiendo alianzas para una vida sostenible. Consumo crítico, feminismo y soberanía alimentaria, Barcelona, Xarxa de Consum Solidari/Marcha Mundial de las Mujeres https://xarxaconsum.org/wp-content/uploads/2019/02/Tejiendo_alianzas.pdf

Presentation

Alejandra Mora Mora

Executive Secretariat (CIM/OAS)

The Inter-American Model Law on Care (LMIC) was created by the Organization of American States (OAS) to strengthen the legal and regulatory frameworks of its member states by developing instruments for this purpose. Specifically, the Inter-American Commission of Women (CIM) was founded at the start of the 20th century based on the need to study the legal status of women in the American region and to develop instruments for protecting and respecting women's rights, including Inter-American conventions such as the *Inter-American Convention on the Granting of Civil Rights to Women* (1948), the *Inter-American Convention on the Granting of Political Rights to Women* (1948), and more recently, the *Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, better known as the Belém do Pará Convention* (1994). In light of the CIM's background, the Executive Committee established the Inter-American Model Law on Care.

The importance of legislation, aside from its regulatory power, is that it is a way for a society to express itself during a specific moment in history, and in democratic and inclusive states, it represents what is demanded by key population segments such as women, whose political goal is to overcome the culture of inequality, exclusion, and discrimination to position themselves within the state as historic subjects with equal rights. This explains the importance of proposing and positioning regulatory changes as part of an ongoing and urgent recognition of women's rights in the structures that make up state power and define a state's obligations and responsibilities to its citizens.²

The regulation's interpretation and application in specific cases constitutes the institutional mechanism through which formal equality, specified in the norm, becomes a reality in the form of substantive equality, which entails the right's fulfilment in the specific case, whose systematic application is a factor, not only of democratising the legal order, but also a determining factor for social change based on the recognition and respect for women's human rights.

In this regard, the Inter-American Court of Human Rights has highlighted the importance of applicable regulations that guarantee women's rights, stressing the state's obligation to provide training and raise awareness about special laws that are approved, thereby con-

² Chiarotti, Susana. Aportes al Derecho desde la Teoría de Género Otras Miradas, vol. 6, no. 1, June, 2006, Universidad de los Andes Mérida, Venezuela.

tributing to a cultural transformation that makes it possible to overcome historical stereotypes and discrimination against women, which persist, not only in the culture of those who operate the justice system and the civil service, but also in the general population.

We are at a turning point caused by the global COVID-19 pandemic, which has been marked by the mandate to take care of people's lives and 'stay at home', and the concentration of activities in private spaces that usually take place in public spaces, such as education, health and work. This has resulted in at least seven new care patterns, most of which have been undertaken by women. This alerted us to the interdependence of people, the presence of care as a pillar that sustains social and economic aspects, and the tremendous pressure of unpaid work and the use of time on the quality of life and health of women. The goal within this framework is to redefine the role of caregivers in society and place them at the heart of the new agreements that should emerge in post-COVID society, an agenda that could be the catalyst of the fourth wave of feminism due to the deep transformation it entails for people and society.

This is how we make progress with this Model Law, conceptualizing a legal instrument capable of sustaining new irreversible social pacts that seek to update women's rights, reflecting international and regional standards, and positioning the state as the guarantor of these rights with specific obligations for their compliance. The aim is to use this legal instrument for a social and cultural transformation toward a society that provides care and that recognizes the work of caregivers and their social and monetary value, as well as the importance of women's work and their participation in productive life.

The Implementation Guide for the LMIC recovers the highest standards on this matter as well as regional doctrines and practices, encompassing the regulations and experiences of the countries that have made progress on actions related to care. The Implementation Guide for the LMIC recognizes the advances made by certain countries in the region that have experience in redefining caregiving and positioning it as a right and establishing systems for care and co-responsibility measures. This guide also serves as a reference for countries that seek to begin this journey as it establishes the basic foundation in terms of the regulatory and policy changes this process requires.

In light of the work done in cooperation with the European Union through its EUROsociAL+ programme, the Implementation Guide also shows the progress and experiences of European countries in the area of care. European experiences allow us to solidify the notion of building bridges to consolidate social pacts that promote women's empowerment.

The LMIC shapes and promotes a new paradigm: a society that provides care, that views care as a fundamental public good in which all the actors are co-responsible. Promoting

social and cultural transformation toward a society that provides care places us in a new ethic that finally recognizes one of the most important contributions women have assumed since the beginning of time and is essential for life: caregiving.

The care agenda has a deep transformative potential. Feminist theory structures and classifies the biggest advances made in women's rights throughout history into waves. To date, there have been three major waves: citizenship and decision-making; political rights and their internationalisation; and equality and the sexual and reproductive agenda, respectively.³ As a result, we are certain that care will play a key role in the economic empowerment of women, the economic growth of countries, the cultural transformation toward co-responsibility and the caregiving policies will be part of the new wave we are building together.

3 Tomado Valcárcel Amelia. *Ahora Feminismo. Cuestiones candentes y frentes abiertos*, Ediciones Cátedra, Edition 1, 2019, Madrid.

Introduction

The Inter-American Model Law on Care (LMIC) is a regional tool that seeks to establish the foundation for a new pact in the social organization of care to redefine its role in society, help deal with the current crisis,⁴ and drive the evolutionary leap toward societies that provide care. Thus, making it possible to create and maintain communities that are free, fair, sustainable and prosperous, and that respect and protect the human rights of women and men.

The LMIC proposes a transformation toward a new ethic: moving caregiving from the private sphere to the public sphere. This entails a deep shift from classic paradigms as well as an opportunity to restore balance for sustainable life. It recognizes social interdependence as a basic feature of our human nature as well as the need for and importance of care in order to live a full life and have a well-rounded population. It nurtures human capabilities and their potential to creatively undertake life projects with a sense of co-responsibility and brotherhood with others. What we understand as personal liberty and identity can only emerge and evolve within this network of interdependences in which people care for each other, across generations, as their basic source of support.⁵

This new ethic entails transforming the sexual segmentation of caregiving that makes the essential contribution of women toward sustaining the economic system invisible and establishes a new social pact that ensures their financial sustainability in a context of ecological, social and human integration.

This involves respecting, promoting and protecting every person's right to care and the economic rights of women; viewing unremunerated caregiving as work; protecting, ensuring and guaranteeing the rights of dependants by promoting care policies that foster job creation and gender equality, and making it easier for full-time unremunerated caregivers to join the labor force, particularly those from underprivileged groups.

The LMIC legally addresses the five critical junctions identified by the CIM and the countries in the region in light of the care crisis. First, it recognizes and grants legal substance to the **universal human right to care**, which includes the right to receive care, the right to provide care and the right to self-care. Second, it establishes **care as the fourth pillar of the social protection system**, establishing its universal nature in a framework of progressiveness. Third, it defines the legal principles of **the family and social co-responsibility of care**. Fourth, it recognizes and views care as **the foundation**

4 The Global Care Emergency, CIM, 2020. <https://www.oas.org/es/cim/docs/LeyModeloCuidados-EN.pdf>

5 Carrasco, C. and Tello, E., Op. cit., Note 1., p. 17-18.

of the economic system and a key instrument for **economic recovery**. Fifth and last, it positions care as **an essential part of governance** committed to respecting human rights and gender equality.

As a result, the LMIC aims to establish a powerful tool for economic recovery in which care is a driving force by making social investments in care, creating job opportunities in the field of care, and formalizing quality caregiving jobs that streamline the economy and boost economic growth, contributing to peace and social welfare, without leaving anyone behind.

Making commitments in this transformative agenda entails promoting it from all of the spaces in which we operate and translating it into binding instruments in the countries of the region that give regulatory and cultural strength to this new paradigm: a society that provides care and that views care as a fundamental public good in which all the actors are co-responsible for the creation and support of adequate and freely selected care networks.

The Guide's Structure

Following the Presentation and Introduction, this *Implementation Guide for the Inter-American Model Law on Care* begins with a brief explanation of the process and methodology implemented to create the LMIC, and continues with an analysis of a comprehensive conceptual framework as well as general recommendations to design and adopt a national law. It then delves into each of the six chapters that comprise the LMIC. The Guide is structured as follows:

1. Presentation
2. Introduction
3. Process and Methodology Used to Create the Inter-American Model Law on Care
4. Comprehensive Conceptual Framework for the Adoption of a Law on Care
5. General Recommendations to Design and Adopt a National Law
6. Legal Considerations and Practices on the Contents of the Inter-American Model Law on Care
 - Chapter I: Principles and General Provisions
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 - Chapter IV: Redistribution of Care and Co-Responsibility
 - Chapter V: National Care System
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7. EUROsociAL+ Message
8. Annexes
 - Annex 1. International Standards Which Support the Chapters of the LMIC
 - Annex 2: Illustrative Table of Licenses and Co-responsibility by Country

Each chapter develops the legal concepts and the material and legal sources that support it, linking it to a conceptual framework formed by the 5Rs: **Recognition** of care work, **Reduction** of care work, **Redistribution** to advance towards the paradigm of social co-responsibility in care, adequate **Remuneration** for care work, and **Representation** of the voice of the people who give care and those who are cared for. Additionally, **Governance**, **Promotion** and the **Economic Dimension** of care are integrated into these 5Rs.

The Guide organizes and explains the binding legal sources that originate from international and regional agreements and treaties and that constitute the mandates for states to comply with their international obligation to protect people's human rights, particularly the right to care.

In addition to identifying the international and regional regulations that serve as the foundation, this Guide provides, for each legal institution, examples of measures implemented or currently being developed on various matters in the countries of the region. These examples explain cases in which legal standards have been properly established and/or in which innovative initiatives based on international recommendations from specialized entities have been implemented, thereby making progress in recognising and fully exercising the right to care and the economic rights of women.

The third section of this Guide—*Legal Considerations and Practices on the Contents of the Inter-American Model Law on Care*—includes specific examples of how the LMIC, and each of its chapters, is structured. Additionally, the section relating to each chapter of the LMIC includes additional factors that countries can consider when creating a national law on care but have not been included in the LMIC.

This Guide is a living document that should be used and enriched by the national experiences that arise or occur, thereby expanding the legal recognition of international and regional standards and implementing transformative care policies.

Importance of Regulatory and Legal Frameworks

For the development of the LMIC, the CIM undertook a process of research, formulation and validation of legislation, regulations, information, practices, and experiences in the region, as set forth in Appendix 1 of this document.

Upon analysing international legal instruments and identifying the existing standards on women's economic rights in different sectors of special relevance for women's labor participation, it became evident that gaps persist in the full exercise of rights and that discrimination against women is still embedded in structural inequalities and inequities between men and women in the region. These inequalities exist in all social

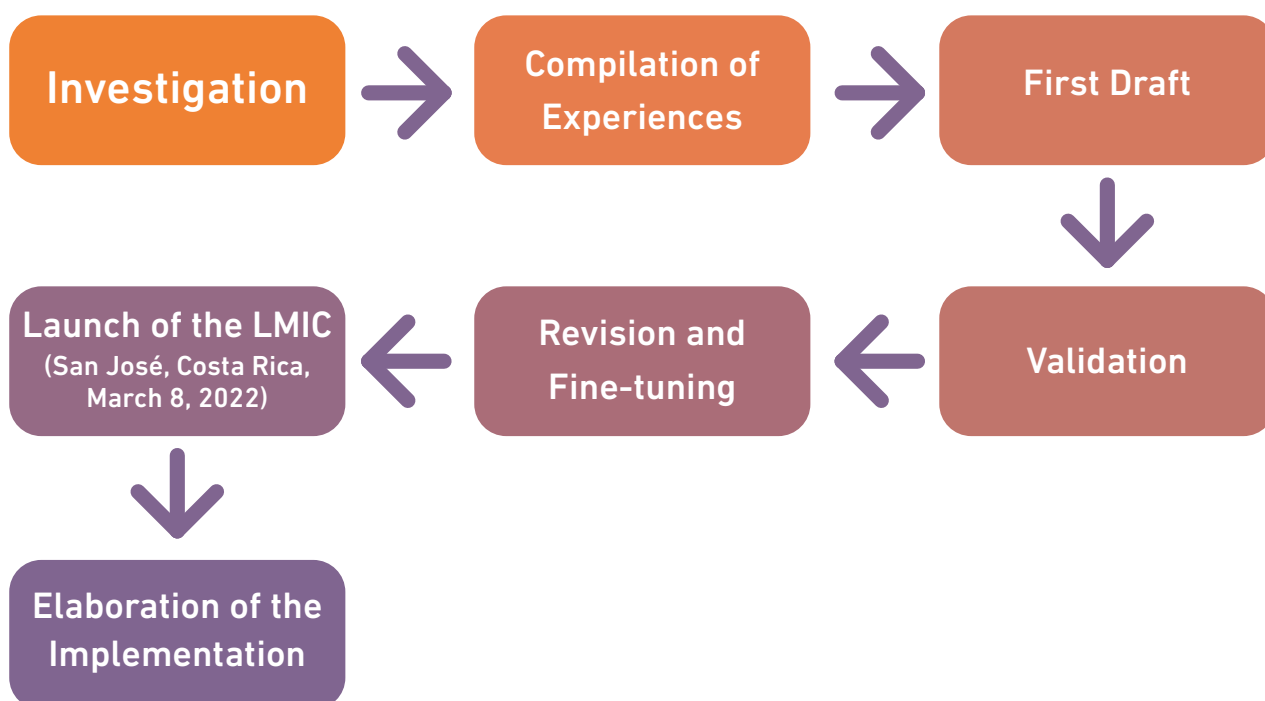
sectors, including the economy, education, work, health, science, technology, justice and decision-making.

It is with this in mind that the CIM suggests moving ahead with regulatory and legal frameworks that will enable cultural transformations toward allowing women to fully exercise their economic rights, empowerment and autonomy. Effective legal regulations seek to achieve specific, measurable and evaluable results in order to reduce the substantial gender equality gaps between women and men.

3. Process and Methodology Used to Create the Inter-American Model Law on Care

The Inter-American Model Law on Care was created through an iterative research, formulation and validation process financed by the European Union’s EUROsociAL+ programme, which is summarized in the figure below.

Stages of the Process to Build the LMIC



The research stage included several aspects:

- Document research. An online review was performed of studies and publications by international entities (CIM/OAS, EUROsociAL+, OECD, ILO, UN Women, ECLAC, IDB, World Bank) and by civil society organizations, academic institutions and research centres, both from Latin America and other parts of the world. This review made it possible to identify core topics within the main subject of care, and also to specify relevant conceptual approaches for justifying the reasons behind the law and the definitions included in the legal instrument. National care policies were also reviewed, both general as well as specific ones for certain population segments.

- Compilation of international standards on care and connected topics. In this section, the legal standards based on international human rights law, labor matters and Inter-American law are organized. This was done to identify mandates regarding state obligations, definitions, concepts, regulatory minimums, institutionality, policies and mechanisms to implement the standards identified.
- The legal projects under consideration at the national assemblies or conferences in Latin America are identified for purposes similar to the two previous points, as well as to understand the degree of progress legal proposals from countries in the region have reached.

The stage for gathering experiences was based on findings identified in the document research phase as well as contributions made by the National Machineries for the Advancement of Women (NMW) of Latin America and the Caribbean, which submitted information to the CIM/OAS about the actions undertaken in light of the COVID-19 pandemic by the national governments to address the care emergency and to promote social co-responsibility of care. Based on the responses submitted, a repository containing 53 initiatives from 15 countries was created.

A summary of the initiatives was prepared and presented in three talks that took place in September 2021 with NWM representatives. These talks served to identify the priorities, recommendations and needs of states in terms of aligning public policies linked to care with a gender focus. Additionally, the needs to be addressed by public policies and regulatory frameworks were identified; good practices, experiences and knowledge were shared between states; and areas for cooperation, synergy and actions between countries were detected.

The first edition of the LMIC was redacted using the input materials collected. On December 9, 2021, the LMIC table of contents was submitted for consideration to the Executive Committee of the CIM/OAS, made of the ministers and highest authorities from the NWMs in the region, and it received their approval.

In December 2021, three meetings were held with various audiences (experts, parliamentarians and representatives from civil society organizations in several Latin American countries) as well as with EUROsociAL+ experts and staff members to validate approaches and obtain observations and suggestions about the proposed Model Law on Care.

Upon completing the validation phase, the team responsible for redacting the LMIC reviewed and perfected the Law's text, including certain aspects that had not been included in the first version, and others were revised, simplified or clarified. As part of the process, certain topics were eliminated or recommended to be moved to this implementation guide.

In February and early March of 2022, the final document underwent a thorough review with help from the CIM Executive Secretariat and other guest consultants and experts. In addition to honing the final text of the LMIC, this larger group planned the launch event to be held on March 8th in San José, Costa Rica.

In March and April, the CIM and EUROsociAL+ project team prepared this Implementation Guide to provide countries with relevant input materials to help adopt some or all of the LMIC.

4. Comprehensive Conceptual Framework For The Adoption of a Law On Care

Why a Law on Care?

Laws are the most important guarantee of the application, continuity and revision of measures to eliminate gender discrimination and work toward equality and the full recognition and exercise of women's economic rights.⁶ Most equality initiatives in the region are focused on formalising women's rights in the form of laws and other regulations, as well as institutions, and are one of the affirmative actions par excellence. Article 3 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) establishes the mandate for states to apply in every sphere, particularly in political, social, economic and cultural spheres, all the appropriate measures, including legislative ones, to ensure women's full development and advancement, thus guaranteeing their human rights and fundamental freedoms under the same conditions as men.

The LMIC, a cooperation tool that contains related international standards and the most advanced practices in the region to serve as guidelines for state actions, has **three innovative features**:

- It introduces a **new legal-political construct** by standardizing concepts and institutions that address the economy and feminist theories—humans as free, equal, vulnerable, interdependent and co-responsible beings—and which derive from the international framework that recognizes the universality and interdependence of human rights,⁷ placing the sustainability of life at the core. It is based on the connection between the individual and the collective, between singularity and universality, which defines the complexity of the interdependent network of reciprocal and ongoing relationships in the chain of the sustainability of life: nature, care at home, community, state and market.
- It is also a vision of the economy tied to the social sphere, in which people's living conditions are important insofar as they delimit the respect and enjoyment of fundamental rights, and therefore the economic contributions of women's unpaid care as work and a source of wealth can no longer be invisible.

⁶ Economic Commission for Latin America and the Caribbean (ECLAC). Equality and women's autonomy in the sustainable development agenda, 2016, p. 16. <https://www.cepal.org/es/publicaciones/40633-autonomia-mujeres-igualdad-la-agenda-desarrollo-sostenible>

⁷ Pautassi, Laura. El cuidado como cuestión social desde un enfoque de derechos. Serie Mujer y Desarrollo No. 87, ECLAC, 2007; Carrasco, C. and Tello, E., Op. cit., Note 1.; Torres Santana, Ailynn, editor. Del centro de la vida al centro de la política, Friedrich-Ebert-Stiftung Foundation, 2021 <http://library.fes.de/pdf-files/bueros/chile/18037.pdf>

- It establishes **mandatory technical criteria**: it proposes the structure and relevant technical, legal and institutional framework for a country; the minimum powers and procedures of competent authorities that a comprehensive and transformative care system should include and addresses policies for care, macroeconomics, social protection and employment under the 5R Framework.⁸
- It establishes regulations that confirm **criteria for effectiveness**: effectiveness, the cutting-edge notion developed by international entities,⁹ is defined as ‘the degree to which the defined results are achieved’. It is one of the two complementary approaches that international regulations have established to assess the existing legal and institutional systems that strive to be effective. The effectiveness assessment consists of evaluating the *suitability* of implementing laws and public policies, and it allows identifying the degree to which a country reaches a defined set of results that are essential for a solid system in the corresponding matter. Effectiveness points to the extent that a legal and institutional framework achieves the expected results. In terms of care, effectiveness is the degree to which the legal and institutional systems respect, protect and promote the universal right to care and the economic rights of women; create an effective employment system according to care needs and in a context of gender equality, social/family co-responsibility and social investment in care work. As a result, the LMIC serves as a roadmap to reach the final objective of creating societies that prioritize care in a setting of progressive legal instruments that gradually conquer places of significance and promote cultural transformation processes that position the state as the guarantor of the right to care and the driver of social change to value care work that is primarily done by women. The progressiveness of legal instruments and the gradual recognition of new spheres of rights is a spiralling and ascending movement that responds to social awareness process and translates into people’s rights.

These regulatory guidelines have been designed for countries that seek to establish or update their legislation according to the latest trends in all areas of care and take into consideration the final result of suitable and effective implementation.

8 The 5R Framework for decent care work: to achieve the scenario of the ‘best path’ toward care work that considers gender equality. International Labour Organization (ILO). Care work and care jobs for the future of decent work, 2019, p. xlv. https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_737394.pdf Rodríguez, Corina. ‘La agenda feminista de los cuidados’, Juntas en Acción and CEM. Las tramas del cuidado en la nueva Constitución. Santiago de Chile, Juntas en Acción, 2021. <https://cem.cl/las-tramas-del-cuidado-en-la-nueva-constitucion/>

9 Financial Action Task Force [Grupo de Acción Financiera Internacional] (FATF-GAFI). Methodology For Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CFT Systems, 2021. <https://www.fatf-gafi.org/media/fatf/documents/methodology/FATF%20Methodology%2022%20Feb%202013.pdf> Along with effectiveness, the evaluation of AML/CFT systems makes up the technical compliance component.

Source Materials for the Law: The Care Crisis in Latin America and the Caribbean

As documented in the *Decalogue for a Human Rights-based and Feminist State*,¹⁰ the feminist objective is that states recognize care as central for life and define it in the broadest sense of the term. This means that care should be considered in at least three main areas: 1) care for people; 2) care for the Earth, its territories, and its resources; and 3) care for well-being. For the LMIC, care is viewed as a wide array of everyday activities for managing and sustaining life, that take place inside and outside the home, and that enable the physical, biological and emotional well-being of people, particularly those who lack the autonomy to do said activities on their own. Caregiving includes self-care, providing direct care for others, establishing the pre-conditions for care, and managing care.

