



Women Enabled International Comments to the Committee on Economic, Social and Cultural Rights' Draft General Comment on the Right to just and favourable conditions of work (article 7)

I. Introduction

[Women Enabled International](#) (WEI) appreciates the opportunity to provide comments on the draft General Comment on Article 7 to address just and favorable working conditions for caregivers. WEI advocates and educates for the human rights of all women and girls, emphasizing women and girls with disabilities, and works tirelessly to include women and girls with disabilities in international resolutions, policies, and programs addressing women's human rights and development. WEI is pleased to see that the draft General Comment on Article 7 recognizes that the right to just and favorable work conditions includes all forms of work, not just paid work or work in the formal economy.¹

Care work—which for the purposes of this submission includes caring activities performed in the service of others, such as caring for children, persons with disabilities, or dependent adults, both outside the home and within the family—is both a crucial component of a nation's economic well-being and a constant need across all sectors of all societies². Studies have estimated the monetary value of care work at between 10 and 60 percent of GDP.³ Despite this, as the Special Rapporteur on extreme poverty and human rights has acknowledged, “domestic work and caring for people has remained largely invisible in economic calculations, statistics, policy and political discourse, and is commonly undervalued by society and policy makers.”⁴ This consistent devaluing of care work leads to serious violations of the economic and social rights of caregivers, including their right to just and favorable conditions of work, and can also lead to rights violations for those for whom they provide care. This submission provides a brief overview of the impact that care work has on the rights of women—and particularly women and girls with disabilities, both as caregivers and recipients of care work—and includes recommendations for where the language of the draft General Comment could be strengthened to better address the obstacles that care workers face in securing just and favorable work conditions.

II. Violations of the Rights to Just and Favorable Work Conditions for Caregivers

Globally, women and girls bear the primary responsibility for caregiving, committing substantially more hours to unpaid care work than men. The disproportionate burden of care work for women and girls affects their opportunities for education, employment, and advancement across their life cycle.⁵

Article 7(a, c, and d): Remuneration, Equal Opportunity for Promotion, and Rest, Leisure and Reasonable Limitation of Working Hours

The caregiving burden begins early; girls, including girls with disabilities,⁶ are frequently expected to take on the role of carers in their family, limiting their opportunity for educational achievement.⁷ The cumulative impact that caregiving responsibilities have on the economic well-being of women and girls is stark. There is a strong correlation between care

work and poverty; “[d]edication to unpaid care work and resulting scarcity of time have significant financial and opportunity costs that perpetuate poverty among women.”⁸ Households with either a caregiving parent or a child with a disability in particular are at a heightened risk of poverty due to high costs of living and lost income opportunities.⁹

Caregiving obligations—as well as stereotypical assumptions about women’s role as caregivers—can lead to unemployment, underemployment, employment in jobs with low wages and poor benefits, and early retirement.¹⁰ Unpaid care work is a major contributing factor to the gender pay gap.¹¹ As the Special Rapporteur on extreme poverty and human rights has explained:

The gendered division of unpaid work is a major reason why women do not enjoy equal rights at work, including fair and equal wages and safe and healthy working conditions. All too often, unpaid care and lack of institutional support for this work traps women between stereotyped gender roles and economic expediency, pushing them into precarious informal employment that is badly paid and involves long hours in difficult conditions.¹²

Women caregivers who also work outside of the home face a double burden and are less likely to receive necessary rest, essentially working double shifts when their unpaid care work is taken into consideration.¹³ Time out of the formal work sector for caregiving also has long-term financial consequences, as the cumulative impact of care work affects total earning potential and contributions to retirement savings or pensions.¹⁴ Paid care work is often part of the informal economy and generally not subject to minimum wage laws or other protections.¹⁵ As a result, this work is frequently severely underpaid and ineligible for accruing social security benefits.

Where caregivers or care recipients are persons with disabilities, the opportunity costs of care work are often exacerbated. Parents with disabilities are more likely than parents without disabilities to be unemployed,¹⁶ and mothers of children with disabilities alter their employment situation at much higher rates to address their child’s caregiving needs.¹⁷ The economic burden of these opportunity costs are not insignificant given that these families of persons with disabilities frequently face higher costs of living.¹⁸

Article 7(b): Safe and Healthy Working Conditions

Care work can be physically and emotionally demanding, and often carries negative health consequences for caregivers.¹⁹ Unpaid women caregivers experience higher levels of depression and anxiety and may be at higher risk of coronary heart disease.²⁰ According to the World Health Organization, “[t]here is strong evidence that mothers ... of children with intellectual disabilities are at increased risk of poor physical and mental health when compared to parents of typically developing children.”²¹

