



Inter-American Model Law **ON CARE**



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The **Inter-American Commission of Women (CIM)** is the main hemispheric policy forum for the promotion of women's rights and gender equality. Created in 1928 - in recognition of the importance of women's social inclusion to democratic strengthening and human development in the Americas - CIM was the first inter-governmental organization established to promote women's human rights and gender equality.

Inter-American Model Law on Care

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Preface

Alejandra Mora Mora

Executive Secretary

Inter-American Commission of Women (CIM)

Since the beginning of the COVID-19 pandemic in March 2020, the Inter-American Commission of Women (CIM/OAS) and the European Union (EU), through the Gender Equality area of the EUROsociAL+ program, have sought to bolster state-wide public policies on women's economic rights and autonomy. These advocacy efforts to position new gender covenants were based on analyzing the legal and regulatory framework on the economic rights of women to, on the one hand, draw up and support the implementation of practical recommendations, and on the other, identify standards for creating regulatory and legal tools that fully support women's economic rights as well as their empowerment and autonomy, with the power to transform the lives of women in the region.

We have made progress in defining the concept of care as a right and as a key element of value chains and social protection systems, care as a shared responsibility between strategic actors such as the State, businesses, civil society, and the community with the involvement of men, as an essential part of recovery and growth policies.

To make progress on the structural nodes identified, the CIM began an analysis of the legal and regulatory framework around the economic rights of women by identifying gaps in the regulatory frameworks of Latin American countries in the economic sectors in which they play an important role, as well as overall for the issue of care. This analysis included a series of dialogues with experts in each sector and with National Machineries for the Advancement of Women, with whom the topic of care was specifically addressed.

Based on the analysis, care was identified as a structural barrier that limits women's access to paid employment, and COVID-19 triggered a global care emergency that has disproportionately affected women, taking them out of the labor market. These premises were used to help prepare the **Inter-American Model Law on Care** as an important step towards eliminating structural barriers by strengthening State regulatory frameworks.

The Inter-American Model Law on Care covers key aspects of international instruments and is based on existing standards for rights, non-discrimination, and equality between women and men. It seeks to recognize, redistribute, regulate, promote, and create new ways of addressing unpaid domestic and care work, as well as to raise awareness of and recognize the historical contributions of women in this area.

This Model Law provides States with a specific tool to bolster economic autonomy and strengthen the contributions and talent of women in the labor force and towards sustainable economic growth.

These efforts fall within the mandates of the CIM Assembly of Delegates, which has stated the importance of drawing attention to the economic and social value of unpaid domestic work, specifically caregiving, and promoting laws and public policies that prioritize social co-responsibility for caregiving to create the necessary conditions for women to join and remain in the job market under the same conditions, and to fully enjoy their rights. To make this a reality, the Executive Committee instructed the CIM Executive Secretariat to work towards fortifying the inter-American legal framework on women's economic rights, identify the existing gaps, and create tools and strategies to improve in this area, and it also approved the development of the standards and content of this Model Law.

As part of the CIM's duties, we will continue to support States through their National Machineries and other key players through instruments that allow us to become a more equal region where women can reach their full potential and autonomy.

Explanatory Statement

I

This Model Law is a regional tool that seeks to address the care crisis and establish the basis for a new covenant in the social organization of care; to redefine its role in society; to respect, promote and protect the economic rights of women; to redefine unremunerated care as work; and to protect, ensure and guarantee the rights of dependents 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 Model Law on Care 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 care jobs that streamline the economy and boost economic growth.

As the CIM highlighted in *COVID-19 in Women's Lives: A Global Caregiving Emergency*, the medical, social and economic quarantine associated with the pandemic brought together work, education, primary healthcare, caregiving and recreation in a single space: the home. And in this space, women have primarily been the ones to take on caregiving duties, worsening the gap in the use of time and increasing their level of unremunerated work, thereby exacerbating the structural inequity and gender inequality between men and women.

The caregiving crisis is even worse if we take into consideration the phenomenon of an aging population with a longer life expectancy since this will increase caregiving needs for older persons and people with disabilities or chronic illness, resulting in higher costs for medical care and pension systems. In parallel, even though fertility is expected to drop by 2030, care will continue to be stratified according to socioeconomic level, race and ethnicity. This will increase the population's demand for care, without the existence of adequate public services that address the needs of low-income households.