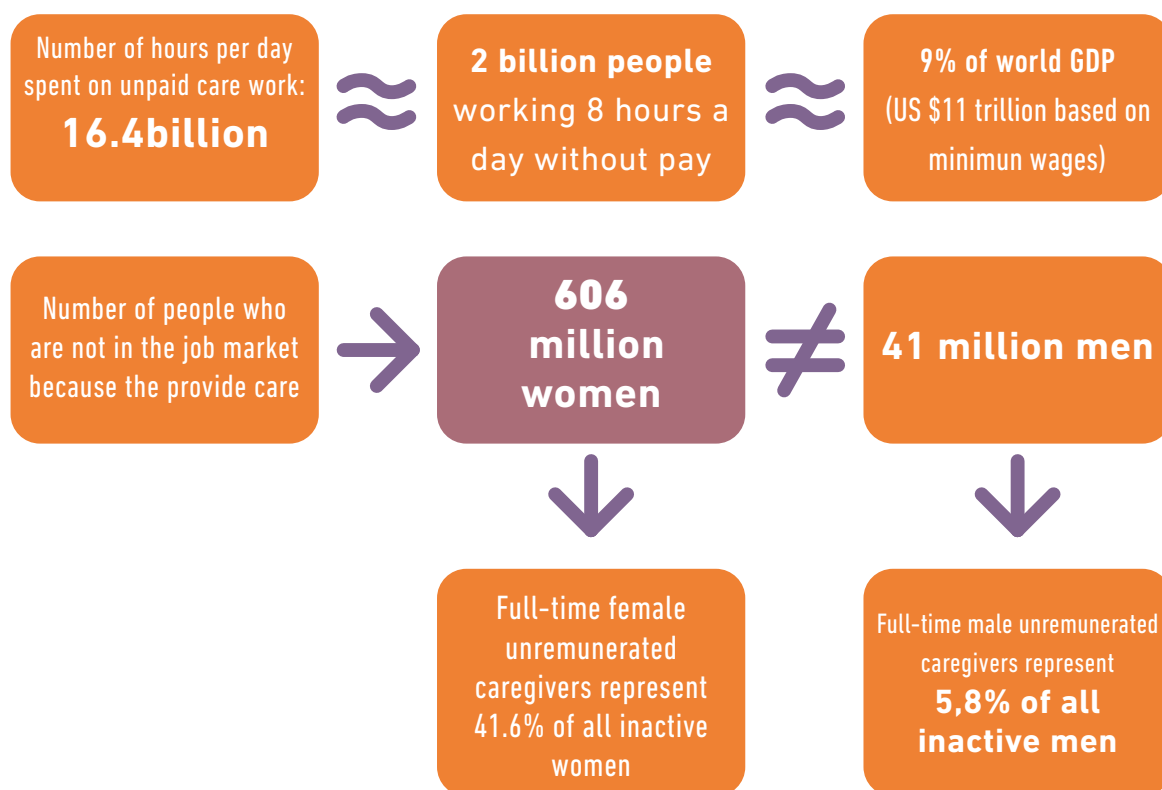
In terms of the economy of care, when caregivers are paid, they have a direct economic impact, and when they are unpaid, they form part of the economic value chains. However, what produces and sustains people's lives is not considered or included in traditional analyses of the economy. The economy is a much more complex reality than the market and the state, and women play an important role in it—a role made invisible and devalued—as the providers of unpaid care services in the home.

In the global scenario, the care economy is defined by two fundamental aspects: the division of work by gender and the feminisation of poverty. The division of work by gender and the male grip on the public sphere has resulted in a rigid structure that prevents people from exercising their freedom and, in addition to this, or rather because of this, devalues and makes invisible the care work that is done at home in everyday life and that sustains everything else. Care work is stigmatized in two ways: Caregiving at home is not valued, and the women who perform that work face structural inequalities in their access to quality formal employment without discrimination and their access to equal pay for work of equal value.

10 Inter-American Commission of Women (CIM). *Decalogue for a Human Rights-based and Feminist State*, 2021. <https://www.oas.org/es/cim/docs/Decalogo-ES.pdf>

The Care Crisis in Numbers

Around the globe¹¹:



In Latin America¹²:



Figure prepared by the CIM and EUROsociAL+ project team when creating this document.

The pandemic has widened the gaps and structural inequalities linked to economic rights and the unequal distribution of care work, thereby hurting the employment and working conditions of women in Latin America and the Caribbean, setting back the advances that had been achieved in terms of labor force participation by more than a decade.

The risks and threats are clear: loss of talent; a drop in the quality of care received by dependants; increased inequality and poverty affecting women; and a reduction in their political participation, in terms of quantity as well as quality.

Effects of the Care Crisis and its Connection with Women's Economic Empowerment:

- The structural disadvantages of the gendered division of work and the unequal distribution of care work: monetary poverty and the lack of time make up a vicious cycle

11 ILO, Op. cit., 2019, Note 7.

12 Inter-American Commission of Women (CIM). COVID-19 in Women's Lives: The Global Care Emergency, 2020. <https://www.oas.org/es/cim/docs/CuidadosCOVID19-ES.pdf>

that is very difficult to overcome without special policies designed to bolster women's economic autonomy.

- The motherhood employment penalty and the fatherhood employment reward: the amount of time spent by women providing unpaid care increases significantly with the presence of small children in the home. This translates into what can be referred to as a 'motherhood employment penalty' and stands out against a 'fatherhood employment reward'.¹³
- Employment quality penalty: women with jobs and family responsibilities are more likely to work fewer paid hours than men and women who are not mothers. The inability to work full-time affects the quality of jobs and women's remuneration.
- Unequal intersectional distribution: women with fewer economic resources do more unpaid work on average than women with more resources. Poorer women face higher demand for care but with fewer resources if the state does not guarantee them.

Formal Sources for the Law: International Obligations and State Instruments

The process for preparing the LMIC began with examining how existing international law instruments address current needs for care and the global care emergency. For this, the present legal standards for international and Inter-American law on human and labor rights were reviewed, which according to the Inter-American Commission on Human Rights (IACHR), are defined as the "set of legal rulings, thematic/country reports and other recommendations adopted by the Inter-American Commission on Human Rights. The term 'legal standards' refers to the regional human rights treaties that govern the Inter-American system, such as the American Convention on Human Rights and the Belém do Pará Convention. The concept also refers to the rulings and advisory opinions issued by the Inter-American Court of Human Rights."¹⁴

This included reviewing and analysing the International Covenant on Economic, Social and Cultural Rights and its General Comments; the CEDAW and a series of recommendations issued by the Committee on the Elimination of Discrimination against Women; the Covenant on Civil and Political Rights; the Convention on the Rights of the Child; the Convention on the Rights of Persons with Disabilities; and the Yogyakarta Principles.

The International Labor Organization's conventions and corresponding recommendations were also reviewed. These regulations comprise the fundamental conventions on the freedom of association and collective bargaining (Conventions No. 87 and 98),

¹³ ILO, Op. cit., 2019, Note 7.

¹⁴ IACHR, Legal standards linked to gender equality and women's rights in the Inter-American System of Human Rights: development and application, 2011-2014 update, p. 13, Note 5. <https://www.oas.org/es/cidh/informes/pdfs/estandaresjuridicos.pdf>

the elimination of child labor (Conventions No. 138 and 182), non-discrimination and equal remuneration (Conventions No. 100 and 111), maternity protection (Convention No. 183), the minimum standards for social security (Convention No. 102), social protection housing (Recommendation No. 202), workers with family responsibilities, childcare, long-term care, parental leave and family-friendly work arrangements (Convention No. 156), domestic workers (Convention No. 189), and the elimination of violence and harassment in the workplace (Convention No. 190).

Also taken into consideration were documents on Inter-American law, such as the Charter of the OAS, the American Declaration, the American Convention on Human Rights, the Inter-American Convention on the Granting of Civil Rights to Women, the Inter-American Convention on the Granting of Political Rights to Women, the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Belém do Pará Convention), the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador), the Inter-American Convention on Protecting the Human Rights of Older Persons, the Inter-American Convention on the Elimination of all Forms of Discrimination against Persons with Disabilities, the Inter-American Convention against All Forms of Discrimination and Intolerance, as well as the standards and precedents of the OAS Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights on the matter.

Upon reviewing all the international and national instruments and obligations of the states, there does not seem to be a comprehensive response from the existing instruments to address the structural matter of women's economic empowerment. Additionally, new needs resulting from the care emergency due to COVID-19 have emerged, along with how this crisis has affected women's access to opportunities for their economic autonomy and empowerment. This translates into the need for international and national instruments to comprehensively redefine care as a structural matter for women's economic empowerment.

Inter-American Model Law on Care: Its Contents Regarding the Five Rs and the Three Transversal Operating Concepts

The LMIC describes its fundamental ideas in *Chapter I Principles and General Provisions*, through which care work is redefined and the entire social organization system is built. It also establishes the principles and general provisions based on the five Rs and that influence the LMIC as a whole. These are expanded upon in detail throughout the law in the following manner:

Recognition

The need to recognize caregiving as work and the universal right to care is covered in

Chapter II on Recognition and Value of Care, which mandates the State to build satellite accounts for unpaid caregiving and domestic work, and to guarantee its frequency and operation in the design of public policies. It is also covered in Chapter III, which establishes the Right to Care in its various dimensions: the right of dependents to receive care and the right of caregivers to provide care, regardless of their remuneration, and it recognizes the quality and dignity of these efforts as work.

Finally, the right to care is established and specified with the creation of a National Care System in Chapter V. It is defined as a universal, publicly accessible co-responsible system with solidarity-based funding, and it brings together the various types of caregiving services: public (national and local), private and community-based.

Reduction and Redistribution

The need to reduce the disproportionate amount of caregiving duties assumed by women, and the need to redistribute these tasks to shift towards the paradigm of social and family co-responsibility in terms of caregiving are covered in Chapter IV, Redistribution of Care and Co-Responsibility, and in Chapter VI, Caregiving and Global Value Chains. The first of these chapters explains in detail the shared role of men in household duties, establishing a set of leave policies based on international standards and the most advanced practices of countries in the region. Chapter VI establishes the social co-responsibility of the economic actors in global value chains and positions States as the drivers of these measures.

Remuneration/Compensation

The need for remuneration or compensation in line with caregiving is recognized throughout the law, specifically in the State's duty to provide social security to unpaid caregivers along with guaranteed universal access to the National Care System that makes co-responsibility possible.

Representation

The need to represent people who need care as well as caregivers is established as a principle in Chapter I and carried out through the National Care System in Chapter V.

Governance

The National Care System (Chapter V) is based on an organic structure of different competencies and the assignment of specific responsibilities. Its operation relies on state coordination, effective actions and measures, and public-private alliances to bolster and expand the available care services.

Promotion

In its role as the guarantor of human rights, the state assumes the responsibility of raising awareness and training all co-responsible actors and promoting social transformation toward a society that provides care (Chapter VI).

Economic Dimension of Care

The LMIC highlights the economic dimension of care by promoting investments in services and infrastructure, fostering regulations on quality care in public contracts and foreign trade, membership, hiring locals and women, and urging the private sector to promote co-responsibility amongst business partners throughout the value chain.

5. General Recommendations to Design And Adopt a National Law

Study of Existing Laws and Policies

All of the legislation in the region includes laws that regulate care in some way or another, or focus on the dimensions that comprise care policies, even on a constitutional level. However, these advances do not redefine care as a structural matter for women's economic empowerment, and they are not done in a comprehensive and structured manner.

Protections for maternity, children, the elderly, people with disabilities, worker rights for individuals with family responsibilities, leave regulations, social security laws and the regulation of paid domestic work are some of the care topics that all the national legislation in the region encompass.

As a result, adopting a national law requires examining and analysing all of the existing care laws and policies. To guarantee effective implementation, the new law should include existing rules, procedures and institutions, optimising institutional and legal resources and the knowledge acquired.

Given the multidisciplinary nature of all the topics that impact care policies, the proposal is to map, identify and analyse the following with a gender perspective:

Constitutional Provisions On:

- 1) The right to care
- 2) Protection of maternity
- 3) Co-responsibility of care

Laws Relating To:

- 1) Care systems, right to care, measurement of unpaid care work, systems of national accounts and satellite accounts.
- 2) Labor issues: labor regime, regime on maternity protection, paternity and parental leaves, care licenses, rules for flexibility and balancing work and family, laws regarding domestic work and paid care.
- 3) Family law: parental obligations, divorce, annulment and adoption.
- 4) Adoption and rights of the adopters.
- 5) LGBTQ rights.
- 6) Social Security.
- 7) Health systems and benefits.
- 8) Human rights of children, the elderly, people with disabilities, chronic diseases and, in general, any law that establishes regimes of legal protection for people in situations of dependency.
- 9) Statute for public servants with regards to maternity protection, paternity and parental leave and work-family balance.
- 10) National accounts.
- 11) Public procurement.
- 12) Tax regimes.
- 13) Migration.
- 14) Education and training and certification mechanisms.
- 15) Public investment.

Rules That Establish:

- 16) Authorities and/or public bodies in matters of care, and the nature and scope of their competencies in matters of care.

Adopting International Conventions and Treaties

International regulations on economic, social, cultural and worker rights are interrelated and interdependent instruments. When combined, they offer a framework that can promote transformative gender equality and quality care work. They address the structural obstacles faced by people—primarily women—who have care responsibilities and needs, and they provide guidance to ensure decent work for everyone.

Therefore, states need to ratify and effectively apply international regulations on women's economic rights and care work, which are particularly relevant for care workers and caregivers.

Designing and Adopting a National Law and Amendments to Existing Legislation

The following aspects are taken into consideration in order to design a national law:¹⁵

- Institutionalality
- Participation
- Communication
- Regulations and capacity building
- Financing
- Monitoring and Evaluation
- Information Systems
- Cooperation

The design and implementation of comprehensive care policies is a clear example of the need for a coordinated organizational structure (Institutional architecture pillar). Furthermore, these policies should be implemented through a multi-scale approach and adapted to different territories and socio-economic contexts. To foster care policies that overcome gender inequalities, it is essential to implement participatory processes that include feminist and women's organizations along with organizations representing caregivers and paid domestic workers, among others (Participation pillar), which give priority to communication strategies and campaigns aimed at transforming gender roles in care and promoting co-responsibility (Communication pillar). In addition, for the implementation of a normative framework and the building and strengthening of State capacities (Normative Framework and Capacity-Building pillars), it is essential to allocate sufficient budgetary resources to guarantee the financial sustainability of policies (Financing pillar).

The implementation of these policies will require accountability and follow-up strategies (Monitoring and Evaluation pillar), which in turn will benefit from a robust information system that provides inputs for the construction and continuous improvement of public policy (Information Systems pillar). Innovative solutions that link statistics with geography and make it possible to visualize the territorial areas affected by inequalities, as well as prioritize action, are also needed. Although the issue of care, in general, could benefit from coordinated action at the regional level, a universal approach which requires coordinated action in areas such as the dynamics associated with migratory movements and global care chains is needed (Cooperation pillar).

15 Economic Commission for Latin America and the Caribbean (ECLAC), Towards a care society: The contributions of the Regional Gender Agenda to sustainable development (LC/MDM.61/3), Santiago, 2021. https://repositorio.cepal.org/bitstream/handle/11362/47264/3/S2100564_es.pdf

6. Legal Considerations and Practices on the Contents of the Inter-American Model Law On Care

Principles and General Provisions (Chapter I of the LMIC)

Foundational Legal Principles

The LMIC is based on the foundational premise of the redefinition of care, which lays the groundwork for a new interpretation of social and economic organization by focusing on the processes that sustain life and the essential ontology of humans.

Ontological-legal Nature of Care

The LMIC begins by redefining care work in Article 1, establishing that it is the social function that sustains the life of society as a whole and that of the natural habitat in which it operates, based on the interdependence and essential vulnerability of human life. This recognizes that caregiving is an essential, unavoidable and universal dimension of human existence and it affects everyone at some point in their life cycle, without distinction.

The LMIC positions care at the base of the social structure and of economic processes in light of caregiving's central role in our biological and social nature, highlighting its structural nature in how our societies are built.

Defined classically through the attributes of dignity, liberty and equality, the LMIC legally establishes a person's essential condition of relational interdependence and vulnerability, acknowledging that the chain sustaining human life is made up of the closely interconnected areas of nature, the domestic sphere, communities, the state and the market.¹⁶

There are three basic premises in the new definition of care:¹⁷

- **First**, caregiving reveals our vulnerability in the sense that it forms part of human life.
- **Second**, our vulnerability reveals our dependence. Being dependent is part of human nature: it is not an exceptional situation nor the result of individual decisions or actions. It is an intrinsic characteristic of people, which changes throughout the life cycle.
- This leads us to the **third** premise: caregiving sustains the economic system. In addition

16 Carrasco, Cristina and Enric Tello (2013), "Apuntes para una vida sostenible," *Tejiendo alianzas para una vida sostenible. Consumo crítico, feminismo y soberanía alimentaria*, Barcelona, Xarxa de Consum Solidari/Marcha Mundial de las Mujeres. https://xarxaconsum.org/wp-content/uploads/2019/02/Tejiendo_alianzas.pdf

17 Carrasco, Cristina. "Capitalismo neoliberal. ¿Cómo situamos los cuidados?," Juntas en Acción and CEM. Las tramas del cuidado en la nueva Constitución. Santiago de Chile, Juntas en Acción, 2021. <https://cem.cl/las-tramas-del-cuidado-en-la-nueva-constitucion/>

to sustaining and reproducing daily and generational life, caregiving plays an important role in reproducing the labor force, which is essential for production and to ensure the continuity of the economic system.

This leads us to confirm that we are interdependent. Interdependence entails accepting that we continuously interact with others, that independent life does not exist and that a solitary existence is not viable.

Purpose of the Law

Starting with the conceptual redefinition of care, the LMIC establishes its purpose in Article 2, as the recognition of care as a fundamental public good; the regulation, redistribution, provision and promotion of care; the recognition of unpaid caregiving as work; the recognition and universal guarantee that everyone can access their right to care, which includes the right to give and receive care, as well as self-care, based on the principle of the social interdependence of caregiving and social co-responsibility; the recognition of the historic contribution of women to unpaid caregiving and the effects that this had had in their opportunities for development and full enjoyment of their rights; and the promotion of gender equality, women's participation in the labor force, their access to decent jobs and their economic empowerment.

This allows the LMIC to establish a connection between fully guaranteed rights for women and dependants, sustainable economic development and social welfare.

Definition of Care

The LMIC defines care and determines the four dimensions that constitute caregiving: self-care, providing direct care for others, establishing the pre-conditions for care, and managing care.

Basic Principles of the LMIC

The first chapter of the LMIC contains regulations that address the basic principles that seek to fulfil the law's purpose: to regulate, redistribute, provide and promote care; to recognize unpaid caregiving as work; and recognize and provide a universal guarantee that everyone can access their right to care.

- Social co-responsibility of care, as a new social pact
- The right to care
- The State as guarantor of care
- Employment systems that work in harmony with the need for care
- Economy of care and compensation
- Social investment in care
- Progressiveness and gradualness

- Financing
- State coordination
- Effectiveness
- Participation
- Interpretative principles on human rights as guiding in the interpretation and application of the law

For example, the ILO¹⁸ addresses transformative care policies based on four fundamental principles that support transformative care policies.

1. Care policies must be gender-responsive and be based on human rights: in other words, they must actively and systematically achieve non-discrimination and gender equality in the home, at work and in society. Care policies and their connection with other regulatory matters can expand the rights, capabilities and options of men and women, and mitigate other dimensions of inequality linked to ethnicity, place of origin and disability. However, they can also accentuate them and confine women to traditional roles associated with femininity and maternity. For example, when these policies are solely aimed at women, they discourage their access to quality jobs and the right and responsibility of men to provide care, therefore failing to target the problem of distributing unpaid care work inside the home. The policy must be created and applied effectively to contribute toward achieving substantial gender equality and women's economic empowerment.

2. Care policies must be universal and provide sufficient and fair benefits. Care policies can benefit all women and men, particularly those who are most likely to be left behind, within the spirit of the 2030 Agenda for Sustainable Development. However, they must reach the entire population in the form of equal, high-quality services and generous transfers. The principle of universality in the creation, application and results also entails distributing the coverage and generosity to all recipients. This translates into a large-scale scope (men and women, poor and not poor, urban and rural populations, citizens and non-citizens) of a combination of sufficient benefits and high-quality services that are funded not only through general revenue, but also through social insurance paired with social assistance. In addition, the principle of social solidarity excludes funding for care policies, such as maternity/paternity leave and childcare services, through the direct responsibility of employers. This funding mechanism could put women and other specific groups at risk of discrimination.

3. Care policies should assign the general and primary responsibility to the state. This dimension is based on the principle that care is a social good. The state's leadership role consists of establishing the benefits; defining the service quality (eligibility terms, level, rights, funding, benefit, monitoring and evaluation); effectively regulating the market; and operating as a regulatory entity, an essential funding institution, a

18 ILO, Op. cit., 2019, Note 7, p. 116-117.

direct supplier and an employer of public sector caregivers. The state's general responsibility can prevent care policies from being created, funded or applied efficiently, thereby perpetuating inequalities.

4. Care policies must be based on social dialogue and representation. This is an essential principle of governance. Care policies can confer power and guarantee the rights, activity, autonomy and well-being of those who receive care, who provide unpaid care and who perform care work. However, creating policies requires listening to those who are most affected. Policies must be based on the dialogue between the representatives of those who receive care, who provide unpaid care, who perform care work and the state. As stated in the ILO's international labor regulations, workers' and employers' organizations, including representatives of those who provide care and their employers, play an essential role in creating, applying, monitoring and evaluating care policies and in making sure they receive sufficient and sustainable funding. People who receive care and unpaid caregivers, including women, parents, the elderly and people with disabilities, people who live with HIV, and other civil society representatives, should also be included, to the degree possible, in decisions regarding creating and evaluating policies so they can try to ensure that said policies meet their needs and expectations. This makes it possible for transformative care policies to have an overall positive impact on governance, citizenship and social responsibility.