Despite the physical and emotional impact of providing care, time and resource scarcity can make it difficult for women with heavy caregiving obligations to seek healthcare for themselves.²² Additionally, care workers are more likely to work in benefit-poor positions.²³ Reduced medical benefits in countries without free universal health services can pose a significant barrier to health care services and may exacerbate the risk of poverty.²⁴ Lack of

access to affordable health care is particularly significant for women who are caring for a person with a disability or when they themselves are living with a disability, as medical costs associated with a disability are frequently higher than medical costs for individuals without a disability.²⁵ Thus, even a moderate-income household with a member with a disability may have a standard of living equivalent to that of a household living below the poverty line with no members with disabilities.²⁶

Inadequate support and lack of access to necessary health care for caregivers also has negative consequences for care recipients “who rely on care provision for their health, life and well-being.”²⁷

III. Ensuring the Right to Just and Favourable Work Conditions for Caregivers

The need for care work is a constant requirement for all states, given that, “[h]owever a society is organized, a significant number of persons will be incapable of meeting their own needs as a consequence of age, illness, or disability.”²⁸ As feminist philosopher Eva Kittay has explained, “[w]hen we alter our focus and see dependency as unexceptional, we also have to consider just and caring ways to distribute the cost of dependence, and the burdens of [care] work.”²⁹ States can and must do more to address current inequalities in the distribution of care work in order to respect, protect, and ensure the right to just and favorable conditions for care workers. Specifically, States can:

- **Collect Data:** Without a full understanding of the economic contributions of care work to national economies—as well as costs due to inadequate policies to support caregivers—policy makers will continue to devalue and ignore this important work.³⁰ Additionally, lack of reliable sex-, race-, ability-, and age-disaggregated data around unpaid care is an obstacle to establishing gender-sensitive policies to better protect unpaid care workers.³¹
- **Establish supportive laws and policies:** Policies and laws to allow women with caregiving responsibilities to remain in or re-enter the formal economy are essential to addressing the human rights impact of the disproportionate division of care work. This includes ensuring affordable, accessible, appropriate, and quality childcare and care for dependent adults, paid parental leave, and job security for those who must take temporary leave to meet caregiving obligations.³²
- **Establish adequate social protection systems:** Social protection programs must not create inequalities for individuals who must temporarily or permanently leave the formal work sector for caregiving responsibilities; credits toward social pension schemes for time spent in unpaid care work are one way for states to address this problem.³³ Caregivers must also have a means of accessing affordable health care for themselves and their families when absences from the formal work sector eliminate access to employer-sponsored medical insurance.³⁴ Social protection programs must also ensure an adequate standard of living for persons with disabilities and their caregivers, including access to quality, affordable care and retirement benefits and programs.³⁵ Better support services for persons with disabilities could help lift the burden on caregivers and facilitate their broader participation in the formal economy.³⁶

- **Incentivize private sector support:** The private sector has a crucial role to play in developing and implementing policies that allow women with caregiving responsibilities to remain in, or return to, the formal employment sector, as well as in the redistribution of care work between men and women.³⁷ States should incentivize employers to support employees with caregiving responsibilities, including through flexible schedules, the possibility of telecommuting, and supporting men’s role in caregiving.
- **Strengthen Infrastructure:** Poor infrastructure can lead to heavier burdens on time and resources for unpaid caregivers. For instance, lack of adequate energy, water, or sanitation facilities require women and girls to devote significant time collecting water and fuel for household use,³⁸ with attending health and safety risks.³⁹ Inadequate public transportation options and poorly maintained roads increase time burdens on low-income care workers,⁴⁰ and inaccessible transportation can be a barrier to employment for parents with disabilities who would otherwise be able to work.⁴¹

IV. Recommendations

In light of the profound impact that unpaid and underpaid care obligations have on women’s and girls’ just and favorable working conditions, we hope the Committee will retain, and in some places strengthen, a care perspective in its final General Comment on article 7. Specifically:

- Paragraph 8 provides that “‘remuneration’ is broad in scope, going beyond the more restricted notion of ‘wage’ or ‘salary’ to include additional direct or indirect allowances in cash or in kind that should be of a fair and reasonable amount paid by the employer to the employee, such as ... on-site affordable childcare facilities.” Women’s caring responsibilities extend beyond early childcare, and may include dependents with disabilities or other dependent adults, such as ill or elderly relatives, and women may need to take temporary leave in order to meet these caregiving responsibilities. Ensuring **access to quality and affordable care for all dependents**, including dependent adults, as well as **job protection** for individuals who need temporary leave to care for others, can go a long way toward helping women with caregiving responsibilities to remain in the formal labor market.
- It would be important for the section on safe and healthy working conditions (paragraphs 28-32) to address the **safety and health of unpaid care workers**, who may fall outside the scope of national policies on work-related injuries. Ensuring adequate support programs for care workers—including training and respite care—and adequate infrastructure to reduce time spent on collecting water or fuel or commuting to work can help reduce the physical and emotional strain of care work.
- Paragraph 34 acknowledges that “[t]he materialisation of equality in promotion requires the analysis of direct and indirect obstacles as well as a number of broad measures including training and incentives such as initiatives to reconcile work and family responsibilities, for example, affordable day-care services for children and dependent adults.” These recommendations for quality, affordable care and training

programs are crucial to offset the burden women experience for taking time off for caregiving, and we urge the Committee to ensure that this language is carried through to the final General Comment.