Investing in quality caregiving work offers multiple short and long-term benefits for the future of decent employment. It will create a significant number of new jobs for men and women, thereby reducing occupational gender segregation in caregiving sectors, and women will have more time for paid work.

The purpose of the Model Law is to serve as a legal basis and provide States with the legal framework needed to ensure the right to care, paving the way for a transformative

economic recovery towards sustainable development and well-being for everyone. According to the obligations established in the Convention on the Elimination of all Forms of Discrimination against Women, considering the international, inter-American and national legal framework for women's economic rights, the CIM "Declaration of Lima on Equality and Autonomy in the Exercise of Women's Economic Rights" (CIM/Dec. 15 (XXXVII-O/16)) and its corresponding mandates, the CIM adopts the Inter-American Model Law on Care, through which it redefines, recognizes, redistributes and remunerates caregiving work, and also recognizes and guarantees the universal human right to care.

II

Unremunerated women caregivers cover most of the caregiving needs throughout the world. Estimates based on survey data on the use of time in 64 countries that comprise two-thirds of the world's working-age population show that 16.4 billion hours are spent each day on unremunerated caregiving. This is equivalent to two billion people working eight hours a day for free. If the value of these services was calculated using a minimum wage salary, they would represent 9% of the global gross domestic product or USD 11 billion.¹

Depending on the country, women perform between 71% and 86% of all unpaid domestic work.² In all the countries in the region with information available, women in low-income households take on even more unremunerated work. There is strong resistance to change among men on an individual level and in society overall due to a lack of policies and programs that help redistribute domestic and caregiving work, the use of time and, in summary, a transformative debate on the gender distribution of work.

Classic analyses of the economy focus on the production, consumption and distribution of goods, without considering work and the various activities that take place beyond the market and that, paradoxically, sustain the paid workforce. The lack of visibility of unremunerated caregiving tasks entails a negation of the essential human condition: our vulnerability and interdependence. Caregiving is inherent to life. Everyone requires care at some point in their life, and this need intensifies during childhood and old age.

In addition 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. However, since this work takes place in the home, is not recognized and remains hidden, it is not included in the value of the workforce.

1 *Care Work and Care Jobs for the Future of Decent Work*, Geneva, International Labor Office, 2019.

2 Data from the Inter-American Development Bank, 2020.

Caregiving 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 with equal pay and access to social security.

The pandemic has also hurt the employment and working conditions of women in Latin America and the Caribbean, setting back by more than a decade the advances that had been achieved in terms of labor force participation. Between 2019 and 2020, women's labor force participation rate fell by six percentage points (from 52% to 46%), whereas the same figures for men decreased from 73.6% to 69%. A significant number of women left the labor force in 2020 and were unable to return to the job market due to their household obligations.³

In the absence of public policy interventions, inequalities will deepen due to how care is organized socially. There are several risks: 1) a significant reduction in women's labor force participation, both in terms of quantity as well as quality; 2) the resulting loss of talent for businesses, productive chains and the economy; 3) increased inequality and poverty affecting women and their dependents; and 4) a drop in the quality of care received by dependents.

III

International law has established that States must guarantee women's human rights under the same conditions and free from all types of discrimination. These principles have been captured in a variety of instruments such as the Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW); and the ILO Conventions No. 100, 111, 156, 183, 189 and 190.

These obligations have been included in the instruments of the inter-American system, such as the American Declaration of the Rights and Duties of Man; the American Convention on Human Rights; the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women; and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights. These instruments reflect the importance given by OAS member states to these obligations.

Discrimination against women is expressly defined in international law. Article 1 of CEDAW defines discrimination against women as "any distinction, exclusion or restriction

³ Economic Commission for Latin America and the Caribbean (ECLAC), Special COVID-19 Report: The Economic Autonomy of Women in a Sustainable Recovery with Equality, 2021

made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” The prohibition of gender-based discrimination is a fundamental part of the duty to protect and exercise women’s economic rights.

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. ILO Convention No. 156 specifically focuses on women workers with family responsibilities and establishes the duty of countries to develop or promote public or private community caregiving services,; and to take account of their needs when planning and improving caregiving as part of social protection for women workers.

The international and regional instruments on the rights of children (the Convention on the Rights of the Child), older persons (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 dependents, thereby protecting and promoting their rights and autonomy.