Recognition and Value of Care (Chapter II Of The Lmic)

The first step in recognising care work is to quantify it in national accounts. As a result, Chapter II on *Recognition and Value of Care* orders the state to build satellite accounts for unpaid caregiving and domestic work, and to guarantee their frequency and operation in the design of public policies.

The ILO recommends that all types of care work be measured and taken into consideration in decision-making to find the best path toward care work.¹⁹

In countries in the region that have carried out time-use surveys and created satellite accounts (official or not), the monetary value of unpaid domestic work is around 20% of their national Gross Domestic Product (GDP), and in some cases surpasses the contribution of any other branch of activity in the country's economy. Women contribute more than 70% of this production.

Despite representing a high percentage of the national GDP, care work is made invisible in the economy and its social organization rests primarily on the role of families, and within these, mothers as the central figure.

19 ILO, Op. cit., 2019, Note 7.

Giving visibility to the role, nature, and scope of care work in sustaining economies is the first step in recognising its social, economic and legal value, making it possible to lay the foundation for processes of redistribution, remuneration and the social co-responsibility of care.

Job and time-use surveys are two complementary instruments that measure unpaid care work and ascertain the degree and conditions in which unpaid caregivers can participate in the labor force.

Regional Experiences

GDP Contribution Made by Unpaid Care Work and Domestic Work²⁰

Country and Year of Measurement	Estimated Contribution to GDP	Country and Year of Measurement	Estimated Contribution to GDP
Argentina (2020)	21.8%	Costa Rica (2017)	25.3%
Chile (2020)	25.6%	Ecuador (2017)	19.1%
Mexico (2019)	22.8%	Uruguay (2013)	22.9%
Guatemala (2018)	18.8%	El Salvador (2010)	21.3%
Colombia (2017)	25.3%	Peru (2010)	20.4%

In 2021, five countries established official satellite accounts to perform these estimates: Colombia, Costa Rica, Ecuador, Mexico and Peru. Argentina, Chile, El Salvador, Guatemala and Uruguay performed exercises with a monetary value through alliances between governmental entities and civil society, but they have not yet been recorded as official data.

In addition to the regulation included in Chapter II of the LMIC, regarding the value of the care economy (Article 15), time-use surveys and satellite accounts (Article 16), activity classification (Article 17) and funding for time-use surveys (Article 18), the following aspects can be part of a comprehensive national law on care.

Monitoring, Surveillance and Oversight

National laws can establish institutions and inter-institutional coordination mechanisms to monitor and provide support for time-use surveys and satellite accounts.

This can and should include the creation of working groups—involving oversight bodies, academia and social organizations—to monitor and help implement the time-use survey. National laws can establish in detail the responsibilities of the institutions involved,

²⁰ Vaca (2021). The monetary value of unpaid domestic work. CEPAL.

<https://www.cepal.org/sites/default/files/presentations/valorizacion-economica-trabajo-no-remunerado-hogares-cepal-2021.pdf>

define accountability requirements, and periodically monitor progress to account for the work performed to comply with the law.

Distribution

National laws can require the state to share the results of research and statistical information on time-use surveys and unpaid domestic work surveys so they are available to the entire population. National laws can also require the state to ensure the results are used to design public policies.

Care Work and the New Statistical Definition of ‘Work’²¹

Resolution I adopted by the 19th International Conference of Labor Statisticians (ICLS), concerning ‘statistics of work, employment and labor underutilisation’ introduces a ‘conceptually revolutionary definition’ of work. This definition includes, but transcends, work in exchange for pay or profit, and includes ‘all activities performed by people of any gender and age to produce goods or provide services for third-party consumption or own use’. The introduction of the last statement, ‘for third-party consumption or own use’ marks the decisive change because it recognizes as work the production of goods and services provided in the home for other household members and for personal use. The concept of ‘work’ is in line with the general production limits of the System of National Accounts 2008 (SNA), with views to include production activities, such as the production of services for own use and volunteer work, in households that provide services. Additionally, the new regulations define the concept of work irrespective of its formal or informal nature, or of the activity’s legality.

The Right to Care (Chapter III of the LMIC)

Chapter III establishes the right to care in its dual dimension: the right for dependants to receive care and the right for caregivers to provide care.

In the specific field of caregiving, international law addresses this through multiple instruments. Article 5 of CEDAW establishes the obligation of States Parties to take all appropriate measures to ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children.

Convention No. 156 of the ILO on workers with family responsibilities states that countries must create or promote public or private community services, such as assistance for families and children; they must include the needs of these groups in the plans of local and regional communities; and they must increase awareness and improve the public opinion of the problems and corresponding solutions. Convention No. 156 seeks to

²¹ ILO, Op. cit., 2019, Note 7.

establish caregiving within the social protections for female workers, and it also opens the door to various public and private combinations.

To undertake the best path toward care work, the ILO has highlighted the importance of guaranteeing the right to universal access to quality care services and promoting active job market policies that support the inclusion, reintegration and advancement of unpaid caregivers in the labor force.²²

The international and regional instruments on the rights of children (the Convention on the Rights of the Child), the elderly (the Inter-American Convention on Protecting the Human Rights of Older Persons) and people with disabilities (the Convention on the Rights of Persons with Disabilities and the Inter-American Convention on the Elimination of all Forms of Discrimination Against Persons with Disabilities) close the circle in terms of establishing the state's duty to promote social organization systems that address the right to care and the special needs of dependants, thereby protecting and promoting their rights and autonomy.

Conceptual Elements: Focus on Rights

"Care is the set of activities and the use of resources to ensure each person's life is based on the validity of human rights."

Marcela Lagarde²³

The starting point of the LMIC is viewing care as a social matter from a rights-based approach, which goes beyond the perspective of social policies as part of a logic marked by the availability of assistance benefits that may or may not be assumed by state bodies. This is channelled into the definition of minimum dignity parameters, which the state is responsible for guaranteeing through the use of all instruments within its scope. With this focus, the goal is to promote new policies that overcome the decades-long idea that people are mere 'recipients' of social assistance programmes and instead view them as full rights-holders.²⁴

Recipients of the Right to Care

The LMIC contemplates a general clause on recipients of care: all persons in situation of dependency have a right to care. However, it expressly establishes four categories of people recipients of care: children and adolescents, people with disabilities, the elderly, and people with chronic illness. National laws can establish more ample definitions of care recipients.

22 ILO, Op. cit., 2019, Note 7.

23 Marco Navarro, Flavia. Calidad del cuidado y la educación para la primera infancia en América Latina Igualdad para hoy y mañana. Study no. 6, Series: Analysis, Area: Social Policies, EUROsociAL.

24 Pautassi, Laura, Op. cit., 2007, note 6.

The Right to Receive Care for Persons in Situation of Dependency

Section I *The Right to Receive Care* Article 20 defines the right to care as the right of all persons in situation of dependency to receive quality, comprehensive, sufficient, and adequate care in line with their needs based on their life cycle and degree of dependence, ethnic-cultural origin, gender, sexual orientation, gender identity and other conditions, respecting their dignity and supporting their autonomy.

This article recognizes, along with the nuclear aspect of universal accessibility to the services and benefits specified in the LMIC, a set of additional rights aimed at protecting and exercising human rights and fundamental freedoms, such as the right to information, the right to confidentiality, and the right to be heard and to participate in the system's consultation and evaluation mechanisms.

Rights of Dependents

Article 20 of the LMIC establishes the rights of persons in situation of dependency, namely to:

1. Exercise their human rights and fundamental liberties, without discrimination and fully respecting their personality, human dignity and privacy.
2. Receive, in comprehensible and accessible formats, complete and updated information regarding:
 - a) Their dependency status.
 - b) The services and benefits available to them over time.
 - c) The requirements and conditions for using those services and benefits.
 - d) The comprehensive caregiving and assistance programs and policies implemented within the National Care System.
3. The confidentiality and protection of all the information linked to their process, and when applicable, their stay at entities that provide caregiving services, and observance of the principle of prior informed consent for processing that information, as per applicable legislation.
4. The universal access to the services and benefits stated in this law.
5. The right to be heard and participate within the framework of consultation and participation mechanisms established by the National Care System to contribute towards improving its quality and coverage.

Article 20 concludes with a final clause which mandates the State to progressively provide protection and guaranteed rights to dependents as needed, striving to develop their highest degree of personal autonomy.

Obligations of National Care System Users

Likewise, the LMIC establishes a series of obligations for the persons in situation of dependency, they should:

1. Provide all the information and data requested by the corresponding authorities to assess their degree of dependence.
2. Report all the aid, benefits, and services they receive.
3. Use the services and allocate the economic benefits for their intended purpose.
4. Report their income and property to determine the type and coverage of National Care System services.

Unpaid Caregiving: The Right to Care

Section 2 *Unpaid Caregiving*, recognizes this task as work, as confirmed by the title. It explains in detail the right to give care, which refers to the right to provide care under the same conditions of equality, dignity and co-responsibility, as specified in Articles 2 and 5 of Chapter I.

Article 22 reaffirms this principle and orders the state to dignify and ensure that the work is done free of gender and other types of discrimination, respecting and promoting human rights, autonomy and the well-being of caregivers in compliance with social co-responsibility and care interdependence.

Experiences: Recognizing the Right to Care

In November 2018, Mexico's Chamber of Deputies approved the constitutional reform and addition of Articles 4 and 73 to guarantee the right of all people to dignified care, based on the principles of social co-responsibility, freedom to decide whether to care or not and how to do it. All this was accomplished using the existing institutional framework and resources. This approval empowered the Congress of the Union to issue a general law on the National Care System,²⁵ the text of which is currently under discussion in the Senate.²⁶

Argentina and **Mexico** presented a joint statement to recognize the people's 'right to care' as a human right at the 48th session of the United Nations Human Rights Council in September 2021.²⁷

Rights of Unpaid Caregivers

Article 23 implements the scope of this right, highlighting, firstly, the right to universal access to the National Care System (NCS), which allows caregivers to access employment opportunities and decent work under equal conditions and free from discrimination, as well as access to free time and rest, reasonable limits on caregiving hours, and personal development. Secondly, it focuses on the right to become progressive recipients of

²⁵ <https://comunicacionnoticias.diputados.gob.mx/comunicacion/index.php/boletines/la-camara-de-diputados-aprueba-reforma-constitucional-en-materia-de-sistema-nacional-de-cuidados#gsc.tab=0>

²⁶ Information provided by Senator Verónica Camino Farjat on December 14, 2021 during meetings on the Inter-American Model Law on Care.

²⁷ 28 Article 80 of the Chilean Law 20.255 makes reference to forecasts stated in Law 19.947 on Civil Marriage and the

the social security system, thereby compensating the unpaid caregiving work performed throughout their life and guaranteeing access to decent and sufficient retirement pensions.

Likewise, it establishes two additional rights, to:

- Receive protection from violence and harassment linked to or resulting from their caregiving work.
- Be heard and participate within the framework of consultation and participation mechanisms established by the National Care System to contribute towards improving its quality and coverage.

Experience: Comparative Law on Economic Compensation for Care Work

Within the existing legal mechanisms in the region- established both through legislation and jurisprudential pronouncements, and that constitute valuable instruments of social and family co-responsibility- lies economic compensation for care and the division of accumulated balances into individual accounts, in the case of divorce or annulment. This is covered by **Chile's** Law 20.255 of 2018, which reformed the pension system with the aim of improving the income security of women in old age. The reform recognized employment interruptions due to raising children, awarded childcare credits to mothers (women's average pensions increased by 20%), and established economic compensation through a pension in the event of annulment or divorce.

Article 80 of Law 20.255 establishes that in the case of divorce or annulment in which there is an economic loss resulting in compensation, the judge may order the transfer of funds from the individual capitalisation account of the spouse who should provide compensation to the other spouse's account, and if it does not exist, to an individual capitalisation account that will be opened for this purpose. This transfer may not exceed 50% of the total resources in the individual capitalisation account of the spouse who must provide compensation, concerning the funds accumulated during the marriage.²⁸

Paid Caregiving: Economic and Labor Rights

Finally, in Article 24 of Section III on *Paid Caregiving*, the LMIC establishes that paid caregivers will have the same rights, under equal conditions and free of discrimination, as those established for all workers by general labor legislation, thereby achieving a long-term aspiration on this matter.

States must ratify Convention 189 of the ILO and identify existing gaps between the labor regulations of caregivers and general labor legislation, promoting legal reforms for equal rights.

²⁸ Article 80 of the Chilean Law 20.255 makes reference to forecasts stated in Law 19.947 on Civil Marriage and the matters linked to the individual capitalisation accounts as per the legislative decree No. 3.500 of 1980.

Experience: Recognising the Right to Care in the Middle of the COVID-19 Health Contingency

During the COVID-19 pandemic, **Italy's** Istituto Nazionale della Previdenza Sociale gave vouchers to workers with children under the age of 12 to pay for childcare and summer camps. The goal was to support co-responsibility between work life and personal life, as well as to provide monetary compensation for care work. This temporary measure consisted of a €1,200 voucher per family (up to €2,000 in the case of medical personnel) for parents of children under the age of 12 to help pay for childcare or summer camps during the lockdown period.

Source: <https://eurosocial.eu/biblioteca/doc/aprendizajes-de-las-medidas-de-conciliacion-europeas-con-enfoque-de-genero-frente-a-la-covid-19/>

During the first several months of the health emergency, the **French** government kept some pre-schools and schools open, applying a very strict health protocol so the children of essential workers could go for free (eligibility was solely based on their profession). They reopened slowly and priority was given to single-parent families and people who could not work remotely. This measure sought to support co-responsibility in the work-personal life of essential workers and prevent mothers from being forced to leave paid jobs.

Source: <https://eurosocial.eu/biblioteca/doc/aprendizajes-de-las-medidas-de-conciliacion-europeas-con-enfoque-de-genero-frente-a-la-covid-19/>

Additional Aspects to Consider on the Right to Care When Creating a National Law:

- Because it is a subjective right, the right to care makes it possible to exercise all other human rights, and therefore it precedes them, even the right to life. Life is not possible without care.
- The interdependent nature of human existence and its unbreakable bond with nature reveals the relational nature of the right to care and transforms standard opposition categories between individuals and groups, citizens and the state, men and women, to move toward a broader understanding of individuals that includes group awareness, which has been aggravated by climate change and environmental devastation.
- Care is what characterises the driver of life and the development of societies.
- The right to care is the minimum parameter of dignity that protects everyone. However, unlike liberal rights that protect negative liberty, the right to care protects and nourishes the positive liberty of people and their autonomy.
- The right to care can be translated in terms of human rights.
- Care allows the rights established by international instruments to be carried out.
- It entails exercising positive liberty where people's communities are nourished and sustained.

Systematized Experiences to Help Implement Chapter III of the LMIC on the Right to Care

Article(s)	Country	Experience
19	Multiple	Various countries in the region have early childhood policies that establish the right to health, education, quality of life, and to be raised in a setting free of violence. ²⁹
	Ecuador	Due to the COVID-19 pandemic, Ecuador's National Council for Intergenerational Equality created a protocol to establish local systems to protect the rights of children, adolescents and the elderly as part of the health emergency, involving cantonal boards for the protection of rights and legal units. ³⁰
19 and 21	Brazil	Congress is working on draft legislation for the creation of the National System for the Elderly (PL 172/2021), which is aimed at protecting people over the age of 60 who are dependants or vulnerable, and it establishes the creation of a records office of organizations that provide their care. ³¹
	Chile	In addition to the early childhood care system, a sub-system is being developed to include people who are moderately to severely dependent. ³²
	Costa Rica	The 2021-2031 National Care Policy was enacted in 2021. It seeks to progressively implement a care system for dependants who require support and care to perform their daily activities. ³³
22	Mexico	Constitutional reform and the addition of Articles 4 and 73 in 2018 to guarantee the right for everyone to dignified care, based on the principles of social co-responsibility, freedom of choice to provide care and how to do it, all using existing resources and institutions.
22	Argentina and Mexico	The two countries presented a joint statement to recognize the people's 'right to care' as a human right at the 48th session of the United Nations Human Rights Council in September 2021.
23	Argentina	Of the more than 100 measures put forth by the Inter-ministerial Care Panel, there is a guideline that establishes the recognition of a pension for the years spent providing unpaid care (CIM/OAS, 2022).

29 In sustained dialogue with national machineries for women about the care measures adopted as a result of the pandemic (CIM/OAS, 2022), the following policies were discussed: 'Chile Crece Contigo' (<https://www.crececontigo.gob.cl/>), Uruguay's National Plan for Early Childhood, Childhood and Adolescence (<https://www.inau.gub.uy/institucional/documentos-institucionales/download/4644/122/16>), and Costa Rica's 2015-2020 Policy for Early Childhood, which was under review at the time (https://ddc.mep.go.cr/sites/all/files/ddc_mep_go_cr/archivos/politica_para_la_primera_infancia_2015-2020.pdf)

30 Additional information about this protocol is available at <https://www.igualdad.gob.ec>

31 Information about the processing the initiative: <https://www.camara.leg.br/proposicoesWeb/fichadetramitacao?idProposicao=2268881>

32 CIM/OAS (2022). Regional Analysis and Actions for the Global Care Emergency.

33 Additional information is available at: <https://www.imas.go.cr/es/general/politica-nacional-de-cuidados-2021-2031#:~:text=La%20Pol%C3%ADtica%20Nacional%20de%20Cuidados,para%20realizar%20sus%20actividades%20diarias>

Article(s)	Country	Experience
23	Chile	Chile's 2008 Law 20.255, which reformed the pension system to improve the income security of women in old age, recognized employment interruptions due to raising children and awarded childcare credits to mothers, thereby increasing women's average pensions by 20%. The law established economic compensation through a pension in the event of annulment or divorce, and economic compensation for care and the division of accumulated balances into individual accounts in the case of divorce or annulment. Article 80 establishes that, in the case of divorce or annulment with an economic loss resulting in compensation, the judge may order the transfer of funds from the individual capitalisation account of the spouse who should provide compensation to the other spouse's account, and if it does not exist, to an individual capitalisation account that will be opened for this purpose. This transfer may not exceed 50% of the total resources in the individual capitalisation account of the spouse who must provide compensation, in regard to the funds accumulated during the marriage.

Redistribution of Care and Co-responsibility (Chapter IV of the LMIC)

The reduction and redistribution of care work are addressed throughout the law, but it is discussed in detail in Chapter IV on the Redistribution of Care and Co-Responsibility.

The notion of social co-responsibility for care gained traction in the region after the International Labor Organization and the United Nations Development Programme proposed in 2009 'new forms of reconciliation with social co-responsibility' to balance family life and work (ILO and UNDP 2009).³⁴

Subsequently, the ILO recommended that the best path toward care work requires establishing and putting into practice family-friendly work arrangements for all employees; promoting information and education to create households, workplaces and societies that are more equal in terms of gender; and applying gender-responsive leave policies that are financed publicly for all men and women.³⁵

Within the 5R Framework, this proposal transcends 'reconciliation'—whose traditional implicit meaning assigns women the responsibility of balancing their paid and unpaid work (Faur, 2006³⁶)—to suggest labor policies and care services that support women's participation in the labor force and dignified employment. However, in contrast with the

³⁴ Esquivel, Valeria & Kaufmann, Andrea. Innovations in care: New concepts, new actors, new policies. UNRISD Ebert Stiftung Foundation, 2017, p. 59.

³⁵ ILO, Op. cit., 2019, Note 7.

³⁶ Faur, Eleonor. Género, masculinidades y políticas de conciliación familia-trabajo. *Nómadas* (Col), no. 24, April, 2006, Universidad Central, Bogotá, Colombia. <https://www.redalyc.org/pdf/1051/105116598012.pdf>

social protection focus from a rights-based approach and its emphasis on policies, the social co-responsibility argument revolves around the job market and women's participation in it (Blofield and Martínez-Franzoni, 2015).³⁷

Social and Family Co-responsibility as a Way to Redistribute Care

The redistribution of care implies the equal distribution of unpaid care work, which has historically been assigned to women, among other actors in society, given that everyone plays a role in the interconnected and interdependent network that constitutes the social community.

For this, Chapter IV of the LMIC starts with Article 25, which enshrines social co-responsibility to be equally distributed between State institutions, municipalities, the private sector, communities, families, and men and women.

In addition, Article 25 also addresses the principle of family co-responsibility, establishing that spouses and partners must care for, under the same conditions and with shared effort, household responsibilities and maintenance, raising and educating children who are minors or have a disability, as well as any other dependents under their care in the shared home or in a different home.

Family and Social Co-responsibility: Comparative Law in Latin America

Bolivia establishes co-responsibility on a constitutional level.

Law 20.680 (2013) in **Chile**,³⁸ which introduces modifications to the Civil Code and other legal bodies to protect the integrity of minors whose parents live separately, defines the principle of family co-responsibility as a situation in which both parents, regardless of whether they live together or separately, participate actively, equitably and continuously in raising their children.

Family Co-responsibility and Active Paternity: The Inalienability of Rights as a Mechanism

The effectiveness of the principle of family co-responsibility for caregiving is outlined in Article 26 which establishes that men share equal responsibility with women for the quality and conditions of caregiving, except for physical and biological aspects linked to maternity. To fulfill their co-responsibility, they have inalienable rights that allow them to establish a work-life balance to handle their family duties.

³⁷ Blofield, Merike and Martínez-Franzoni, Juliana. 'Are Governments Catching Up? Work-Family Policy and Inequality in Latin America.' Discussion Paper for Progress of the World's Women, 2015–2016. New York: UN Women. https://www.researchgate.net/publication/275327818_Maternalism_Co-responsibility_and_Social_Equity_A_Typology_of_Work-Family_Policies

³⁸ Law 20.680 introduces modifications to the Civil Code and other legal bodies to protect the integrity of minors whose parents live separately, 2013. https://oig.cepal.org/sites/default/files/2013_ley20680_chl.pdf

The inalienability of paternity rights makes it possible to establish, promote, respect, and protect active paternity and family co-responsibility in unpaid care work, and promote the cultural shift for the social transformation of dividing work according to gender.