- Paragraph 46 notes that “[i]n addition to paid annual leave, legislation should identify other forms of leave, in particular entitlements to maternity, paternity and parental leaves as well as to paid sick leave.” Given that individuals may have temporary caregiver responsibilities outside of responsibilities as new parents, it would be important to ensure job protection for all care workers to better facilitate return to work once those responsibilities have been met. Accordingly, we would suggest that paragraph 46 be revised to read: “in particular entitlements to maternity, paternity and **caregiver** leaves as well as to paid sick leave.”
- In addressing States parties’ general obligations, paragraph 54 emphasizes the need for States parties to identify indicators and benchmarks to monitor the implementation of the right to just and favorable working conditions and paragraph 55 addresses the need for participation in the formulation of policies and regulations. As noted above, measuring the value and costs of care work is essential to formulating gender-sensitive policies. It would be important to emphasize the need for **data collection on caregiving disaggregated by, *inter alia*, sex, race, ability, and age** and to ensure the **participation of caregivers and caregiver organizations** in policy development and monitoring, to ensure that this crucial issue does not continue to be devalued and ignored.
- Regarding States parties’ obligations to fulfill the right to just and favorable working conditions, paragraph 61 identifies specific steps that States can take to counter the gender-discrimination in the full realization of this right, “including through initiatives to alleviate the burden of reproductive work on women, for example, by promoting access to goods and services, such as day care facilities and non-transferable parental leave for men.” Because women’s caregiving obligations extend beyond their reproductive roles, it would be important to acknowledge the range of caring responsibilities that women take on. Accordingly, we would suggest that this sentence be revised to read: “including through initiatives to relieve the burden of reproductive **and caring** work, such as **affordable care services for children, including children with disabilities, and dependent adults** and non-transferable parental leave for men.”

Thank you for this opportunity to provide comments to the draft General Comment on Article 7. Please do not hesitate to contact us should you have any questions or require additional information on any of the comments addressed herein.

Sincerely,

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Notes

¹ Committee on Economic, Social and Cultural Rights, *Right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights)*, para. 6, U.N. Doc. E/C.12/54/R.2 (Jan. 20, 2015) (“[T]he right applies to all workers, female and male, as well as young and older workers, workers with disabilities, workers in the informal sector, migrant workers, domestic workers, self-employed workers, and unpaid workers....”).

² Eva Kittay, *Love’s Labor Revisited*, 17 *HYPATIA* 237, 241 (2002).

³ Estimates vary depending on the country and methodology used. *See, e.g.*, Magdalena Sepulveda, *Report of the Special Rapporteur on extreme poverty and human rights*, para. 4, U.N. Doc. A/68/293 (2013) (“An UNRISD study of six countries estimated 10 to 39 per cent ..., but measurements in different countries have been higher. Estimates for 2009-2010 in Australia suggest that the amount of unpaid care work undertaken was around 21.4 billion hours, equivalent to 50.6 per cent of GDP.”); ERWIN DE LEON, NATIONAL INDICATORS AND SOCIAL WEALTH 8 (2012) (“[F]or countries with available data, household unpaid work supplements goods and services bought with income from the market and made available through government by between 20 and 60 percent of GDP. Non-market care work, in essence, contributes to the economy by providing goods and services that would either have to be purchased by individuals and families or provided by governments.”).

⁴ Sepulveda, *supra* note 3, para. 4.

⁵ *Id.* para. 26 (“Girls may be withdrawn from school or unable to achieve their full potential owing to care work in the home, restricting their future opportunities; during pregnancy or early childcare women are more likely to face employment loss or labour insecurity; while older women find themselves with lower levels of retirement savings because of their caring responsibilities.”); UNITED NATIONS DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS (UN DESA), *THE WORLD’S WOMEN 2010: TRENDS AND STATISTICS* ix-x (2010).

⁶ Jan Walmsley, *Contradictions in Caring Reciprocity and Interdependence*, 8 *DISABILITY, HANDICAP & SOC’Y* 129, 132 (1993).

⁷ Sepulveda, *supra* note 3, para. 40.

⁸ *Id.* para. 16.