This list of legal standards includes a ground-breaking and growing number of regional policy commitments for the right to care, which has become a field of public policy in itself. Public policy on caregiving requires the implementation of specific measures regarding the social and economic contributions of unremunerated work and the need for the women who perform that work to have social security (Lima Consensus, 2000); recognizing the work of caregiving services, establishing work-life balance for men and women (Mexico City Consensus, 2004); the role of caregiving and domestic work in economic reproduction, the importance of redefining how work is divided among genders, and caregiving as a public affair that affects states, businesses and families (Quito Consensus, 2007); adopting policies to improve how caregiving is valued financially in national accounts as well as in universal caregiving and social protection policies for women domestic workers and caregivers (Brasilia Consensus, 2010); and classifying caregiving as a public good and a right that entails the redistribution of caregiving tasks between the state, the market, society, and men and women (Santo Domingo Consensus, 2013).

During the 36th CIM Assembly of Delegates (2012), attendees agreed to promote policies and measures to foster co-responsibility for family and work-life between women and men to achieve equity and equality for both in the public and private spheres and the labor force; to foster improvement in the quality and coverage of care infrastructure; to promote the recognition of the economic value of unremunerated work and its contribution to family welfare and the economic development of countries; to promote social protection for women who work in the informal sector, perform unpaid domestic work and provide care services; and to promote policies and other measures to improve working conditions for paid employees in the care sector who work with families and in institutions.

At the subsequent 37th CIM Assembly of Delegates (2016), attendees recognized that despite the progress made, there continue to be major inequalities between men and women in terms of exercising their economic rights. They agreed to draw attention to the economic and social value of unpaid domestic work, specifically caregiving, as a fundamental tool for designing and implementing public policies for co-responsibility and care, taking into consideration the ethnic, economic and social differences, and promoting laws and public policies that prioritize social co-responsibility for caregiving to create the necessary conditions for women to join and remain in the job market under the same conditions, and to fully enjoy their rights.

Finally, the 2030 Sustainable Development Goals seem to specifically focus on the recognition and value of unpaid care and domestic work through the provision of public services, infrastructure and social protection policies (target 5.4 of the Sustainable Development Goals).

IV

Unlike other regions in the Southern Hemisphere, Latin America has relatively far-reaching legislation with legal content. Certain countries, like Ecuador, Bolivia and Venezuela, have recognized in their constitutions that unpaid domestic and caregiving activity is work. Mexico recently approved a constitutional reform that establishes the right to care and orders the State to establish a National Care System that includes the implementation of public services that are accessible, pertinent, sufficient and guarantee the security and protection of other rights, in addition to an equitable redistribution of caregiving duties between men and women, and a work-life balance.

In the regional analysis performed by the CIM with the National Machineries, several types of advances were identified to address the structural challenges posed by the global care emergency resulting from the COVID-19 pandemic.

Data has been collected on the use of time through surveys with specific instruments that quantify the total work performed by women and men for the sake of defining comprehensive care and employment policies. In 2021, out of the 23 Latin American and Caribbean countries from which this type of information had been obtained, 10 had calculated the economic contribution of unpaid caregiving and domestic work to the national gross domestic product (GDP). The average contribution percentage represents 20% of the GDP and 70% of that amount originates from women. Five countries have established satellite accounts to carry out these estimates.

The promotion of caregiving systems for children, older persons and people with medical conditions or disabilities, aimed at reducing the gaps between men and women in terms of their use of time and labor force participation, has been gaining traction in the region's agenda. During the analysis performed by the CIM in 2021, several countries appeared to have actions aimed at designing, developing or strengthening a comprehensive system for care.

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

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 around the issue of care, particularly the laws against pregnancy discrimination, maternity legislation and the maternity leave rights adopted by all the countries. There have also been regulations on extended paid paternity leave in certain countries, along with the stipulation of shared parental leave.

Regarding maternity leave, 15 CIM member states have at least 14 weeks of maternity leave, 11 of which are Latin American countries. Although some of the countries in the region increased the number of days for paid maternity leave, 6 countries have kept the maximum at 84 days. The regional average for paid maternity leave is 106 days. Given that informal employment is commonplace, legally established paid leave covers less than half of women workers; an aspect that is frequently omitted from analyses focused exclusively on regulations.