Men and the Right to Care

Paternity rights established by law are inalienable and non-transferable, which reinforces the notion that men also have the right to care. This establishes a new dimension of rights that allows them to access an experience of emotional well-being that has historically been denied to them.

The 2021 report titled *State of the World's Fathers*³⁹ recommends granting equal paid parental leave and job protection to all parents as a national policy. Parental leave, along with other policy modifications, can transform gender patterns and roles regarding care, support parents with their caregiver duties, and develop permanent equality patterns for care work. For this to occur, governments and employers should ensure that parental leave meets the following requirements:

- It must be available to all parents through their formal workplace (both full and part-time employees), and to anyone who works in the informal sector or holds sporadic employment through income support and social protection programmes.
- It must offer remuneration that is in line with the salary of the person taking leave to serve as an incentive for fathers who frequently earn more than their female spouses.
- It must be guaranteed by national legislation.
- It must offer employment protection when employees return to work.
- It must include paternity leave and maternity leave, without subtracting days from women to add them to men.
- It must be the same for women as for men, but with specific non-transferable days for men or caregivers.
- It must have a duration of at least 16 weeks.
- It must be available for all types of families and care, including mothers and fathers of the same gender, adoptive parents, singles and unmarried couples.
- It must be combined with access to high-quality early childhood education, flexible work arrangements, caregiving support for all children, and other measures to relieve the caregiving burden and modify the gender roles and norms for care.
- It must be monitored to ensure that men take the leave they are entitled to and to address any obstacles that prevent men from using their leave.
- It must be redacted using neutral or inclusive language in terms of gender, thereby extending the rights to all parents, regardless of their gender identity, marital status or whether they are biological parents.

39 Barker, G., Garg, A., Heilman, B., van der Gaag, N. and Mehaffey, R. (2021). *State of the World's Fathers: Structural Solutions to Achieve Equality in Care Work*. Washington, D. C.: Promundo-US. https://promundoglobal.org/wp-content/uploads/2021/07/BLS21042_PRO_SOWF_Summary_ES_preview-July-2-Final.pdf

The 2017 report titled *State of the World's Fathers: Latin America and the Caribbean*⁴⁰ shows that involving parents in care and upbringing has a positive impact on their children, the mothers (regardless of whether they are partners) and the men themselves.

Leave Policies

The participation of mothers (and fathers) in the labor force is an explicit goal of Uruguayan and Costa Rican policies, and it has also been present in the public policies of Chile, Ecuador, Guatemala, Honduras, Mexico, Panama, and Peru.

The Beijing+20 regional report describes in detail the labor regulations introduced by countries about care, particularly the laws against pregnancy discrimination, the maternity legislation and the maternity leave rights adopted by all the countries. There have also been regulations on extended paid paternity leave in certain nations, along with the stipulation of shared parental leave (ECLAC, 2015⁴¹).

The CIM points out that countries in the region have addressed the matter of co-responsibility for family care, carrying out communication and awareness campaigns, particularly during the COVID-19 pandemic, as well as training on responsible parenting and new masculinities.⁴²

Appendix 2 contains an illustrative table of leave and co-responsibility in the region.

Maternity Leave

Article 27 encompasses maternity leave, establishing the highest standard in the region: 6 weeks before giving birth and 18 weeks after giving birth, with full pay through social insurance.

In the region, Chile follows this standard, which encompasses ILO Recommendation No. 191 (2000) on the protection of maternity leave and urges member states to extend the duration of maternity leave, mentioned in Article 4 of Convention No. 183, to a minimum of 18 weeks. The 2000 ILO Convention No. 183 on the protection of maternity leave establishes maternity leave with a duration of at least 14 weeks.

Article 27 defines a standard rule for national regulations to extend maternity leave to the father when that person takes care of the minor in the event of the mother's death,

40 IPPF/WHR and Promundo. *State of the World's Fathers: Latin America and the Caribbean 2017*. New York: IPPF/WHR, Washington, D.C.: Promundo-US. <https://promundoglobal.org/wp-content/uploads/2017/06/2017-Informe-Estado-de-la-Paternidad-LAC.pdf>

41 Lupica, Carina. *Corresponsabilidad de los cuidados y autonomía económica de las mujeres. Lecciones aprendidas del permiso Postnatal en Chile*, ECLAC, 2015. https://www.cepal.org/sites/default/files/publication/files/37878/S1500262_es.pdf

42 Inter-American Commission of Women (CIM). *COVID-19 in Women's Lives: Findings and recommendations on the care emergency*, 2022. <https://www.oas.org/es/cim/docs/CuidadosCOVID19-Hallazgos-ES.pdf>.

illness or abandonment. According to the LMIC, the father's employer must grant leave equivalent to the duration of the time remaining from the post-partum maternity leave or at least half of the maternity leave duration.

Regional Experiences

Regarding maternity leave, to date, 15 CIM member states have at least 14 weeks of maternity leave, 11 of which are Latin American nations. Although some of the countries in the region increased the number of days for paid maternity leave, 6 nations have kept the maximum at 84 days. The regional average for paid maternity leave is 106 days.⁴³ Given that informal employment is commonplace, legally established paid leave covers less than half of women workers (ILO, 2016⁴⁴), which is an aspect that is frequently omitted from analyses focused exclusively on regulations. According to data from the World Bank,⁴⁵ in the last ten years, seven Latin American countries have increased the number of days of paid maternity leave.

Paternity Leave

Paternity leave is a fundamental policy for promoting the participation of men in care and upbringing and making family co-responsibility a reality. Family co-responsibility of care and domestic work is important for children, parents, and the economy as a whole.

Masculinity Research - Men Want to do More:

- The 2021 report titled *Paternidad activa: La participación de los hombres en la crianza y los cuidados*⁴⁶ (Active Paternity: Men's Participation in Care and Upbringing), an initiative driven by the United Nations Population Fund (UNFPA) to eliminate violence against women and girls throughout the world, addresses and analyses trends on paternity, co-responsibility and care in upbringing in Latin America and the Caribbean from a masculinity perspective, showing the recent transformation and effects that men and masculinities have experienced in paternity and co-responsibility efforts. The document contains data from the period during the COVID-19 pandemic. It also notes the state of paternity in terms of the sexual and reproductive rights and the health of fathers, presenting certain barriers and challenges that stand in the way of making progress in co-responsibility and gender equality.

43 World Bank gender indicators: <https://genderdata.worldbank.org/indicators/>

44 International Labour Organization (ILO). Women at Work, 2016. https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_483214.pdf

45 World Bank gender indicators: <https://genderdata.worldbank.org/indicators/>

46 Spotlight Initiative and UNFPA. *Paternidad activa: la participación de los hombres en la crianza y los cuidados*. 2021. <https://serviciosesenalviolencia.org/wp-content/uploads/2021/07/PaternidadActiva.pdf> In Latin America, the Spotlight Initiative is carried out by UN Women, UNDP and UNFPA, with participation from inter-governmental mechanisms, civil society organizations and other United Nations agencies.

- According to the 2021 report *State of the World's Fathers*,⁴⁷ many men want to do more. In seven countries with average and higher income levels, 85% of the men stated that they would do 'whatever it took to be more involved' in the early stages of caring for a newborn or adopted child.
- The 2021 study titled *Masculinidades cuidadoras: la implicación de los hombres españoles en la provisión de los cuidados. Un Estado de la cuestión*⁴⁸ (Care Masculinities: The Involvement of Spanish Men in Care. A State of the Matter) considers how many men are starting to question their masculinity to manifest attitudes and behaviours regarding emotions, receptiveness and the joy of caring. These emerging masculinities—'care masculinities'—are identities that reject the values of domination, power, aggression and violence, and instead choose the values of interdependence, care, emotion and equality.
- As part of the project *Making Caring Common*, Harvard University published a study that shows how the pandemic is strengthening the relationships between fathers and their children.⁴⁹ The study surveyed 1,319 fathers in the United States to show that the lockdown led 70% of the men to recognize having a closer bond with their children since the start of the health crisis. Only 1.4% of the respondents stated otherwise.
- The study *Somos Equipo*⁵⁰ by the civil society organization Malasmadres, based on a survey of 24,000 people (11% men) in February 2017, showed that co-responsibility is far from being a reality in Spain, and although a growing number of men are involved in unpaid family-domestic work, the types of tasks they perform are the easiest and most entertaining, and even fun. On the other hand, the less visible tasks that are difficult to quantify and have a psychological burden are primarily done by women.

Article 28 regulates paternity leave, establishing that workers will also have the right to paternity leave with full pay for the duration of 15 to 45 days after childbirth, with the enjoyment of 100% of their remuneration. In this aspect, the LMIC innovates in terms of the legal standard that usually appears in the region's national regulations, which tend to establish very short leave policies that are also frequently paid for by the employer, as noted in Appendix 2, and it also encompasses the highest standards in the world that exist in certain European countries.

47 Barker, G., Garg, A., Heilman, B., van der Gaag, N. and Mehaffey, R. *State of the World's Fathers: Structural Solutions to Achieve Equality in Care Work*. Washington, D. C.: Promundo-US, 2021. https://promundoglobal.org/wp-content/uploads/2021/07/BLS21042_PRO_SOWF_Summary_ES_preview-July-2-Final.pdf

50 Club de MalasMadres. Report: *Somos Equipo*, 2017. https://clubdemalasmadres.com/app/uploads_old/SOMOSEQUIPO-informe-2017.pdf

Good Practices in Europe: Comparative Law on Paternity Leave

In **Spain**, the Ministry of Employment and Social Security has matched paternity leave to maternity leave in the public sector to ensure the health of the mother and the duty to care on behalf of the father or the parent who is not the biological mother. As a result, paternity leave was progressively increased from 2 weeks in 2007 to 16 weeks in 2021, thereby having the same duration as maternity leave. Mothers and fathers have 16 weeks of non-transferable 100% paid leave for the birth or adoption of a child. The first six weeks must be taken together, uninterrupted and full time, and the rest may be taken in weekly periods, accumulated or uninterrupted, full-time or part-time, within the 12 months following the birth or adoption.

Source: <https://www.boe.es/eli/es/rdlg/2015/10/23/2/con>

In **Sweden**, public sector workers have up to 480 days of parental leave for the birth or adoption of a child, 240 non-transferable days for each member of the couple. The leave is fully paid by the *Swedish Social Insurance Agency*. The aim of the leave is for mothers and fathers to be able to stay at home caring for their children instead of working, looking for a job or studying. During the first year of the child's life, the mother and father may use their leave during the same period for a maximum of 30 days. Single mothers or fathers may use the full 480 days.

Source: <https://ec.europa.eu/social/main.jsp?catId=1130&langId=en&intPagId=4808>.

The LMIC has two requirements for paternity leave: workers must submit to their employer the birth certificate issued by the corresponding health authority and the child's common domicile address, the aim is to ensure that paternity leave constitutes a real instrument for family co-responsibility.

Establishing the right to paternity leave positions the state as the guarantor, so it is advisable that funding to be provided by social security and not the employer, the father's job is protected during leave, and the right to return to the same or an equivalent position is guaranteed.

Experiences in Europe: Comparative Law on Paternity Leave

The **European Directive on Work-Life Balance for Parents and Carers** establishes the right to request parental leave in flexible ways. Employers must consider and respond to the requests, taking into account the needs of the employer and the worker. Employers must provide reasons for any refusal to accede to such a request in writing within a reasonable period after the request, which is subject to jurisdictional protection.

Since 2005, **Finland** has had a pension credit system that is paid to the recipients of all short-term social security benefits linked to birth and early childhood care, such as maternity leave, paternity leave, parental leave and childcare leave. (ILO, 2019⁵¹).

51 ILO, Op. cit., 2019, Note 7

Shared Parental Leave

Article 29 covers shared parental leave, and information on the experiences in the region can be found below. The LMIC establishes the mother's right to choose to share her maternity leave with the father for the number of weeks she specifies according to her recovery needs, although the weeks used by the father must be added to the end of his paternity leave.

Comparative Law on Shared Parental Leave

Chile's Law 20.535 of 2011 extended post-natal leave from 12 weeks to 24, and even 30 weeks for mothers who choose partial or 'part-time' parental leave- during this time they receive a maternity leave subsidy. This law established the inalienable right of women workers to balance work and maternity, and based on the principle of co-responsibility, for parents to take care of their children, allowing the option to transfer a portion of parental leave to the father as of the seventh week. As of January 1, 2013, this benefit was extended to seasonal or temporary women workers, who previously did not have any type of maternity coverage or protection.

Mother's Death and Parental Rights in the Event of Adoption

Article 30 establishes a general norm that states that Adopters will have the same right to leave as biological parents.

National laws must ensure that all the measures and guarantees established by care laws for biological parents are extended in the same terms and whenever applicable to adoptive parents, taking into consideration the principle of equality and non-discrimination that requires the legal protection of same-sex parents.

In this point, it is important to bear in mind the Yogyakarta Principles (2007), particularly Principle 13, which specifies that states must "take all necessary legislative, administrative and other measures to ensure equal access, without discrimination based on sexual orientation or gender identity, to social security and other social protection measures, including employment benefits, parental leave, unemployment benefits, health insurance or care or benefits"; and Principle 17: "Everyone has the right to found a family, regardless of sexual orientation or gender identity. Families exist in diverse forms. No family may be subjected to discrimination based on the sexual orientation or gender identity of any of its members."

Regulating Caregiving Leave

Article 31 establishes the States' requirement to establish and regulate paid or subsidized caregiving leave that guarantees the availability of time and resources so workers with family responsibilities may care for dependents, establishing a minimum standard that covers dependents under their care:

- a) when needed, or in the case of serious or acute illness or accident or the risk of death, and
- b) in the case of chronic treatments or illness, regardless of the severity, if the worker does not have a substitute caregiver.

Likewise, the article requires the State to establish and regulate caregiving leave so workers with family responsibilities may take a temporary leave of absence to tend to their caregiving needs.

Caregiving leave is a form of legal regulation that allows a wide range of innovative legal workplace flexibility mechanisms that benefit workers with family responsibilities, and it can include:

- Extended caregiving leave for the illness of a minor under the age of 12 years or another dependant, regardless of the severity, who does not have a substitute caregiver.
- The right of a worker with family responsibilities to substitute caregiving leave with an employment system that combines remote work or shorter hours during a period of time and mutually agreed upon with the employer. In the case of shorter hours, social insurance could pay for the percentage not covered by remuneration, thereby reaching 100% of the total salary originally agreed upon in the employment contract.
- Observation of the risks posed by remote work for women and consider the need for legislation on this matter.
- The establishment of the number of days permitted to miss work, distributed according to the employee's preference in the form of full or partial shifts or a combination of the two. They will be classified as days worked for legal purposes.

Experiences in Latin America and the Caribbean: Remote Work as a Measure to Promote Employment and Co-responsibility

In **Uruguay**, Law 19.978⁵² views and regulates remote work as a system that is needed to create jobs, specifically for people with family responsibilities, disabilities and dependants to have access to jobs. This broad interpretation makes it possible to address the population's care needs whilst serving as a key economic incentive to restore employment with a gender focus.

Argentina's⁵³ Law 27.555 (Legal Regime of the Teleworking Contract) establishes remote work for employees with full or shared care obligations for children under the age of 13, people with disabilities or the elderly who live with them and require specific assistance.

52 Uruguay's Law 19.978 https://oig.cepal.org/sites/default/files/2021_ley19978_ury.pdf

53 Law 27.555 Legal Regime of the Teleworking Contract of Argentina https://oig.cepal.org/sites/default/files/2020_ley27555_arg.pdf

Funding

Social co-responsibility of care matters because it ultimately guarantees social protection. In a care law, it is important that subsidies for family leave, shared parental leave and care leave are progressively funded by the state through combined risk and redistribution mechanisms between the state, employer organizations and workers with care responsibilities until they are fully integrated into the universal social protection system.

Work-life Balance

The LMIC, in its article 32, establishes one of the key elements of social co-responsibility, which pertains to the role of employees and employers. According to the LMIC, employers must have internal work-life balance measures that allow workers with family responsibilities to tend to their caregiving needs.

The articles explained in the text that follows contain the standards established by the 1983 **ILO Recommendation 165** on workers with family responsibilities. They seek to adopt all the measures compatible with national conditions and possibilities, and with the legitimate interests of other employees so the working conditions allow employees with family responsibilities to balance their professional and family responsibilities, paying special attention to the general measures to improve working conditions and quality of life, including measures aimed at:

- progressively shortening the work day and reducing overtime;
- introducing more flexibility in work schedules, breaks and holiday periods given the level of development and the specific needs of the country and diverse sectors.

Job Flexibility and Support Measures

Article 33 states that workplace flexibility measures may be requested for caregiving needs and it lists several job flexibility measures. Based on their specific situation, countries in the region can assess recognising flexibility measures as rights of workers with family responsibilities. In this sense, the European Directive on Work-Life Balance recognizes the right to request job flexibility and it is an example of additional flexible work measures for employees who are caregivers.

Experience: Family Care up to Second-degree Relatives

In **Spain**, it is possible to take a voluntary leave of absence to care for family members up to second-degree relatives who cannot care for themselves. This individual right for male or female workers allows them to temporarily and voluntarily suspend their employment contract for up to two years to care for family members up to second-degree relatives who, for reasons of age, accident, illness or disability, cannot care for themselves and they do not perform paid work. The employee's position is protected during the first year, and during the second year, they can return to a position within the same or equivalent job band. The voluntary leave of absence cannot be divided or split.

Source: <https://www.boe.es/eli/es/rdlg/2015/10/23/2/con>

Awareness Programmes within Companies

Article 33 of the LMIC establishes that businesses must implement, according to their capabilities, awareness programs on parental rights, along with additional support measures companies can provide to employees with family responsibilities.

In addition to the LMIC proposal, businesses should also consider the following support measures:

- Establishing care units in companies to jointly address the temporary care needs that employees with family responsibilities may require. For this purpose, companies may create alliances with state institutions and civil society entities that provide care.
- Promoting the existence of a quality care infrastructure for employees.

As noted by the ILO,⁵⁴ leave policies, childcare in the workplace and work arrangements that are compatible with family life are investments with long-term yields for employers and an overall positive impact on the balance between family life and work.

Experiences: Casas de la Alegría⁵⁵ in Costa Rica's Coffee Regions

In San Vito de Coto Brus, in southern **Costa Rica**, thousands of indigenous Ngäbe-Buglé cross the border from Panama to work the coffee harvest. To promote the well-being of this community, the OIM created the Human Safety Programme in the region. Its greatest achievement has been the creation of Casas de la Alegría, facilities where children receive daily care so they are not exposed to inclement weather and child labor whilst their parents work in the fields. Although it was at the request of the OIM, the project is carried out in conjunction with national public institutions (primarily linked to health and education), the Costa Rica Coffee Institute, farmers and coffee grower cooperatives. The process

⁵⁴ ILO, Op. cit., 2019, Note 7.

⁵⁵ United Nations International Children's Emergency Fund (UNICEF). Sistematización del modelo de atención de cuidado y desarrollo infantil Casas de la Alegría 2014-2018, 2019. <https://www.unicef.org/costarica/sites/unicef.org/costarica/files/2020-07/Sistematizaci%C3%B3n%20de%20Casas%20de%20la%20Alegr%C3%ADa%202020.pdf>

has been so important that it is being replicated in other Costa Rican coffee regions, such as Alajuela and Heredia near the Greater Metropolitan Area at a high elevation.

Source: <https://www.youtube.com/watch?v=dWf6VQyLcZw>

Promoting Co-responsibility

In compliance with social co-responsibility, Article 34 establishes the duty of employers to promote family co-responsibility throughout the organization, encouraging men to use co-responsibility and job flexibility measures.

Good Practices: Active Paternity Leave Promotion Policies with the Private Sector

In **Brazil**, *Programa Empresa Cidadã*, established by Law 11.770/2008, was initially created to extend maternity leave by granting a tax incentive to companies registered in the programme. This mechanism extends maternity leave from 120 days to 180 days for mothers employed by the participating companies.

Subsequently, Law 13.257/2016 updated the programme to extend paternity leave from the 5 days defined by law to 20 days. The expansion applies to the employees of participating companies that attend a paternity orientation programme. In 2018, more than 21,200 businesses participated in the programme.⁵⁶

Fines

Article 35 refers to the need to establish fines in labor laws in case of failure to comply with the employer obligations listed in the preceding articles, which will be subject to audits and fines from the corresponding local authorities.

Good Practices: Comparative Law on Employers Who Fail to Comply with Obligations

The **European Directive on Work-Life Balance** states that employers who prevent or perform any arbitrary or abusive practices that hinder or block the use of requested leave or flexibility measures, established in the aforementioned articles, will be fined with payment to the Treasury, and depending on the severity and/or recurrence of the conduct, the company may be banned from working with the state. Any violations in this regard could be reported to the Work Inspection entity that could also proceed officially in this regard.

It also specifies that the state must adopt the necessary measures to ensure that when workers who believe they have been terminated for requesting or receiving the aforementioned leave present information to the courts or the corresponding authorities, the employer must show that the termination was based on different reasons.

56 Spotlight Initiative and UNFPA, Op. cit., 2021, note 46.

Additional Aspects to Consider for the Redistribution of Care and Co-responsibility

Childcare in the Workplace

Most legal regulations in the region include the duty to arrange childcare services in the workplace at companies that employ mothers, making this mandatory when the number of women exceeds a certain limit, which could range from 20 or more female workers. However, specialized bodies and feminist movements recommend for these childcare services to be universal and not contingent on gender or the number of employees, thereby promoting co-responsibility and men's involvement in care. This recommendation also prevents labor practices against hiring women to avoid the legally required thresholds.

National laws can establish that support for childcare services in the workplace can include childcare facilities in the workplace; services in the community linked to the workplace; economic assistance such as vouchers, funds or subsidies for childcare facilities and other personal services; consulting services; medical referrals; and public-private alliances to expand childcare benefits.