⁹ UNITED NATIONS CHILDREN’S FUND (UNICEF), *THE STATE OF THE WORLD’S CHILDREN 2013: CHILDREN WITH DISABILITIES* 14 (2013); NATIONAL COUNCIL ON DISABILITY, *ROCKING THE CRADLE: ENSURING THE RIGHTS OF PARENTS WITH DISABILITIES AND THEIR CHILDREN* 220 (2012).

¹⁰ Sepulveda, *supra* note 3, paras. 29-30, 35; Family Caregiver Alliance, *Women and Caregiving: Facts and Figures* (2015), <https://www.caregiver.org/women-and-caregiving-facts-and-figures>.

¹¹ DE LEON, *supra* note 3, at 11 (“The glaring disparity in economic security between women and men is in part attributable to gender wage discrimination. But a major factor is that most of these women are or were either part- or full-time caregivers, and their poverty is the result of the failure to give visibility and adequate value to this essential work.”).

¹² Sepulveda, *supra* note 3, para. 35.

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- ¹³ UN DESA, *supra* note 5, at ix-x.
- ¹⁴ Family Caregiver Alliance, “Women and Caregiving: Facts and Figures” (2015), available at <https://www.caregiver.org/women-and-caregiving-facts-and-figures>.
- ¹⁵ See, e.g., Meghan Rhoad, Dispatches: Finally, Fairness for U.S. Home Care Workers (Sept. 12, 2013), <http://www.hrw.org/news/2013/09/17/dispatches-finally-fairness-us-home-care-workers> (noting that the United States only recently enacted legislation to extend federal wage and hour protections to home care workers).
- ¹⁶ NATIONAL COUNCIL ON DISABILITY, *supra* note 9, at 249-250.
- ¹⁷ See, e.g., HUMAN RESOURCES AND SKILLS DEVELOPMENT CANADA, DISABILITY IN CANADA: A 2006 PROFILE 14 (2011).
- ¹⁸ UNICEF, *supra* note 9, at 14; NATIONAL COUNCIL ON DISABILITY, *supra* note 9, at 220.
- ¹⁹ WORLD HEALTH ORGANIZATION (WHO), KEY POLICY ISSUES IN LONG TERM CARE 5 (2003); Sepulveda, *supra* note 3, para. 44; Family Caregiver Alliance, Caregiver Health (2006), <https://caregiver.org/caregiver-health>.
- ²⁰ Family Caregiver Alliance, *supra* note 10.
- ²¹ WHO, BETTER HEALTH, BETTER LIVES: RESEARCH PRIORITIES 8 (2012).
- ²² Sepulveda, *supra* note 3, para. 44.
- ²³ Family Caregiver Alliance, *supra* note 10.
- ²⁴ Sepulveda, *supra* note 3, para. 44.
- ²⁵ UNICEF, *supra* note 9, at 14; NATIONAL COUNCIL ON DISABILITY, *supra* note 9, at 220.
- ²⁶ UNICEF, *supra* note 9, at 14.
- ²⁷ Sepulveda, *supra* note 3, para. 11.
- ²⁸ Kittay, *supra* note 2, at 241.
- ²⁹ *Id.* at 248.
- ³⁰ DE LEON, *supra* note 3, at 9.
- ³¹ Sepulveda, *supra* note 3, para. 79.
- ³² Committee on the Elimination of Discrimination against Women, *Concluding Observations: Ireland*, in *Report of the Committee on the Elimination of Discrimination against Women*, para 374, U.N. Doc. A/60/38 (2005) (acknowledging the passage of Ireland’s Carers Leave Act of 2001, a policy that allows for temporary unpaid leave for the full-time care of someone who requires full-time care for a period between 13 weeks and 2 years with job protection, among the positive legislative developments in Ireland’s annual review).
- ³³ Sepulveda, *supra* note 3, para. 87.
- ³⁴ Family Caregiver Alliance, *supra* note 10.
- ³⁵ *International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities*, art. 28, G.A. Res. 61/106, Annex I, U.N. GAOR, 61st Sess., Supp. No. 49, at 65, U.N. Doc. A/61/49 (2006), entered into force May 3, 2008.
- ³⁶ UNICEF, *supra* note 9, at 15-16. See also, Committee on the Rights of the Child, *Concluding Observations: Australia*, para. 58(b), U.N. Doc. CRC/C/AUS/CO/4 (2012) (recommending that the State “strengthen support measures for parents to care for their children with disabilities”).
- ³⁷ Sepulveda, *supra* note 3, para. 94.
- ³⁸ *Id.* para. 15.
- ³⁹ *Id.* para. 44.

⁴⁰ MAGDALENA SEPULVEDA, UNPAID CARE WORK, POVERTY AND WOMEN'S HUMAN RIGHTS: CHALLENGES AND OPPORTUNITIES FOR THE POST-2015 AGENDA 6 (2013).

⁴¹ NATIONAL COUNCIL ON DISABILITY, *supra* note 9, at 247 (2012).