National laws must specify that childcare facilities should be authorized to operate or be recognized by the state, and companies must ensure the service quality, in compliance with the quality standards required by the National Care System (NCS).

Incentives and Benefits

National laws can establish incentives or benefits for employers who offer job flexibility measures or care infrastructures for workers with family responsibilities. Some of the benefits or incentives that national legislation can consider are:

1. Priority or preference in public procurement by the state.
2. Programmes to support businesses or promote exports for companies that provide care infrastructures for employees along with care services and innovative and effective co-responsibility measures.

Systematized Experiences to Help Implement Chapter IV of the LMIC on the Redistribution of Care and Co-responsibility

Article(s)	Country	Experience
25	Bolivia	Social and family co-responsibility is established on a constitutional level.
25	Chile	Law 20.680 (2013), which introduces modifications to the Civil Code and other legal bodies to protect the integrity of minors whose parents live separately, defines the principle of family co-responsibility as a situation in which both parents, regardless of whether they live together or separately, participate actively, equitably and continuously in raising their children.
25, 26 and 34	Uruguay	The current review of the National Comprehensive Care System seems to underscore the principle of co-responsibility between men and women as well as between social actors.
25 and 26	Peru	The Ministry of Women and Vulnerable Populations devised a communication strategy aimed at highlighting the importance of care and the barriers posed for women given the poor distribution of domestic tasks in families. The strategy includes a notebook and videos that are shared on the Ministry's social media profiles. ⁵⁷
27 and 28	Chile	During the pandemic, Chile enacted the Protected Upbringing Law that extends parental leave for mothers and fathers of newborns and also allows parents of children born in or since 2013 to make use of the Employment Protection Law. ⁵⁸ Additionally, economic support and workplace flexibility measures were also considered, as per the repository of care initiatives compiled by the CIM/OAS ⁵⁹

⁵⁷ The notebook is available at <https://www.mimp.gob.pe/files/Hacia-un-Sistema-Nacional-de-Cuidados-con-enfoque-de-genero.pdf>; Video 1 at <https://www.facebook.com/MimpPeru/posts/4180627341971524>; Video 2 at <https://www.facebook.com/MimpPeru/posts/4204569009577357> and Video 3 at <https://www.facebook.com/MimpPeru/posts/4186298511404407>.

⁵⁸ Law 21247 of 23 July 2020. At: <https://www.bcn.cl/leychile/navegar?idNorma=1147763&idParte=10139807&idVersion=2021-06-14>

⁵⁹ Additional information is available at: <https://www.imas.go.cr/es/general/politica-nacional-de-cuidados-2021-2031#:~:text=La%20Pol%C3%ADtica%20Nacional%20de%20Cuidados,para%20realizar%20sus%20actividades%20diarias>

Article(s)	Country	Experience
28	Colombia	The Substantive Labor Code of Colombia was amended by Law 2114 of 2021 to establish a fiscal rule for expanded paternity leave (Art. 236), which extends paternity leave by one week for every percentage point drop in structural unemployment compared with the number from when the law took effect, but never surpassing five weeks. The methodology for measuring structural unemployment will be defined jointly by the Ministry of Finance and Public Credit, the Bank of the Republic and the National Planning Department. The structural unemployment rate will be published every December and will serve as the basis for defining whether or not leave for the following year is extended. In the case of premature babies, the law authorizes the national government to apply what is stated in this paragraph.
28 and 29	Costa Rica	The National Institute for Women (INAMU) has been working with public institutions and private businesses on the matter of responsible and committed paternity. This has resulted in the creation of several online courses titled 'Como padres cumplimos' ⁶⁰ (We fulfil our duties as parents).
	Latin America	The MenCare and MenCare+ programmes, in collaboration with global organizations (such as Equimundo, formerly known as Promundo, Sonke Gender Justice, Save the Children, and Rutgers), are backed by the Ministry of Foreign Affairs of the Netherlands. These programmes are carried out in 40 countries throughout the world. They seek to engage men between the ages of 15 and 25 as partners in maternal, newborn, and child health and in sexual and reproductive health and rights, bringing men into the healthcare system as active and positive participants, with gender equality and no violence (ILO, 2019). This work entails legal advice, research, initiatives, programmes and awareness campaigns. ⁶¹
29	Chile	Law 20.535 of 2011 extended post-natal leave from 12 weeks to 24 and even 30 weeks for mother's who choose partial or 'part-time' parental leave, and during this time they receive a maternity leave subsidy. This law allows women workers to balance work by establishing, based on the principle of co-responsibility, for fathers to take care of their children, allowing the option for the mother to transfer a portion of parental leave to the father as of the seventh week. As of 2013, this benefit was extended to seasonal or temporary women workers, who previously did not have any type of maternity coverage or protection.

60 Additional information is available at: <https://aprendeconmigo.inamu.go.cr/ComoPadresCumplimos/app.html>

61 Additional information about the programme is available at www.men-care.org. The MenCare campaign in Latin America (www.campanapaternidad.org) is coordinated by EME/CulturaSalud, RedMás and regional MenEngage.

Article(s)	Country	Experience
31	Several countries	In light of the COVID-19 pandemic, several countries in the region regulated remote work by law, establishing it as a co-responsibility and work-life balance measure.
	Uruguay	Law 19.978 ⁶² views and regulates remote work as a system that is needed to create jobs, specifically for people with family responsibilities, disabilities and dependants to have access to jobs. This broad interpretation makes it possible to address the population's care needs whilst serving as a key economic incentive to restore employment with a gender focus.
	Argentina	Law 27.555 Legal Regime of the Teleworking Contract ⁶³ establishes remote work for employees with full or shared care obligations for children under the age of 13, people with disabilities or the elderly who live with them and require specific assistance.
33	Costa Rica	In the coffee region of southern Costa Rica, thousands of indigenous Ngäbe-Buglé cross the border from Panama to work the coffee harvest. To promote the well-being of this community, the OIM created the Human Safety Programme in the region, in partnership with the Costa Rica Coffee Institute and UNICEF. Its greatest achievement has been the creation of Casas de la Alegría, facilities where children receive daily care so they are not exposed to inclement weather and child labor whilst their parents work in the fields. Although it was at the request of the OIM, the project is carried out in conjunction with national public institutions (primarily linked to health and education), the Costa Rica Coffee Institute, farmers and coffee grower cooperatives. The process is being replicated in other Costa Rican coffee regions. ⁶⁴
34	Brazil	The Programa Empresa Cidadã established by Law 11.770/2008 was initially created to extend maternity leave by granting a tax incentive to companies registered in the programme. This mechanism extends maternity leave from 120 days to 180 days for working mothers. Subsequently, Law 13.257/2016 updated the programme to extend paternity leave from 5 days to 20 days. The expansion applies to the employees of participating companies who attend a paternity orientation programme. In 2018, more than 21,200 businesses participated in the programme.

62 https://oig.cepal.org/sites/default/files/2021_ley19978_ury.pdf

63 https://oig.cepal.org/sites/default/files/2020_ley27555_arg.pdf

64 Additional information is available at <https://www.youtube.com/watch?v=dWf6VQyLcZw>

National Care System (Chapter V of the LMIC)

The right to care is established and specified with the creation of a National Care System (NCS), which is addressed in Chapter V of the LMIC.

Definition of the National Care System (NCS)

In its Article 36, the LMIC defines the National System of Care as the universal and publicly accessible system with solidarity-based funding that brings together various types of public, national, local, private and community benefits for caregiving services, to comply with the right to care, strengthen and expand comprehensive caregiving alternatives and to guarantee those rights to caregivers.

As operative principles of the system, the LMIC establishes that the NCS needs to ensure the full coverage, sufficiency, equity, continuity, sustainability and accessibility of caregiving services and benefits, along with their comprehensiveness, suitability and effectiveness, and the extensive application of gender in all areas and levels.

The National Care System must be action and results-oriented, establishing goals, indicators and deadlines, in order to be able to apply the principle of effectiveness established in Art 12.

Regional Efforts in Creating the NCS

Promoting “care systems for children, older persons, and people with an illness or disability to close the gender gap in terms of time use and labor [force] participation has gained traction in the regional agenda,”⁶⁵ as confirmed during the CIM analysis (2022) when several countries demonstrated actions tending toward designing, developing or bolstering a comprehensive care system.

To date, **Uruguay** and **Costa Rica** have care systems established by law to coordinate the caregiving services for various dependent population segments. The **Uruguayan** version has been designed and implemented as the National Integrated System of Care (SNIC) and it is currently under review. In **Costa Rica**, the Child Care and Development Network (RedCUDI) is a policy that reaffirms the right to care for minors under the age of 7 years and specifies initiatives, policies and public/private services as well as those from existing NGOs.

65 Esquivel, Valeria & Kaufmann, Andrea, Op. cit., 2017, note 34, p. 60.

Other Advances for NCS Establishments

In **Argentina**,⁶⁶ the Inter-ministerial Care Policy Panel was arranged with all the national bodies that have responsibilities and authority on the matter. The task was to design a comprehensive strategy for redistributing and recognising care as a need, a job and a right, based on an agenda aimed at building an integrated, federal device for care that promotes gender equality and equity with a focus on social justice.

Additionally, in April 2022, **Argentina's** executive body submitted to Congress the *Caring in Equality* draft legislation prepared by the Ministry of Women, Genders and Diversity and the Ministry of Labor, Employment and Social Security. It establishes the creation of Argentina's Comprehensive Care System with a gender perspective (SINCA) and modifies the leave system for the public and private sectors.

In **Mexico**, Congress is studying general draft legislation on the National Care System, whose text is being discussed in the Senate.

In 2016, **Paraguay** set up the Inter-Institutional Development Group for Public Care Policy in Paraguay (GIPC) to lead the participative creation of care policy. In 2020, a roadmap was defined and the Framework Document for the Design of the National Care Policy in Paraguay⁶⁷ was published.

The constitutional process currently underway in **Chile** has included the right to care and the recognition of domestic and care work in the draft of the new Constitution. Additionally, the Ministry of Social Development has launched a joint roundtable with the Ministry of Women and Gender Equality to create a national care system in Chile.

The national machineries for women⁶⁸ in **Peru** and **Panama** also reported efforts aimed at consolidating a national care system. Both countries have preliminary draft bills under review or projects in parliamentary discussion. Panama is also working on developing a national care policy and a roadmap for designing the national care system.

66 Hablemos de cuidados. Nociones básicas hacia una política integral de cuidados con perspectiva de géneros, Interministerial Care Policy Panel, Federal Republic of Argentina, July 2020.

<https://www.argentina.gob.ar/sites/default/files/mesa-interministerial-de-politicas-de-cuidado.pdf>

67 Framework Document for the Design of the National Care Policy in Paraguay, Government of Paraguay, 2020.

<https://lac.unwomen.org/sites/default/files/Field%20Office%20Americas/Documentos/Publicaciones/2019/06/Politica%20Nacional%20de%20Cuidados%20PY%20DOCUMENTO%20MARCO.pdf>

68 Repository of care initiatives as a result of the pandemic - CIM/OAS (2022). Regional Analysis and Actions for the Global Care Emergency.

Goals of a National Care System

National care systems pursue two major objectives: to ensure and guarantee the right to care for all dependants, and to redefine how work is divided among genders and address the disproportionate amount of unpaid care work assigned to women by establishing social co-responsibility of care.

Article 37 of the LMIC establishes the objectives of the NCS, as follows:

1. To guarantee the right to care for dependents, working toward their comprehensive development and promoting their autonomy based on their needs and different types of care required.
2. To promote, facilitate and improve job placement opportunities as well as access to the economy and education for caregivers.
3. To promote and strengthen the economic rights of unpaid women caregivers, and to drive change in how work is currently divided by gender.
4. To support strategic initiatives for creating formal opportunities for women in the caregiving economy.
5. To promote social co-responsibility, work-life balance and redefined caregiving as a pillar of the social welfare state.
6. To optimize public resources (national and local) as well as private resources for caregiving, and to promote the creation of alliances between all the system's actors.

These objectives match the recommendations issued by the ILO, which appear in the following table.

ILO Recommendations for Finding the Best Path toward Care Work:

- Investing in services, policies and quality care infrastructures.
- Promoting active job market policies that support the inclusion, reintegration and advancement of unpaid caregivers in the labor force.
- Promoting information and education to create households, workplaces and societies that are more equal in terms of gender.
- Ensuring gender-responsive social protection systems that support care, including social protection housing.
- Ensuring the full and effective participation of women and equal opportunities on all decision-making levels of political, economic and public life.
- Promoting the creation of alliances between the unions that represent care workers, and the civil society organizations that represent care recipients and unpaid caregivers.

Components of a National Care System: Governance

One of the central elements of adopting an NCS is establishing good governance. Without good governance, it is impossible to protect and respect the right to care in a sustained manner. Guaranteeing the right to care requires creating a favourable context: legal frameworks and appropriate institutions, as well as the political, administrative and management processes needed to address the population's care needs.

This makes it essential for care laws to establish institutions with clear and enabling responsibilities and authority; transparent processes, procedures and practices; citizen participation and accountability mechanisms; and the ability to address the population's care needs.

The care systems established by law in Latin America have structured a tripartite institutional structure, with decision-making, executive and consultative bodies.

Article 38 of the LMIC establishes that the NCS will be comprised by:

1. A **high-level inter-ministerial council** (Inter-ministerial Care Council)
2. An **executive entity** (National Care Secretariat)
3. An **advisory body** (Advisory/Consultative Commission)

High-level Inter-ministerial Council

a) Structure

Care policies have an entity of their own which is distinguishable from other policies such as those on health and education. But, at the same time, they are directly linked to other policies, and their implementation requires that these other policies take people's care needs into account (both in the provision and in the reception of care services). In other words, for care policies to be functional, the objectives of constructing a collective responsibility, redistributing, valuing and reformulating care services must be embedded in all policies (Batthyány, 2015).⁶⁹

As a result, national laws must be sure to establish intersectoral and inter-ministerial governing bodies that bring together authorities from all the institutions involved in care, thereby ensuring an appropriate and effective structure, optimized resources, and gender transversality.

⁶⁹ Batthyány, Karina. Policies and care provision in Latin America: A view of regional experiences. Gender Affairs Series No. 124 (LC/L.3958), Santiago, Chile, Economic Commission for Latin America and the Caribbean (ECLAC), 2015, cited by the Framework Document for the Design of the National Care Policy in Paraguay, note 67, p. 11.

Experiences: Institutional Governance to Promote Care

Argentina's Inter-ministerial Care Policy Panel brings together 15 entities from the national executive body that influence the various dimensions and population groups that comprise the care universe. The panel discusses and plans policies to help organize care in a fair manner by redistributing this work within the family, society and between genders, and recognising care as work, a need and a right.⁷⁰

b) Responsibilities

It is advisable to assign the following responsibilities to the inter-ministerial body (Inter-ministerial Care Council):

- Defining the general policies, strategic guidelines, and priorities of the National Care System.
- Advising the executive body and submitting the public care policy created by the executive body (National Care Secretariat) for review.
- Advising the executive body on the proposed budget for the public policy on care, created by the executive body (National Care Secretariat) and to be considered within the framework of preparing the National Budget draft legislation.
- Ensuring the transparency of the NCS and public access to quality information. Advising the executive body and submitting the annual report on the public care policy created by the executive body (National Care Secretariat) to the legislative body for review.
- Proposing to the executive body, in line with the recommendations made by the executive body, tax incentives for individuals and legal entities that help dependants and caregivers, make their facilities accessible or adhere to the corresponding public policies, according to the applicable legislation.
- Preparing the project for its internal operating regulations that will then be submitted to the executive body for approval.

c) Budget Guidelines

Macroeconomic, fiscal and monetary policies affect the distribution of unpaid care work and the segregation of men and women into different types of occupations.

Taking unpaid care work into consideration in macroeconomic analyses helps reveal the effects of seemingly gender-neutral macroeconomic policies on women and men. For example, in times of crisis, cutting public spending on care policies has a disproportionate impact on women, as observed in many countries in the wake of the 2008 economic crisis.⁷¹

⁷⁰ Additional information is available at <https://www.argentina.gob.ar/noticias/primer-mesa-interministerial-de-politicas-de-cuidados>

⁷¹ ILO, Op. cit., 2019, Note 7.

Gender-responsive macroeconomic analyses make it possible to identify and correct caregiving and gender biases in fiscal and budget policies. Gender budgeting is a strategy created to achieve equality between women and men based on how public resources are obtained and spent. The national law could establish that proposed budget allocations must be gender-responsive and systematically consider the differences between the conditions, situations and needs of women and men in terms of care and the results of time-use surveys.

Many developed and developing countries have been involved in the creation and use of these budgets, resulting in major policy reforms in certain nations, as confirmed in the review of experiences compiled by the ILO.⁷²

Comparative Law on Care Budgets

Law No. 19353 on the National Integrated System of Care (SNIC) in **Uruguay** establishes the creation of gender-responsive budgets and specifies that budget allocations cannot be transferred to other programmes, in line with the applicable general or specific regulations. Any transfers within the programme will require a favourable report from the Inter-ministerial Care Council, which can delegate this responsibility to the National Care Secretariat.

Executive Entity: National Care Secretariat

The executive body of an NCS handles the activities and responsibilities assigned by the inter-ministerial governing body, arranges all the public and private actors and the care activities carried out in the country, and expands the service coverage.

To optimize the system's effectiveness, the executive body should be run as a decentralized instrumental and budgetary legal entity with technical and functional autonomy and independence.

a) Responsibilities

National laws can establish the following responsibilities for the executive body:

- *General clauses that establish the entity's executive nature and leeway needed to perform its liaison work:*

- Promoting, designing, coordinating, arranging, carrying out and monitoring public care policies through institutional and interinstitutional coordination, as well as promoting, fostering and evaluating the participation of the public and private sectors in the actions, strategies, public policies and programmes derived from the law and other regulations.

72 Ibid.

It is advisable to specify that when formulating public policy, the Secretariat and the public entities that make up the NCS should contact local and municipal governments as well as the Care Consultation body.

- *Clauses regarding efforts to share information and raise awareness about care:*
 - Leading and coordinating the measures and campaigns to share information and raise awareness about the importance of care and social and family co-responsibility.
- *Clauses regarding audits of the NCS and its users:*
 - Ensuring access to equal opportunities and rights for dependants and their caregivers. Implementing, supervising and monitoring the programmes, instruments and activities resulting from public care policy to optimize the available resources.
 - Developing, promoting and supervising the application of quality standards for state and private care.
- *Responsibilities regarding proposed budgets:*
 - Creating proposed budget allocations for the NCS and submitting them to the Inter-ministerial Care Council for review.
- *Responsibilities regarding the expansion of NCS services:*
 - Proposing and coordinating the development of new alternatives for care services, bringing together government bodies, civil society organizations, education entities and employer organizations, and creating partnership agreements and/or public-private alliances to expand the care services available for dependants and caregivers.
- *Responsibilities regarding training, certification and qualification of caregivers:*
 - Designing and providing, directly or through public-private entities, training on care, as well as certifications and qualification of care alternatives, establishments and caregivers.
- *Responsibilities regarding accountability:*
 - Ensuring the transparency and public availability of information regarding the NCS, using the existing information system instruments for this purpose and developing additional tools to ensure compliance.
 - Preparing an annual report of the work done by the NCS and submitting it to the Inter-ministerial Care Council for review.
 - Establishing and implementing an evaluation and query mechanism for the system’s recipients and organizations.
- *Responsibilities regarding NCS operations:*
 - Advising the Inter-ministerial Care Council on all matters falling under its jurisdiction and helping it fulfil its duties.
 - Organising, leading, supervising and tracking the National Care Registry, and conducting studies to identify priority areas.
 - Driving and promoting research on topics linked to care.
 - Proposing regulatory changes that benefit dependants and their caregivers, in line with the corresponding international treaties.

- Proposing the subscription, approval, ratification, adhesion and implementation of international treaties regarding the rights of dependants and caregivers.
- Adopting the necessary prevention and protection measures against exploitation and all forms of violence coinciding with or due to care services within the system.
- Establishing and implementing an evaluation and query mechanism for the system's recipients and organizations.
- Participating, within their area of authority, in managing the resources from national and international sources to consolidate and expand the NCS and, when necessary, to implement those resources.
- Others assigned by the Ministerial Care Council.

Advisory Body: Advisory Council

The recommendation is to legally establish the honorary appointment of a public-private advisory body that advises the National Care Secretariat on the best practices for complying with the goals, policies and strategies of the NCS. This body should be made up of civil society representatives from organizations linked to the law's content, specialized academia and private and community entities that provide care.

Care System Users and Participation

In fulfilment of the principle of participation and accountability, Article 40 of the LMIC establishes that every beneficiary of the NCS will be informed of their right to participate in the evaluation and query mechanisms carried out by the National Care Secretariat on the system's operation and its proposed improvements.

Care Services

Care services redistribute some of the unpaid care work performed by caregivers with preschool children, people with illnesses/disabilities or the elderly, to the public, market and non-profit sectors.

In its Article 41, the LMIC establishes the methods for providing care services, which consists of all possible actors of the system, and includes public, private, community and mixed methods.

Types of Services

Implementing the LMIC on a national level can include the option of describing and establishing rules for the different types of care services.

- In most national regulations, special laws that cover disability, childhood and old age include a description of the types of services. The Mexican Senate's draft legislation on Care includes information on the types of services.
- Service descriptions must be accompanied by quality standards.

Some of the categories in which care services are classified are:

a) At-home care: This includes care, personal assistance or support for dependants to help address their day-to-day needs.

These services are provided by certified individuals and legal entities. They may include:

- Services linked to personal assistance for everyday activities, and assistance and support in the case of long-term care.
- Services linked to pre-conditions for assisting dependants: cleaning, washing, cooking and more. These services can be provided in combination with those listed above.
- Services linked to transferring dependants or their caregivers to provide care.
- Services to substitute or relieve unpaid caregivers when they are absent from the home of those for whom they provide care.

b) Institutional care: This includes children's care homes or facilities, extended school hours for children, early childhood care facilities, and day centres for slight to moderate dependant adults. Their hours of operation may be part-time or full-time, during the day or overnight.

c) Residential care: This includes care services with a biopsychosocial, public health, and socio-educational focus in long-term overnight care facilities. They are provided in residential facilities equipped for this purpose, according to age and degree of autonomy, and in compliance with the quality standards required by the system's authorities.

d) Material and technological support: This refers to the materials or technologies used to sustain or improve people's abilities in a way that promotes their independence in all aspects of daily life. It includes remote-assistance services. This support is provided according to a person's degree of dependence and may vary over time and depending on the surroundings.

e) Relief and self-care services. Services and benefits available for caregivers, allowing them to create space and time for self-care. They include individual and group guidance services on children's upbringing, care, protection and development, and dependence assistance in the home and in community spaces.

Experience: General and Personalized Support for the Elderly or People with Disabilities or Chronic Diseases

In the **Netherlands**, as per the Social Support Law, municipal governments provide general (shopping services, meals, community centres) and personalized assistance (individual guidance, transportation, activities that include work, home modifications, support for informal caregivers, domestic assistance) for the elderly or people with disabilities or chronic diseases. The purpose is for those individuals to continue living in their homes as long as possible.

Source: <https://eurosociAL.eu/seminarios-web/seminario-internacional-hacia-un-sistema-nacional-de-cuidados-en-paraguay/>

Operation of the National Care System

The LMIC establishes the basis for designing and installing an NCS that includes a national registry based on a records office of the care services available across the country.

National Availability

Article 43 of the LMIC establishes that the National Care Secretariat will keep track of the public and private caregiving services available throughout the country to ensure it has information to create public policies; identify priority caregiving areas; track and make forecasts for the short, medium, and long term; proactively connect users with the available services; and deliver the benefits and services to the population efficiently and effectively.

Quality Standards

Article 44 of the LMIC mandates the NCS to establish the quality standards for providing the services⁷³ and launch caregiver certification mechanisms within the framework of the institutions that provide training.

Audits and Supervision

Article 44 of the LMIC establishes norms on audits and supervision of the NCS and seeks to implement the principles in Chapter I on state coordination and effectiveness. In this sense, the norm establishes that the public entities that comprise the system should inform the National Care Secretariat of the results of the caregiving matters they monitor to help design policies that improve any weaknesses identified in audits. National laws can establish relationships of coordination and more integrated intersectoral work.

73 International organizations have conducted extensive research on quality standards in the provision of care. In this area, the following stand out: Florencia López Boo, María Caridad Araujo, Romina Tomé, ¿How to measure the quality of childcare services? Guía de herramientas, IDB, 2016; Silvia Gacón and Nérida Redondo. Calidad de los servicios de largo plazo para personas adultas mayores con dependencia. Study No. 7, Analysis Series, Area: social policies. EUROsociAL Program, 2014.

All the services and programmes designed to provide care services for dependants and their caregivers must be properly supervised by independent authorities, who must cover a wide array of responsibilities, including audits and proportional fines.

Fostering Female Associativity: Care Cooperatives

Care policies can help full-time unremunerated caregivers enter the job market, particularly those from underprivileged groups, and foster job creation and gender equality.

Women with care responsibilities are also more likely to be self-employed and work in the informal economy and are less likely to pay contributions to social security. Across the globe, the percentage of salaried employees is lower for caregivers (62.2%) than their non-caregiver counterparts (67.8%).⁷⁴ Although a salaried job does not guarantee better quality work, this supports the hypothesis that unremunerated caregivers must 'shift' toward self-employment to balance the care they provide with paid work. Additionally, unremunerated caregivers tend to have worse working conditions. For example, unpaid caregivers are more likely to work in the informal economy (62%) than their non-caregiver counterparts (56.8%). Paid caregivers are also less likely to be covered by the social security system than non-caregiver workers: of all salaried employees, 47.4% of unpaid caregivers make social security contributions, compared with 51.6% of their non-caregiver counterparts.⁷⁵

Article 46 addresses the promotion of membership in caregiving cooperatives. It mandates the State to encourage and promote the creation of cooperatives and other associations to provide various types of caregiving services, particularly the creation of women's cooperatives or those with a high percentage of women leaders.

Support Measures for Community Care and Associativity

Support measures for cooperatives and other types of community and solidarity initiatives can be established by national care laws and then progressively implemented. Of these, national laws can include the application of:

- tax benefits
- credits
- subsidies
- access to care infrastructure programmes

State support measures and/or public-private alliances with cooperatives and community initiatives must have a gender focus and affirmative measures to develop technical, professional, business and management skills; as well as access to information technologies,

⁷⁴ ILO, Op. cit., 2019, Note 7.

⁷⁵ ILO, Op. cit., 2019, Note 7.

credit and the association and cooperative market led by women, to improve their business outlook and ability to create quality care jobs.

Experiences: Promoting Community Care

In **Argentina**, the Ministry of Social Development's (MSD) PotenciAR TRABAJO programme offers financial support for working-class economy projects linked to care work in the region, promoting the creation of caregiver cooperatives that allow low-income people to join the workforce, improve their skills and decrease their vulnerability.

Promoting Care and Community Action

National laws can require states to promote and support care systems based on the community, collective action and mutual support, thereby creating, sustaining and expanding the availability of care services.

The promotional measures established by national laws can include:

- Building alliances and agreements with local governments, municipalities and civil society organizations.
- In the case of rural regions and indigenous populations, developing community care programmes that include local and community practices along with their organizational methods should be promoted and supported, thereby supporting their creation and sustainability.
- Establishing and developing volunteer platforms to connect the local volunteer services available with the needs of care recipients.
- Building alliances and agreements between the state, universities and academic institutions to establish education and vocational training programmes within the framework of NCS institutions.

Encouraging Local and Women Hires

Full-time unpaid caregivers represent 41.6% of the 1.4 billion inactive women throughout the world, compared with only 5.8% of 706 million inactive men. In all the revenue categories, unpaid care work is the top reason for women's inactivity in countries with average income levels, and 46.7% of women mention this reason as opposed to 6.3% of men.⁷⁶

Article 47 establishes norms to foster the hiring of women, to promote the increase in women's labor force participation, encouraging that a percentage of its workers come from the localities themselves or are local users of the system who are self-employed or unpaid.

76 ILO, Op. cit., 2019, Note 7.

This article also requires that the State must promote and encourage companies to comply with policies for creating childcare spaces and facilities for employees with caregiving responsibilities.

Fostering Employability

National laws can establish training and technical-vocational certification programmes that foster, promote and improve the employability and job re-placement of unpaid caregivers.

Sustainability of the Care System

Chapter V concludes with two regulations on the sustainability of the NCS:

Mandate on Social Investment and State Infrastructure

Article 48 establishes the mandate for the State to invest in providing direct care as well as in caregiving infrastructures and services. This responds to the principle of social investment in caregiving services set forth in Article 9, which states that the economic investment in caregiving services is a social investment that contributes to the productive life of current and future generations.

Networking and Collaborative Alliances

Article 49 establishes the system's core sustainability, which in turn reflects the principle of social co-responsibility of care and its contribution to global value chains: networking and the creation of collaborative alliances between everyone involved, taking into consideration the criteria of regional decentralization and priority care areas.

This proactive regulation encompasses all of the system's actors: public, private, community and business caregivers to strengthen and expand the availability and quality of services.

Additional Aspects to Consider about the National Care System and its Services:

National Registry of the National Care System

National laws can establish the state's duty to create a national registry of the NCS, containing updated and structured information about the institutions, organizations, businesses and individuals that provide care; the NCS users; the people trained and specialized to provide care; and the entities that provide care for caregivers.

This registry should consolidate data from multiple databases to make forecasts for the short, medium and long term; identify priority caregiving areas; proactively connect users with the available services; and contain information about the population to deliver benefits and services at its touchpoints efficiently and effectively.

National Records Office Processes

National laws can require the executive body to create, via the legally established bodies, a national records office of the care services available publicly and privately, and to include it in the National Care Registry.

Experience: Georeferenced Map of Care

Argentina's Ministry of Women, Genders and Diversity is creating the Federal Care Map to identify and georeferenced care services and infrastructures, along with training and education alternatives for caregivers. The goal is to build an interactive tool that reflects how care and care needs are currently organized, and to highlight areas where the public infrastructure must be expanded and/or created.⁷⁷

Individual Care Programme

National laws can require the NCS to establish an individual care programme that determines the most suitable alternatives according to the care recipient's degree of dependence and the services/benefits available with the care recipient's participation (or, when appropriate, their caregivers or guardians that represent them), prior consultation and, when applicable, choice among proposed alternatives.

Continuing State Education

State entities must be trained to ensure the successful operation of national care systems. National laws can establish state regulations by creating the National Care Secretariat and implementing regular mandatory training programmes for public employees who work in the NCS and are subject to evaluation. The goal is to develop the skills needed to provide quality care and immediately identify situations in which public authorities should intervene to guarantee appropriate care is received.

National laws can also establish job promotion mechanisms for civil servants based on their qualifications and experience, with the possibility of establishing economic incentives.

Social Protection Benefits for Care

National care systems can include cash benefits. In these instances, the state must ensure that the amounts are sufficient to replace income and do not reinforce traditional gender roles that confine women in the home.

Any transfers established by the state must include transportation expenses and lost income for self-employed women with care responsibilities.

77 Additional information is available at <https://mapafederaldelcuidado.mingeneros.gob.ar/>

Creating Quality Regulations and Certification Processes

National laws can establish that the National Care Secretariat- guided by government bodies that address matters related to health, children, the elderly and people with disabilities, caregiver associations, civil society organizations and caregiver associations- must monitor the quality standards for employee qualifications, services and accessibility of care services, regardless of their legal format and structure.

Approval

To implement quality regulations, national laws can require care facilities as well as at-home and community-based care providers to be certified.

For this, national laws can state that at-home care services must be registered in the National Registry of the NCS, providing annual proof of safety and health as well as evaluations from their recipients.

Early Childhood Education and Care (ECEC) Services: Integrating Childhood Education and Care

Early childhood education and care (ECEC) includes services and programmes that support the survival, development, and education of children from birth to primary school, and the services usually take place in a facility, at home or in the workplace. They are divided into early childhood education programmes for children between the ages of 0 and 2 years, and pre-primary school programmes for children from 3 years until the age of compulsory primary school.

National laws must ensure that childhood education and care services are integrated to promote better quality, universality, accessibility, qualified employees, and more gradual transitions for children between learning stages. Early childhood systems for care and education should be integrated to the degree possible.

Long-term Care

National laws should establish long-term care services, particularly for the ageing population. This includes services, policies, and assistance for people with long-term care needs, such as those with poor health, the elderly or people with disabilities.

Financing Alternatives for Long-term Care

The ILO has considered establishing insurance mechanisms as potential financing alternatives for long-term care. Some of the options that national laws can establish are:

- a) Requiring long-term care insurance, which could be offered through a public service as a new social risk covered by the national social protection system; or
- b) Making it a voluntary option that is offered through private insurance companies. These insurance policies can include cash benefits or direct services, including at-home care.

Preventing Dependant Situations

National laws can require the NCS to define the criteria, recommendations and requirements for the public policies, programmes and initiatives aimed at preventing dependency, with a strong focus on the risks and initiatives for the elderly, people with disabilities and individuals impacted by complex hospitalisations. This should be done in a coordinated manner between health and social support systems and programmes.

Requirements for Receiving Public Subsidies

To improve the quality of private care services, national laws can establish mandatory quality standards for receiving public subsidies.

Civil Society Organizations

Civil society organizations play a fundamental role in providing care services, particularly for the most underprivileged groups. International laws can establish state regulations to encourage and support civil society and its participation in preparing, tracking, monitoring, and evaluating public care policies as well as in exercising social control over the goods, services and information needed for care, and integrating the innovative practices and training in public initiatives for care services and their expansion.

Sustainability of the NCS

States should consider a series of measures that ensure the sustainability of the NCS, including investing in social infrastructures, reviewing tax collection to increase tax revenue, building alliances, decentralizing, and developing locally.

Tracking and Evaluating

National laws must consider that all state entities that implement policies should include follow-up actions to track results and procedures, and to guarantee enforceability mechanisms for the right to care.

Mechanisms for Complaints and Solutions

National laws can and should establish mechanisms for complaints and solutions that ensure the right to effective care for recipients in the event of inadequate care, the failure to comply with legal requirements, or harm or violence caused by the care received.

Systematized Experiences to Help Implement Chapter V of the LMIC on the National Care System

Article(s)	Country	Experience
36 - 49	Uruguay	Care as a right and a social function was guaranteed by Law No. 19.353, which created the National Integrated System of Care (SNIC), published on November 27, 2015. The SNIC is the set of actions that seek the comprehensive development, autonomy and well-being of dependants that require assistance from others to perform their daily activities. Among other provisions, Law No. 1935 establishes the creation of gender-responsive budgets and specifies that budget allocations cannot be transferred to other programmes, in line with the applicable general or specific regulations. Any transfers within the programme will require a favourable report from the Inter-ministerial Care Council, which can delegate this responsibility to the National Care Secretariat.
	Costa Rica	The Child Care and Development Network (RedCUDI) was created in 2014 by Law No. 9220 to establish a universal, publicly accessible system with solidarity-based funding, and that brings together the various types of public and private childhood development caregiving services. ⁷⁸

⁷⁸ Additional information is available at: <https://redcuidoinfantil.go.cr/> y <https://www.imas.go.cr/es/general/secretaria-tecnica-de-la-red-nacional-de-cuido-y-desarrollo-infantil>

Article(s)	Country	Experience
36 - 49	Uruguay	Care as a right and a social function was guaranteed by Law No. 19.353, which created the National Integrated System of Care (SNIC), published on November 27, 2015. The SNIC is the set of actions that seek the comprehensive development, autonomy and well-being of dependants that require assistance from others to perform their daily activities. Among other provisions, Law No. 1935 establishes the creation of gender-responsive budgets and specifies that budget allocations cannot be transferred to other programmes, in line with the applicable general or specific regulations. Any transfers within the programme will require a favourable report from the Inter-ministerial Care Council, which can delegate this responsibility to the National Care Secretariat.
36	Chile	The constitutional process currently underway has included the right to care and the recognition of domestic and care work in the draft of the new Constitution. Additionally, the Ministry of Social Development has launched a joint roundtable with the Ministry of Women and Gender Equality to create a national care system.
	Mexico	The Congress of the Union is studying general draft legislation on the National Care System, ⁷⁹ whose text is being discussed in the Senate. ⁸⁰
	Panama	A preliminary draft bill is under review and the country is also working on developing a national care policy and a roadmap for designing the National Care System. ⁸¹
	Paraguay	In 2016, the country set up the Inter-Institutional Development Group for Public Care Policy in Paraguay (GIPC) to lead the participative creation of care policy. In 2020, a roadmap was defined and the Framework Document for the Design of the National Care Policy in Paraguay ⁸² was published.
	Peru	Work has been done on redacting draft legislation to consolidate a National Care System. ⁸³
	Saint Lucia	Backed by the fund for the SDGs, the island's government is performing a study on the cost of not addressing the topic of care, as input for analysing the viability of a universally accessible system (CIM/OAS, 2022).
	Argentina	In April 2022, the executive body submitted to Congress the Caring in Equality draft legislation prepared by the Ministry of Women, Genders and Diversity and the Ministry of Labor, Employment and Social Security. It establishes the creation of Argentina's Comprehensive Care System with a gender perspective (SINCA) and modifies the leave system for the public and private sectors.

79 <https://comunicacionnoticias.diputados.gob.mx/comunicacion/index.php/boletines/la-camara-de-diputados-aprueba-reforma-constitucional-en-materia-de-sistema-nacional-de-cuidados#gsc.tab=0>

80 Information provided by Senator Verónica Camino Farjat on 14 December 2021 during meetings on the Inter-American Model Law on Care.

81 Repository of care initiatives as a result of the pandemic - CIM/OAS (2022). Regional Analysis and Actions for the Global Care Emergency.

82 <https://lac.unwomen.org/sites/default/files/Field%20Office%20Americas/Documentos/Publicaciones/2019/06/Politica%20Nacional%20de%20Cuidados%20PY%20DOCUMENTO%20MARCO.pdf>

83 Repository of care initiatives as a result of the pandemic - CIM/OAS (2022). Regional Analysis and Actions for the Global Care Emergency.

Article(s)	Country	Experience
36 - 49	Uruguay	<p>Care as a right and a social function was guaranteed by Law No. 19.353, which created the National Integrated System of Care (SNIC), published on November 27, 2015. The SNIC is the set of actions that seek the comprehensive development, autonomy and well-being of dependants that require assistance from others to perform their daily activities.</p> <p>Among other provisions, Law No. 1935 establishes the creation of gender-responsive budgets and specifies that budget allocations cannot be transferred to other programmes, in line with the applicable general or specific regulations. Any transfers within the programme will require a favourable report from the Inter-ministerial Care Council, which can delegate this responsibility to the National Care Secretariat.</p>
38	Argentina	<p>The Inter-ministerial Care Policy Panel was arranged with all the national bodies that have responsibilities and authority on the matter. The task was to design a comprehensive strategy for redistributing and recognising care as a need, a job and a right, based on an agenda aimed at building an integrated, federal device for care that promotes gender equality and equity with a focus on social justice.⁸⁴</p>
39	Canada	<p>The Canadian government reported having guaranteed the budget for early childhood education and care. This budget is negotiated with local governments, so it is allocated for specific care programmes (CIM/OAS, 2022).</p>
41, 42 and 43	Peru	<p>The United Nations Development Programme and the International Labor Organization are performing a joint study with the Ministry of Women and Vulnerable Populations, the Economic and Social Research Consortium, and the Yo Cuido Familiares organization to prepare a technical document that identifies the services that could potentially be included in the National Care System and to define the situation of caregivers and care recipients.⁸⁵</p>

⁸⁴ Hablemos de cuidados. Nociones básicas hacia una política integral de cuidados con perspectiva de géneros, Interministerial Care Policy Panel, July 2020.

⁸⁵ Repository of care initiatives as a result of the pandemic - CIM/OAS (2022). Regional Analysis and Actions for the Global Care Emergency.

Article(s)	Country	Experience
36 - 49	Uruguay	<p>Care as a right and a social function was guaranteed by Law No. 19.353, which created the National Integrated System of Care (SNIC), published on November 27, 2015. The SNIC is the set of actions that seek the comprehensive development, autonomy and well-being of dependants that require assistance from others to perform their daily activities.</p> <p>Among other provisions, Law No. 1935 establishes the creation of gender-responsive budgets and specifies that budget allocations cannot be transferred to other programmes, in line with the applicable general or specific regulations. Any transfers within the programme will require a favourable report from the Inter-ministerial Care Council, which can delegate this responsibility to the National Care Secretariat.</p>
42 and 47	Colombia	<p>The District Care System implemented by the Bogotá mayor's office has created blocks of care that combine education and health services in public spaces, promote women's entrepreneurship projects and address how they travel through the city.</p>
	Chile	<p>In October 2018, the Les Condes municipality implemented the El Respiro programme to assist the caregivers of seniors. The initiative provides a caregiver to neighbours who put aside their activities to care for an adult dependant family member- a comprehensive service that includes psychosocial companionship and stimulation for adults with severe physical or cognitive dependence is provided. It includes a caregiver and visits from a multidisciplinary team of professionals specialized in physical therapy, speech therapy, psychology, social assistance, and nursing. The caregiver is evaluated two or three times per week, plus one weekend a month and the multidisciplinary team's fortnightly visit, although this is subject to the evaluation of each case. One of the benefits of this initiative is that it seeks to create job opportunities within the community for neighbours with the skills to care for this segment of senior adults.⁸⁶</p>
43	Argentina	<p>Argentina's Ministry of Women, Genders and Diversity has a Federal Care Map to identify and georeferenced care services and infrastructures, along with training and education alternatives for caregivers. The goal is to build an interactive tool that reflects how care and care needs are currently organized, and to highlight areas where the public infrastructure must be expanded and/or created.⁸⁷</p>

⁸⁶ <https://www.lascondes.cl/noticias/las-condes-al-dia/detalle/232/inicia-programa-el-respiro-para-apoyar-a-cuidadores-de-adultos-mayores>

⁸⁷ Additional information is available at <https://mapafederaldelcuidado.mingeneros.gob.ar/>

Article(s)	Country	Experience
36 - 49	Uruguay	<p>Care as a right and a social function was guaranteed by Law No. 19.353, which created the National Integrated System of Care (SNIC), published on November 27, 2015. The SNIC is the set of actions that seek the comprehensive development, autonomy and well-being of dependants that require assistance from others to perform their daily activities.</p> <p>Among other provisions, Law No. 1935 establishes the creation of gender-responsive budgets and specifies that budget allocations cannot be transferred to other programmes, in line with the applicable general or specific regulations. Any transfers within the programme will require a favourable report from the Inter-ministerial Care Council, which can delegate this responsibility to the National Care Secretariat.</p>
44	Argentina	<p>In light of the COVID-19 pandemic and in conjunction with the Cabinet Office and the Ministry of Health and Social Development, the El Barrio Cuida al Barrio programme was implemented in which community organizers map each working-class neighbourhood to identify and track at-risk population segments. They work in coordination with community kitchens and community centres to guarantee food supplies.</p>
46	Argentina	<p>The PotenciAR TRABAJO programme consists of individual economic assistance, referred to as a complementary social salary, and can include remuneration for care tasks in socio-community projects.</p> <p>It establishes agreements with universities to promote and value care work certifications for PotenciAR TRABAJO participants through intermediate degrees. The programme also supports training gender organizers that perform regional activities and serve as community management models.</p>
46 and 47	United States	<p>Cooperative Home Care Associates (CHCA) is the largest service provider for at-home care. Headquartered in New York, it was founded in 1985 to provide quality at-home care by offering decent jobs to direct care workers. It employs more than 2,000 people, primarily Latin American and African American women, who receive full-time jobs, competitive salaries, overtime, employee ownership, guidance and training. It supervises members to balance preparation, support, and responsibility. It is a major driver of employment in the Bronx (ILO, 2019).</p>

Caregiving and Global Value Chains (Chapter VI of the LMIC)

International Standards and Fundamental Concepts

The interconnected nature of the global economy and the existence of global care chains that sustain the market have led to the development of regulatory standards regarding the role of the state and businesses in protecting and respecting the human rights of the workers and communities they interact with as part of the framework of the global value chains and operations. Thanks to the “United Nations ‘Protect, Respect and Remedy’ Framework,” the Guiding Principles on Business and Human Rights⁸⁸ led by the United Nations, the OECD Guidelines for Multinational Enterprises,⁸⁹ the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the rulings by the Inter-American Court of Human Rights and the IACHR recommendations,⁹⁰ the concept of due diligence of states and businesses has been structured in such a way that without creating a new right, reorganizes the international commitments and obligations assumed through international treaties, defines the role held by each entity.⁹¹

The state’s duty of due diligence points to its duty to protect and guarantee all the human rights established in international treaties and the duty of companies to respect these rights through the negative obligation to abstain from violating them.

Given the right to care’s nature as a universal human right, Chapter VI positions the LMIC at the forefront by establishing the central guidelines of the state’s duty of due diligence and of companies to respect the human right to care.

The State’s Responsibility to Protect the Right to Care

Caregiver State

As a guarantor of human rights, Article 50 specifies the state’s obligation to ensure that public bodies and institutions, and the companies they own or control, comply with the principles of co-responsibility of caregiving and promote the adoption of these policies with their counterparts.

88 United Nations High Commissioner for Human Rights. Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework, 2011. These Guiding Principles are grounded in recognition of: a) states’ existing obligations to respect, protect and fulfil human rights and fundamental freedoms; b) the role of business enterprises as specialized organs of society performing specialised functions, required to comply with all applicable laws and to respect human rights; c) the need for rights and obligations to be matched to appropriate and effective remedies when breached. https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_sp.pdf

89 OECD. OECD Guidelines for Multinational Enterprises, 2011. <https://www.oecd.org/daf/inv/mne/MNEguidelinesESPAÑOL.pdf>

90 Special Rapporteurship on Economic, Social, Cultural and Environmental Rights REDESCA, IACHR. Business and Human Rights: Inter-American Standards, 2019. <http://www.oas.org/es/cidh/informes/pdfs/EmpresasDDHH.pdf>

91 The United Nations Framework and the Guiding Principles represent the biggest progress made in 30 years on international regulations for the behaviour of companies, along with the OECD Guidelines for Multinational Enterprises and the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy insofar as the third authorised, non-legally binding international instrument that addresses the matter of the behaviour of companies.

Article 50 encompasses the state's due diligence regarding human rights applied to care. This means that state entities must be proactive and pioneers in implementing cutting-edge practices and standards.

To comply with coherence, human rights and tax efficiency, the state, as an employer, must be the first to implement care policies for civil servants. Given its sphere of influence and sovereign power, it must promote the adoption of these policies amongst all its counterparts.

National laws can establish mandatory mechanisms such as:

- a) Including a certain percentage of women on their board of directors and establishing the requirement to annually share data on the progress made to establish gender parity in their workforce.
- b) Adopting effective measures that promote co-responsibility of caregiving throughout the organization.
- c) Implementing workplace flexibility policies and mechanisms for civil servants with family responsibilities and promoting their use by male civil servants.
- d) Launching internal awareness campaigns on the division of work according to gender, the unequal distribution of care work, the value of co-responsibility, the role of fathers in care and gender equality.

National laws can also introduce incentives for their implementation by linking the degree of compliance of these mandatory mechanisms with tax management goals.

Experience: Chile's Gender-based MIPs

Chile's Management Improvement Programmes (MIP) for public services can be traced back to Law No. 19.553 (1998). They associate fulfilling management goals with a monetary incentive for civil servants. It is made up of 11 sub-systems, one of which is the Gender Focus System, which was included in the MIP as of 2002, adding a new focus to updated public management processes and budget cycles, thereby integrating this new focus into the standard operations and duties of public institutions.⁹²

Since 2014, the MIPs cover a total of 194 institutions and over 87,000 civil servants, comprising one of the most important institutional remuneration incentive mechanisms applied in the Chilean government. As of 2012, the monetary incentive represents 7.6% of remuneration if the institution reached at least 90% of its annual goals, and 3.8% if between 75% and 90% of the goals were met.⁹³

92 Ministry of Social Development, Government of Chile. Gender Equality and Gender Focus System. <https://www.desarrollosocialyfamilia.gob.cl/equidadgenero#:~:text=Enfoque%20de%20G%C3%A9nero.-,Sistema%20Enfoque%20de%20G%C3%A9nero,4%20de%20Febrero%20de%201998>

93 Management Improvement Programme (MIP) <https://www.dipres.gob.cl/598/w3-propertyvalue-15230.html#antecedentes>

The first National Time Use Survey (ENUT) by Chile was included in the Ministry of Economy's 2015 Gender MIP and allowed the country to reduce a South American statistical gap. Chile was one of the two countries that did not have this type of information.⁹⁴

Promotion of Quality Regulations

Article 51 mandates the State to promote the creation and adoption of certification norms around co-responsibility for caregiving in national public contracts and foreign trade.

Training and Awareness

Article 52 establishes that the State, through the NCS and with advice from the National Machinery, must promote continuing education for public officials in the areas of co-responsibility, gender, and human rights.

The inequality faced by women at home and in the workplace is the result of gender stereotypes regarding productive and reproductive duties that persist in various cultures and socio-economic contexts. Although there are differences between regions, the family model in which men are the providers remains, in general, deeply rooted in the structure of Latin American societies, and women continue to play a central role as family caregivers. The division of work according to gender solidifies the category structure of superiority and inferiority between men and women. This social practice seriously harms the principle of equality and non-discrimination established by international human rights law, regional instruments, and national legislation.

The state can also provide ongoing and evaluated training and awareness programmes for all civil servants, particularly those in senior, management, and customer service roles, on women's rights and the principles of equality and non-discrimination based on gender, integrating the results obtained in employee reviews and goal fulfilment programmes.

Information and Knowledge Management

Article 52 also establishes that the State must support research on the topic of caregiving and implement awareness campaigns on the principle of equal opportunities and treatment, and social and family co-responsibility for caregiving for the population.

The State will be required to study the impact of caregiving on women and society, and to analyse how to transform the sociocultural behavioural norms that promote the unequal distribution of care work.

94 Division of Equality Policies, Ministry of Women and Gender Equality, Government of Chile. Major achievements in public policies as of MIP gender commitments, January 2018. <https://biblioteca.digital.gob.cl/handle/123456789/3648>

The Private Sector's Responsibility to Protect the Right to Care

Global Value Chains and Social Co-responsibility

Social co-responsibility makes it possible to not only highlight how the market is sustained by domestic care work at the bottom of the chain of the sustainability of life, but it also allows us to identify and assign businesses the co-responsibility of providing care for employees, and their transformative role in driving and establishing the equal distribution of care responsibilities.

On this point, this section of the LMIC assumes the latest standards for businesses and human rights by establishing the duty of companies to respect the right to care as part of the overall due diligence of businesses regarding human rights. In this sense, the LMIC uses the entire structural and operational framework developed by international entities regarding due diligence systems for human rights, with an emphasis on the role of transnationals and the use of their sphere of influence in favour of promoting co-responsibility systems. Finally, another crucial aspect of this matter shows a relationship between driving ESG (environmental, social, governance) factors when evaluating businesses in financial systems. This places an emphasis on evaluating the performance of social factors, of which the LMIC proposes including care in companies, and specifically underscores the due diligence of women's economic rights.

Duty to Protect: Due Diligence on the Right to Care

Article 53 establishes that employers must abstain from violating the right to care and instead implement the co-responsibility and job flexibility measures specified in Chapter IV of this law and encouraging men to take advantage of these measures.

To fulfil this responsibility, companies must help achieve true gender equality and not exacerbate or reproduce the discrimination that currently exists against women in all of their activities.

Employers must establish and implement family-friendly work arrangements for all employees with family responsibilities and help expand the care services available.

Support for Caregiving Services

Article 54 indicates that businesses must support the existence of a quality caregiving infrastructure for their employees and the expansion of available caregiving services in collaboration with the National Care System.

Support for childcare services in the workplace can include childcare facilities in the workplace; services in the community linked to the workplace; economic assistance such as

vouchers, funds or subsidies for childcare facilities and other personal services; consulting services; medical referrals; and public-private alliances to expand childcare benefits.

Productive Sector Collaboration

Article 55 establishes that productive sectors may work together to collectively offer caregiving services for employees with family responsibilities.

Promoting Co-responsibility

Article 56 establishes that companies, and specifically transnational corporations, should use their positions of influence to promote co-responsibility among their business partners and ensure their vendors throughout the supply chain comply with their social co-responsibility on the topic of caregiving, provide caregiving services for employees with family responsibilities, and promote the concept of family co-responsibility between men and women.

Experience: Certification Regulations

In **Chile**, the NCh3262 standard provides guidance and tools to implement the Management System of Gender Equality and Work-Life Balance (SGIGC).

It is based on four pillars:

- Gender equality: different people with the same rights.
- Gender equity: the first step toward equality.
- Work-life balance.
- Co-responsibility: the tasks are for everyone.

In **France**, the Label Égalité Professionnelle, promoted by the Ministère chargé de l'Égalité entre les Femmes et les Hommes, of the Diversité et de l'Égalité des Chances, seeks to recognize public and private entities with exemplary practices for gender equality. It targets businesses, associations and public institutions, regardless of their size and operations.

A third-party audit is done to certify organizations that have implemented actions and talent management with equal employment opportunities, including support for parents in the professional context. To obtain the seal, recipients must also be evaluated by a commission made up of unions, employer organizations and the government.

Source: <https://www.egalite-femmes-hommes.gouv.fr/egalite-entre-les-femmes-et-les-hommes/egalite-professionnelle-et-autonomie-economique-des-femmes/>

Additional Aspects to Consider for the Role of a Caregiver State

Promoting Equal Pay for Work of Equal Value

One of the central aspects of substantive equality is respecting and protecting the principle of equal pay between men and women (the ILO Equal Remuneration Convention (No. 100) adopted in 1951), and specifically complying with the principle of equal pay for work of equal value. Dividing work according to gender entails the systemic undervaluation of feminized work for gender-based reasons, particularly care work.

National laws can establish the state's duty to address the systemic undervaluation of care work for gender-based reasons and to implement measures that achieve equal pay for work of equal value for all care workers. Launching a proactive policy for equal pay and monetary value of care work can lead to its application in other feminized areas of the economy.

For this purpose, national laws can:

- a) Promote wage transparency.
- b) Apply evaluation methods for gender-neutral tasks and correct the biases that assign less value and lower salaries to care jobs.

Experience: Tools for Implementing Equal Pay for Work of Equal Value

The European Commission Recommendation of March 7, 2014 on strengthening the principle of equal pay between men and women through transparency (2014/124/EU) urges EU Member States to promote the development and use of gender-neutral job evaluation and classification systems in their role as employers, and it also proposes mobilisation that encourages businesses and social partners to introduce these gender-neutral job evaluation and classification systems.⁹⁵

Promoting Formality

To promote formality in care work, national laws can establish mechanisms such as tax relief or tax allowances. Additionally, the procedures for registering households that employ care workers should be simplified.

Labor Market Activation Programmes

National laws can establish labor market policy activation programmes to eliminate workplace segregation and encourage women to work in non-traditional fields. These programmes should provide official qualifications through courses, technical vocational

95 Guía Y Recomendaciones De Uso De La Herramienta Sistema De Valoración De Puestos De Trabajo En Las Empresas Con Perspectiva De Género; https://www.igualdadnlaempresa.es/asesoramiento/herramientas-igualdad/docs/Guia_Uso_Hrrta_SVPT.pdf; DIRECTIVE 2006/54/EC

schools and science universities applied to professions that have been traditionally dominated by men.

National laws can establish the state's obligation to implement gender balance, inclusion and affirmative action measures needed to guarantee equal opportunities and the right to non-discrimination for everyone.

Query Processes

In compliance with Article 13 on participation and Article 23 on the rights of unpaid caregivers to be heard and participate in the query and participation measures of the NCS, states can promote the creation of multi-actor advisory committees to evaluate, review and reform the labor and social protection systems for care.

These multi-party agencies collect information, opinions, and proposals from various political, academic and social actors; trade and business unions; representatives from international entities and the care industry that serve as input for legislative reform projects on care.

Alliances for Raising Awareness

The state must promote the creation of multi-party partnership alliances to change social norms that tolerate, normalize, and justify gender-based job discrimination, limited social value and unequal distribution of care tasks to the detriment of women.

Responsibility to Protect and Social Dialogue

The state will actively assume the responsibility of addressing women's economic and labor inequalities and gaps considering their historical contribution to reproductive work in violation of the right to care, and it will promote, through awareness, discussion and diagnoses, the social organization of care with all of the actors involved in the policies and the legal, institutional and management transformations needed to ensure the rights of dependants and caregivers.

Public Acquisitions

National laws can include co-responsibility demands in the regulations and policies for public sector contracts, and overall, in all the state's business transactions with private companies.

For this purpose, national laws can establish mechanisms such as:

- a) The state and inter-governmental institutions must obtain a certain percentage of the products and services they purchase from companies that meet co-responsibility standards.
- b) The state must only conduct business with companies that have policies and

mechanisms against sexual harassment, gender-based violence, discrimination regarding pregnancy/maternity/paternity and care requirements, gender pay gaps and the under-representation of women in executive and management positions.

c) When contracts for public services are awarded, the state must give priority to companies that have shown to have implemented measures for the co-responsibility of care in their workforce.

d) In its contracts with businesses that offer public services, the state must include provisions for gender equality and reparations in the event of non-compliance.

Foreign Trade

National laws and policies can establish programmes to promote exports based on compliance with co-responsibility standards and respecting the right to care.

The state should use programmes to support businesses or promote exports for companies that provide care infrastructures for employees along with care services and innovative and effective co-responsibility measures.

Awareness Campaigns

The state should carry out media and awareness campaigns and programmes on the social and family co-responsibility of care. These campaigns should highlight compliance with the principle of equal opportunities and treatment that allows women to properly balance family and professional aspects and leisure activities, eliminate discriminatory stereotypes on paper and the responsibilities of men and women in family life and in society.

Migrant Care Workers

States can make progress in properly and effectively protecting migrant care workers recruited by private job placement agencies, ensuring they are not subject to abuse and guaranteeing their access to justice under the same conditions and without discrimination. States can also consider mechanisms for obtaining social security benefits and preserving and/or transferring these benefits to migrant care workers.

Additional Aspects to Consider for the Private Sector

Equal Pay for Work of Equal Value

Businesses must establish salary reviews that are fair and equitable in terms of gender, thereby ensuring that men and women who perform different jobs of equal value are paid the same. Companies must modify their hiring and promotion processes to remove unconscious biases and practices that reproduce inequalities based on care responsibilities.

Public-private Alliances

National laws can establish mechanisms that promote public-private alliances; implement innovative measures; allow for a better work-life balance; promote networking, interactions and partnerships with civil society organizations, community organizations, and local and municipal governments involved in the NCS.

Awareness Campaigns and Support Measures.

National laws can establish guidelines or obligations for companies to implement awareness programmes on parental rights and implement measures such as:

- Supporting paid maternity leave.
- Offering expanded paid maternity leave.
- Arranging flexible schedules so parents can provide care.
- Providing professional guidance for workers returning from maternity/paternity leave.

Systematized Experiences to Help Implement CHAPTER VI of the LMIC on Caregiving and Global Value Chains

Article(s)	Country	Experience
50	Chile	The Management Improvement Programmes (MIP) for public services can be traced back to Law No. 19.553 (1998). They associate fulfilling management goals with a monetary incentive for civil servants. It is made up of 11 sub-systems, one of which is the Gender Focus System aimed at including this focus in updated public management processes and budget cycles, as well as in the standard operations and duties of public institutions. ^{96,97}
51	Costa Rica	The National Women's Institute of Costa Rica has been working with private companies, chambers of commerce, the UNDP, the IDB's Gender Parity Taskforce and other public institutions, particularly those that make up the Inter-Institutional Technical Institution linked to the Gender Equity and Equality Policy, to position the topic of social co-responsibility of care through its Gender Equality Seal Programme that promotes implementing internal actions in organizations to reduce gender gaps, thereby guaranteeing gender equality in labor relations ⁹⁸ and recognising good labor practices for gender equality, with several editions since 2017 ⁹⁹

96 <https://www.desarrollosocialyfamilia.gob.cl/equidadgenero#:~:text=Enfoque%20de%20G%C3%A9nero.,Sistema%20Enfoque%20de%20G%C3%A9nero,4%20de%20Febrero%20de%201998>

97 Of the main achievements of MIPs since 2014, they cover a total of 194 institutions and over 87,000 civil servants, comprising one of the most important institutional remuneration incentive mechanisms applied in the government. As of 2012, the monetary incentive represents 7.6% of remuneration if the institution reached at least 90% of its annual goals, and 3.8% if between 75% and 90% of the goals were met. The first National Time Use Survey (ENUT) by Chile was included in the Ministry of Economy's 2015 Gender MIP and allowed the country to reduce a South American statistical gap. Chile was one of the two countries that did not have this type of information. Source: Logros significativos en políticas públicas a partir de compromisos del PMG de género, Ministry of Women and Gender Equality, Equality Policies Division, January 2018, <https://biblioteca.digital.gob.cl/handle/123456789/3648>

98 Additional information is available at <https://www.inamu.go.cr/web/inamu/sello-de-igualdad-de-genero1>.

99 Additional information is available at <https://www.inamu.go.cr/web/inamu/buenas-practicas-laborales-para-la-igualdad-de-genero>.

Article(s)	Country	Experience
52	Paraguay	Within the framework of the National Care System, Paraguay has been developing a national care policy with the Ministry of Women as the executing entity, in collaboration with 13 public institutions and with support from international partners such as EUROSocial, UN Women, the IDB and the FIIAPP. This has resulted in the creation of the Framework Document for the Design of the National Care Policy in Paraguay. Additionally, to raise awareness in society about the importance of this policy, three videos were created to help people understand the concepts and highlight the need for change. ¹⁰⁰
52	Argentina	The Comprehensive Care Policy Department of the Ministry of Women, Gender and Diversity implemented the 'Cuidar en Igualdad. Necesidad, derecho y trabajo' awareness campaign that focused on Regional Care Talks designed as meeting points for discussing multi-actor logics across the country and as socio-cultural devices that highlight care as a need, a right and a job. National technical institutions associated with the topic participated in the talks along with representatives from the national entities of the Inter-ministerial Panel in each province and with the regional and municipal departments that address gender, unions, social organizations, federations, and chambers of commerce, or prioritized strategically as awareness targets. ¹⁰¹
52	Argentina	#ContemosLosCuidados is a campaign that highlights domestic and care work to recognize and redistribute them equally. The initial spot shows a 'social experience' about care in which 20 people are asked to take a step forward every time the type of work they do in their everyday life is mentioned. The initiative is led by UN Women and UNDP Argentina, alongside Argentina's Ministry of Women, Gender and Diversity, the Comprehensive Medical Attention Program (PAMI) and the National Disability Agency (ANDIS). ¹⁰²

100 The framework document can be downloaded at <http://www.mujer.gov.py/index.php/politica-nacional-de-cuidados>. The videos can be viewed at the following links: https://www.youtube.com/watch?v=v_NwgDZM_m0; <https://www.youtube.com/watch?v=iOQTTOFP-biM>; <https://www.youtube.com/watch?v=cFt1SYEj6dc>

101 Additional information is available at <https://www.argentina.gob.ar/generos/cuidados/camp-nac-cuidar-en-igualdad>. A report about the rounds of presentations with national entities and organizations is available at https://www.argentina.gob.ar/sites/default/files/informe_rondas_de_presentacion_con_organismos_y_organizaciones_nacionales.pdf, and a report about the Regional Care Talks in the Patagonia region is available at https://www.argentina.gob.ar/sites/default/files/2021/02/patagonia_informe_de_sistematizacion_aportes_federales_para_la_construccion_del_anteproyecto_de_ley_sobre_cuidados_igualitarios.pdf

102 The campaign videos can be viewed at https://www.youtube.com/watch?v=PzXOGWmA_OI y <https://lac.unwomen.org/es/noticias-y-eventos/articulos/2021/11/contemos-los-cuidados-lanzan-campana-para-promover-organizacion-igualitaria-del-trabajo-de-cuidado>

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Article(s)	Country	Experience
52	Bolivia	In Bolivia, the Comprehensive Female Training Institute (IFFI) and Citizenship: Social Studies and Public Action Committee, with support from the Basque Cooperation Agency for Development and OXFAM, launched an awareness campaign in 2021 on the co-responsibility of care in the home called 'A la par' as part of the 'Ciudades y comunidades que cuidan' project. This campaign seeks to help progressively modify the population's socio-cultural stereotypes on the co-responsibility of domestic work and care on a family, public and social level. ¹⁰³
52	Chile	Through humour and irony, the 'Dedus Crespus: el síndrome de los dedos crespas' campaign by ComunidadMujer seeks to include in public debate the absence of men in housework and care as a syndrome that has affected them for thousands of years, although the consequences primarily impact women. 'Many experience it, but few are aware of their reality', states the campaign. It includes a spot with a documentary tone and a series of actions on social media, and the goal is for people, primarily men, to be aware of an issue that has worsened during the pandemic, whilst offering solutions. ¹⁰⁴
52	Chile	In March 2021, the Department of Gender Equality at the University of Chile launched a campaign to highlight its social co-responsibility policy. The goal is for civil servants, professors and students at the university to assimilate that caregiving is a shared task that not only depends on women, but rather is a social responsibility that also applies to the state and institutions. ¹⁰⁵
54	Chile	Since 2008, the Chile Crece Contigo programme has provided free universal day care for children in the 60% most vulnerable population. In 2018, backed by Congress, the Ministry of Employment and the Ministry of Women and Gender Equality, with support from civil society organizations, a draft bill was submitted to expand this right to remove the Labor Code limit of 20 workers, and eliminate the disincentive to hire women. ¹⁰⁶
54	El Salvador	In 2019, El Salvador published in its Official Gazette the Special Law for the Regulation and Installation of Day Care Centres for the Workers' Children in 2020. It regulates the conditions in which employers must implement these services and the facilities for the children of employees. Although the law had been scheduled to enter into force in 2020, it was pushed back to July 1, 2022 due to the pandemic. ¹⁰⁷

103 Additional information about the campaign is available at <https://www.lostiempos.com/actualidad/pais/20210722/lanzan-par-campana-sensibilizacion-corresponsabilidad-hogar>

104 Additional information about the campaign is available at <https://deduscrespus.cl/>

105 <https://direcciondegenero.uchile.cl/2021/03/10/derechoalcuidado-u-de-chile-lanza-campana-que-promueve-la-corresponsabilidad-social-de-los-cuidados/>

106 The civil society organizations mentioned include Chile Mujeres and Comunidad Mujer. Additional information about the proposed reform is available at http://www.senado.cl/appsenado/templates/tramitacion/index.php?boletin_ini=12026-13

107 <https://www.elsalvador.com/noticias/nacional/empresas-tienen-1-julio-2022-instalar-salas-cuna/912124/2021>

7. EUROsociAL+ Message

Ana Pérez Camporeale

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European Union EUROsociAL+ programme

Everyone needs to give and receive care at different stages of life. This is why putting the Inter-American Model Law on Care into practice benefits everyone: women will have more autonomy and be able to fully exercise their rights; children, the elderly and people with disabilities will receive quality and pleasant care; men will be involved in the private sphere and enjoy fuller personal relationships; businesses will have employees who are more satisfied and committed; and companies will have sustainable development with equal opportunities.

We are so convinced that we have partnered with the CIM/OAS on this urgent task. We understand that making progress on the care agenda requires a multilateralism approach and joint efforts. Latin America and Europe must build bridges and support each other because, although this type of work is being recognized in both regions, there are models for public programmes, business policies and family arrangements that reproduce the role of women as primary caregivers.

Without infrastructures and services from the public sector, and co-responsibility from the private sector and men, inequality in the job market and the excessive burden of domestic work and caregiving faced by women will make it impossible for equal opportunities to exist. The COVID-19 pandemic made it clear that Europe also faces multiple challenges, from the transformation of gender roles to the formalisation of paid care work. On both sides of the ocean there is a historic debt to women, who for centuries have sustained the well-being and economic development of families and countries. It is of the utmost urgency to revert this situation and transform care into a social co-responsibility matter.

This guide does not seek to be definitive. Instead, it should serve as a regional starting point to establish alliances that recognize that valuing and redistributing care work, as well as creating a sustainable care system, play a fundamental role in achieving gender equality. Using the conceptual tools and experiences presented, we hope to help launch the main content in this legal instrument so each country, based on its situation, challenges, specific needs and advances, can create a process and modify what it deems useful, localize it, and implement it through the regulatory, political and budget changes required to shape its National Care System.

As part of this complex challenge, we recognize the important role of the National Machineryes for the Advancement of Women to ensure that care policies are implemented with an intersectoral and interdisciplinary view, and we call on all of the relevant ministries and legislators to be as fully involved as possible. Achieving the goals of the Model Law requires connections between sectors and, as a society, we owe it to ourselves to create this new gender agreement centred on care.

The guide is an invitation for international collective action to promote the economic empowerment of women and to define the new proposed paradigm: a society that gives care and views care as a right and a fundamental public good, and in which participants operate with co-responsibility. EUROsociAL+, the European Union programme for social cohesion in Latin America, hopes that it is implemented, thereby contributing to the commitments of regional and global agendas on the matter of gender equality policies.

8. Annexes

Annex 1: International Standards Which Support the Chapters Of The LMIC

Chapters in the Inter-American Model Law on Care	INTERNATIONAL STANDARDS			
	Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Economic, Social and Cultural Pact	International Labor Organization (ILO) Conventions	Others
Chapter I: Adoption of a Comprehensive Framework	Articles 1, 2, 3 Articles 5 a) y b) Articles 11, 12, 13, 14, 16, 24 General Recommendation N N° 28 on Article 2 of CEDAW	Articles 2, 3, 6, 7, 9, 10 General Observation N N° 20 on non-discrimination in economic, social and cultural rights	Convention N°156 on workers with family responsibilities	Pact on Civil and Political Rights (Article 26) 2030 Agenda, SDG 5.4 and 5.c American Convention on Human Rights (Art. 26) Belem do Pará Convention (Art 6) Protocol of San Salvador (Art. 1, 2, 3, 4) Yogyakarta Principles
Chapter II: Recognition and Value of Care	Article 2 General Recommendation N°17 on measurement and quantification of the unremunerated domestic activities of women and their recognition in the gross national product	-	Recommendation 165 on workers with family responsibilities (Article 11.a)	2030 Agenda, SDG 5.4

Chapters in the Inter-American Model Law on Care	INTERNATIONAL STANDARDS			
	Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Economic, Social and Cultural Pact	International Labor Organization (ILO) Conventions	Others
Chapter III: The Right to Care	<p>Article 5</p> <p>Article 11, numbers 1 (paragraphs a, b y c) and 2 (paragraph c)</p> <p>General Recommendation N°13 on equal remuneration for work of equal value</p> <p>General Recommendation N°16 on unpaid women workers in rural and urban family enterprises</p> <p>General Recommendation N°26 on women migrant workers</p> <p>General Recommendation N°27 on older women and the protection of their rights</p>	<p>Articles 6, 7, 8, 9, 10, 11</p> <p>General Observation N N° 16, paragraph 24.</p> <p>General Observation N N° 20 on non-discrimination in economic, social and cultural rights</p>	<p>Convention N° 87 on freedom of association and protection of the right to organize</p> <p>Convention N°100 on equal pay</p> <p>Convention N°103 and N°183 on maternity protection</p> <p>Convention N°111 on discrimination (employment and occupation) – (Article 21)</p> <p>Convention N° 189 on domestic workers</p> <p>Convention N° 190 on the elimination of violence and harassment in the world of work</p>	<p>United Nations Convention on the Rights of the Child (Articles 3, 18, 19, 20, 23, 24, 25, 26, 27, 29, 30, 31)</p> <p>United Nations Convention on Persons with Disabilities (Articles 9, 16, 19, 20, 23, 25, 26, 28)</p> <p>Protocol of San Salvador (Articles 6, 7, 8, 9, 10, 15, 16, 17, 18)</p> <p>Inter-American Convention on the Protection of the Human Rights of Older Persons (Articles 4, 12)</p> <p>Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities</p>

Chapters in the Inter-American Model Law on Care	INTERNATIONAL STANDARDS			
	Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Economic, Social and Cultural Pact	International Labor Organization (ILO) Conventions	Others
Chapter IV: Redistribution of Care and Co-Responsibility	<p>Articles 1, 2, 3</p> <p>Articles 11, 12, 16</p> <p>General Recommendation N°36 on the right of girls and women to education</p> <p>General Recommendation N° 29 on Article 16 of the CEDAW (Economic consequences of marriage, family relations and their dissolution)</p>	<p>Article 6</p> <p>Article 10</p> <p>General Observation N°16, paragraph 24</p>	<p>Convention N°103 y N°183 on maternity protection</p> <p>Convention N°156 on workers with family responsibilities</p> <p>Recommendation 191 on maternity protection</p>	<p>United Nations Convention on the Rights of the Child (Art. 18)</p> <p>Regional Consensus on Women (from Quito 2007 through Montevideo 2020)</p> <p>Yogyakarta Principles (13 and 17)</p>

Chapters in the Inter-American Model Law on Care	INTERNATIONAL STANDARDS			
	Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Economic, Social and Cultural Pact	International Labor Organization (ILO) Conventions	Others
Chapter V: National Care System	Articles 1, 2, 3 Articles 11.2.c Article 14 General Recommendation N° 34 on the rights of rural women	-	-	United Nations Convention on the Rights of the Child (Articles 3, 18, 19, 20, 23, 24, 25, 26, 27, 29, 30, 31) United Nations Convention on Persons with Disabilities (Articles 9, 16, 19, 20, 23, 25, 26, 28) Protocol of San Salvador (Art. 6, 7, 8, 9, 10, 15, 16, 17, 18) Inter-American Convention on the Protection of the Human Rights of Older Persons (Article 12) Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities UN Guiding Principles on Business and Human Rights 2030 Agenda

Chapters in the Inter-American Model Law on Care	INTERNATIONAL STANDARDS			
	Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Economic, Social and Cultural Pact	International Labor Organization (ILO) Conventions	Others
Chapter VI: Care-giving and Value Chains	Articles 1, 2, 3 Articles 11, 12, 16	-	Convention N° 100 on equal remuneration Convention N°156 on workers with family responsibilities. Recommendation N° 165 on workers with family responsibilities (Articles 13 and 14)	UN Guiding Principles on Business and Human Rights OECD Guidelines for Multinational Enterprises ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy REDESCA, IACHR Report on Business and Human Rights: Inter-American Standards

Annex 2: Illustrative Table of Licenses and Co-Responsibility By Country

Maternity Leave

Country	Term and Distribution	% of Remuneration	Financing	Protection against Dismissal
Argentina	90 days (45 or 30 before birth and 45 or 60 after).	100%	Social Security	During pregnancy and 7.5 months after birth.
Bolivia	90 days (45 before birth and 45 after).	100%	Social Security	Job immobility: From gestation until the child is 1 year old.
Brazil	16 weeks, which can be increased by 2 weeks with a medical certificate.	100%	Social Security	Functions performed prior to maternity leave are guaranteed.
Chile	18 weeks (6 before birth and 12 after).	100%	Social Security	Employer is obliged to reinstate the worker after her maternity leave (Art. 197).
Colombia	18 weeks (1 or 2 before birth and 16 or 17 after).	100%	Social Security	Employee cannot be fired due to pregnancy or lactation without the prior authorization of the Ministry of Labor that supports a just cause.
Costa Rica	16 weeks (4 before birth and 12 after).	100%	50% Social Security - 50% employer.	Includes the period of pregnancy and lactation.
Cuba	18 weeks (6 before birth and 12 after).	100%	Social Security	Covers the duration of maternity leave.

Country	Term and Distribution	% of Remuneration	Financing	Protection against Dismissal
Ecuador	12 weeks.	100%	75% Social Security - 25% employer	Contemplated both during pregnancy and leave.
El Salvador	16 weeks (10 weeks are compulsory after birth).	75%	Employer	During pregnancy and maternity leave.
Honduras	10 weeks (4 before birth and 6 after).	100%	66% Social Security - 33% employer	During pregnancy and the 3 months following childbirth.
México	12 weeks (6 before birth y 6 after. Mother can transfer 4 of the 6 weeks before birth to her post-natal).	100%	Social Security	Keeps her job and the rights acquired by the employment relationship. Likewise, she retains the same job as long as no more than one year has elapsed since birth.
Nicaragua	12 weeks (4 before birth and 8 after).	60%	60% Social Security - 40% employer	Includes the period of pregnancy and maternity leave.
Panamá	14 weeks (6 before birth and 8 after).	100%	Social Security and employer. When the Social Security Fund is not obliged to cover the maternity subsidy, the obligation indicated in this article will be entirely borne by the employer.	Includes the period of pregnancy and maternity leave. Job immobility for one year since reinstatement.

Country	Term and Distribution	% of Remuneration	Financing	Protection against Dismissal
Paraguay	18 weeks (2 before birth and 16 after).	100%%	Social Security	It is contemplated until the end of the maternity leave.
Perú	98 days (49 before birth and 49 after).	100%%	Social Security	From gestation until 90 days postpartum.
Dominican Republic	14 weeks (6 weeks compulsory after birth).	100%	Social Security In the event that the worker earns a salary higher than the ceiling of the quoted salary, the employer is responsible for covering the difference.	The mother is protected against dismissal for up to 6 months after giving birth.
Uruguay	14 weeks (6 before birth and 8 after) Public employees 13 weeks (1 before birth and 12 after)	100%	Social Security	It includes the period during pregnancy and 6 months postpartum.
Venezuela	26 weeks (6 before birth and 20 after).	100%	Social Security	Special protection of immobility from the beginning of pregnancy and up to two years after child-birth.

Paternity Leave

Country	Duration and Dis-tribution	% of Remuneration	Financing	Protection against Dismissal
Argentina	2 days.	100%	Social Security	
Bolivia	3 working days.	100%	Employer	Job immobility: From gestation until the child is 1 year old.
Brazil	5 days.	100%	Employer	
Chile	5 days.	100%	Social Security	
Colombia	2 weeks.	100%	Social Security	
Costa Rica	For public employees: 1 month after childbirth or adoption. ⁷⁰	100%	50% employer - 50% Social Security	
Cuba	Does not exist (They have a social benefit or shared parental leave).			
Ecuador	10 days (15 days in the case of the birth of multiples or C-section).	100%	75% Social Security - 25% employer	
El Salvador	3 days, continuous or able to be distributed during the first 15 days after childbirth.	100%	Employer	
Honduras	Does not exist.			
México	5 days.	100%	Employer	
Nicaragua	5 days.	100%	Social Security	
Panamá	3 working days.	100%	Employer	
Paraguay	2 weeks.	100%	Employer	

Country	Duration and Distribution	% of Remuneration	Financing	Protection against Dismissal
Perú	10 consecutive days.			
Dominican Republic	2 working days.	100%	Employer	
Uruguay	Does not exist			
Venezuela	14 days.	100%	Social Security	
European Union (EU Directive 2019/1158 from the European Parliament and Council)	10 working days. The States Parties will have flexibility for the adoption (it is expected that they can execute it days before and/or after childbirth). It is granted regardless of marital status.	Equivalent to the remuneration they would receive in the event of work interruption for health reasons.		It is expressly prohibited to dismiss anyone who requests paternity leave.

Co-Responsibility Licenses (Family/ Shared Postpartum)

Country	Duration and Distribution	Percentage	Financing
Chile	<p>Parental postnatal leave (7/5): 12 weeks full-time or 18 months part-time.</p> <p>If both parents are workers, either of them, at the mother's choice, may enjoy parental postnatal leave, starting from the seventh week (5 weeks). The weeks used by the father must be during the final period of the leave and will give right to the subsidy established in this article, calculated based on their remuneration.</p>	100%	Social security

Country	Duration and Distribution	Percentage	Financing
Colombia	<p>Shared parental leave (12/6):</p> <p>Parents may freely distribute among themselves the last six (6) weeks of the mother's leave. Shared parental leave is counted from the date of delivery. The mother must take at least the first twelve (12) weeks after delivery, which will be non-transferable. The remaining six (6) weeks may be distributed between the mother and the father, by common agreement between the two.</p>		
Cuba	<p>Social benefit: Amount that is granted to the mother, father or one of the maternal or paternal grandparents who is responsible for the care of the minor, at the expiration of the postnatal leave and until the child reaches his first year of life (Article 30.1.).</p>	60%	Social security
European Union (EU Directive 2019/1158 from the European Parliament and Council)	<p>Four months of leave that can be taken flexibly before the son or daughter reaches a certain age (maximum 8 years). Emphasis is placed on exercising the permit effectively and under equitable conditions.</p> <p>Two of the months will not be transferable.</p> <p>Protection against dismissal is also provided for in these cases.</p>	Each State will determine remuneration.	

Caregiving Leave (Sick)

Country	Duration and Distribution	Percentage	Financing
Ecuador	<p>Extended paternity leave in the case of illness or special care: If the child is born prematurely or requires special care, paid paternity leave will be extended by 8 days, and if the child is born with a degenerative, terminal or irreversible disease, or with severe disability, the father can take 25 days of paid paternity leave.</p>		
Mexico	<p>Extended family leave in the case of disability or in-hospital medical care: Leave can be extended up to a total of 8 weeks after birth, although the corresponding medical certificate must be submitted. This extended leave will ensure the mother's right to half of her salary for up to 60 days.</p>	50%, not more than 60 days.	Social Security

Country	Duration and Distribution	Percentage	Financing
Paraguay	Maternity leave to care for a newborn (illness/health): There will be 24 weeks of maternity leave if the child is born before week 35, weighs less than 2,000 grams or is born with a congenital disease that requires an incubator or special care, as long as the corresponding medical certificate is submitted.	100%	Social Security
Peru	Extended paternity leave in the case of health conditions: 20 days for premature or multiple births; 30 days for births with a terminal congenital illness or severe disability; and 30 days for serious complications impacting the mother's health.		
European Union (EU Directive 2019/1158 of the European Parliament and the Council, adopted on 20 June 2019)	Caregiver leave: 5 working days: Each state can establish the details regarding the scope of application and the terms, as per the country's legislation. Leave can be distributed over one year, by the person requiring care or support, or by case.		

Other Permits and Measures

Country	Duration and Distribution	Amount	Financing
Colombia	Structural extension of paternity leave (5 weeks): It will be extended by one (1) additional week for each percentage point of decrease in the structural unemployment rate compared to its level at the time of entry into force of this law, and in no case it may exceed five (5) weeks.		
Ecuador	Reduction of working hours by two hours for pregnant mothers: (Art. 155 of the Labor Code: 6 hours of daily working hours) during the twelve (12) months after childbirth, in accordance with the needs of the mother. Likewise, four months after birth, the mother has a lactation period of two hours a day until the child is 1 year old.		

Other Protection Measures

Country	Duration and Distribution	Percentage	Financing
Argentina	<p>Status of voluntary leave of absence option for women. Women workers with a regular contract, who have a child and continue residing in the country may choose from the following situations:</p> <p>A. To continue working with the company, under the same conditions as they have been working.</p> <p>B. To rescind their employment contract, thereby receiving the applicable severance payment or the higher payment resulting from the professional statutes or collective agreements. In this case, the payment will be equivalent to 25% of the worker's salary, calculated according to the average specified in Article 245 for every year of service. The amount may not exceed a minimum living wage per year of service or a fraction of year exceeding 3 months.</p> <p>C. To continue their voluntary leave of absence between 3 and 6 months.</p> <p>A voluntary leave of absence allows a woman to return to the work she performed in the company before giving birth, within the established timeframes. If a woman signs a new contract with another employer during her voluntary leave of absence, she will no longer have the right to return to the position she previously held.</p> <p>Sections b) and c) of this article apply to the mother in the justified instance of caring for an ill minor in her care, with the scope and regulation established in the regulation.</p> <p>Article 184. Readmission.</p> <p>A female employee who has taken a voluntary leave of absence should be reinstated within the specified period.</p> <p>The employer may reinstate her:</p> <p>A. In the same job band she held at the time of the child's birth or illness.</p> <p>B. In a higher or lower job band than the one indicated, of mutual agreement with the female employee.</p> <p>If the woman is not reinstated, she will receive compensation equivalent to severance pay in the case of dismissal without cause, unless the employer can prove that it is impossible to reinstate her, in which case the compensation will be limited to the amount specified in Article 183, section b) of the last paragraph.</p> <p>The period during a voluntary leave of absence will not be included in the person's years of service.</p> <p>Article 185. Seniority requirement.</p> <p>To receive the rights specified in Article 183, sections b) and c) of this law, the female worker must have been employed by the company for at least one year.</p>		

Country	Duration and Distribution	Percentage	Financing
Brazil	<p>Extended parental leave from an employer with tax incentive: Law 11.770:</p> <p>Article 1 establishes the Programa Empresa Cidadã², which seeks to expand:</p> <p>A.- By 60 days the duration of the maternity leave specified in section XVIII of the chapter of Article 7 of the Federal Constitution (Included in Law No. 13.257 of 2016) (Taking effect).</p> <p>B. By 15 days the duration of paternity leave, according to this Law, in addition to the 5 days stated in section 1 of Article 10 of the Law of section 1 the extension mentioned in this article:</p> <p>I - Will be guaranteed to the female employee of the legal entity that adheres to the Programme, as long as the employee requests it up to the end of the first month after giving birth, and it will be granted immediately after the maternity leave mentioned in section XVIII of the chapter of Article 7 of the Federal Constitution;</p> <p>II - Will be guaranteed to the male employee of the legal entity that adheres to the Programme, as long as the employee requests it within two working days after the child's birth and certifies their participation in a programme or orientation activity on responsible paternity.</p> <p>Section 2. The extension will be guaranteed, in the same proportion, to a male or female employee who adopts or obtains legal custody to adopt a child.</p> <p>Article 2. The government (direct, indirect and foundational) is authorized to establish a programme that guarantees extended maternity leave to its female civil servants, as per Article 1 of this law.</p> <p>Article 3. During extended parental leave:</p> <p>I - The female worker will have the right to receive full payment and in the same form as during the period when she received maternity leave paid by the General Regime of Social Security (RGPS) (Included in Law No. 13.257 of 2016) (Taking effect).</p> <p>II - The male worker will have the right to full compensation. (Included by Law No. 13.257 of 2016)</p> <p>Article 4. During the extended parental leave mentioned in this Law, the male and female employee is not permitted to perform any paid activities and must instead care for their child.</p> <p>Single paragraph. Failure to comply with the chapter of this article will result in the male and female employee losing their right to the extension.</p> <p>Article 5. The legal entity taxed on actual gains may deduct from the tax owed, in every period calculated, the total amount paid to the employee during their extended parental leave, without deductions as an operating expense.</p> <p>(ARTICLE: 6. REPEALED).</p> <p>Article 7. To comply with section II of the chapter of Article 5 and Articles 12 and 14 of Supplementary Law No. 101 of May 4, 2000, the executive body will calculate the exempt tax amount based on this Law and include it in the statement referred to in section 6 of Article 165 of the Federal Constitution, which will accompany the budget draft bill submitted 60 days after this law is published.</p> <p>Article 8. This law enters into force on the date it is published, taking effect on the first day of the fiscal year.</p> <p>Subsequently, Article 7 applies.</p>	100%	Employer, with tax credit.



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