Beyond employment legislation, several countries have created early childhood education and care policies, made progress in building the infrastructure for care (although still to a limited degree), implemented social protection policies, and enacted caregiving policies for older persons or people with disabilities.

To implement these policies, inter-ministry boards or councils have been created with the involvement of public institutions, service providers and entities responsible for safeguarding specific population segments. Some of these spaces have included organized civil society representatives to improve the coordination and organization of care-related measures.

However, it is worth noting that the absence of care policies in the Beijing+20 reports shows that they have not been created within the framework of gender equality, and this could mean that for the time being, their design does not take into consideration women's needs. Progress in the implementation of care policies was only mentioned in the reports for Chile, Cuba, Costa Rica and Uruguay, all of which included these policies in their top challenges.

The CIM has pointed out that countries in the region have addressed the matter of co-responsibility for family care, carrying out communication and awareness campaigns and training for parents, particularly during the COVID-19 pandemic.

Despite these advances, the CIM notes that there are persistent challenges throughout the region in terms of guaranteeing the financial sustainability of the measures and ensuring their continuity; obtaining and sharing evidence as to the importance of care, and leveraging information for decision making; altering social perceptions regarding care; and in summary, implementing regulations and policies that establish the right to care and the State's obligation of progressive universality within the framework of the social welfare state. Based on this logic, it is essential to recognize that people who receive care have rights, and so do the caregivers in question. The focus of rights entails the cultural transformation of redefining unpaid caregiving as work.

For this reason, the Model Law seeks to include caregiving as part of recovery policies and position it within the main flow of short, mid-, and long-term solutions as an investment for the development of countries, to obtain the economic return associated with these policy interventions.

V

Globally, it has been estimated that by taking immediate steps towards gender equality at work and in the job market, US\$ 13 billion would be added to the global GDP by 2030. Conversely, omitting measures to counteract the negative impact of the pandemic on women's participation in the economy, and specific actions to promote gender equality at work and in the job market would mean that global GDP growth for that year could be US\$ 1 billion lower. BID Invest also states that *“gender equality in the workplace has the potential to create sustainable and inclusive growth, and the region also has a tremendous potential to benefit from that growth.”*

These figures show that with active and equal participation of women in economic life and formal employment, the region wins with the creation of greater wealth.

With a contracted economy and multiple needs faced by States in the region, the challenge is to position caregiving as an economic and fiscal investment that allows women to participate in the labor force, contribute to productive life and support economic growth. In this scenario, it is beneficial to consider the economic return of investing in care: collecting more tax revenue; creating new jobs in the paid caregiving sector or formalizing existing jobs and services that contribute to economic growth; potentially shifting from direct transfers to services, with the corresponding long-term economic return; reaping the future benefits of having a more qualified and better-paid labor force that is less dependent on social protection and security systems by having access to better quality caregiving services.

Positioning care as a social investment supports present and future economic growth and also promotes a more equal, inclusive and prosperous society.

VI

The Model Law on Care is based on the foundational premise of the redefinition of caregiving, which lays the groundwork for a new interpretation of social and economic organization by focusing on the processes that sustain life. It positions caregiving at the base of the social structure and of economic processes, considering caregiving's central role in our biological and social nature, highlighting its structural nature in how our societies are built.

There are three basic premises in the new definition of care: First, caregiving reveals our vulnerability in the sense that it forms part of human life. Care allows us to grow, socialize, learn a language and values, shape an identity and build basic self-esteem.

This personal development takes place through goods, services, and biophysical and emotional care, which were historically produced primarily by women in the home.

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. There is no such thing as an “automatically-generated worker,” or a person who spontaneously appears on the market, ready and willing to work and/or consume, and who does not have interdependencies with others or with the environment. Self-sufficiency can only be achieved by hiding everything a person depends on along with the work of those who focus on resolving those dependencies. The fallacy of self-sufficiency negates the importance of caregiving as work, as a dimension of life and as a socially essential task.

This leads us to the third premise: caregiving sustains the economic system. In addition 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.

The Model Law begins by establishing these ideas in its first chapter as the basis for redefining caregiving and building the system as a whole, restoring a balance broken by economic concepts that conceal and negate the value of caregivers.

Therefore, Article 1 defines caregiving as a social function that sustains the life of society as a whole and of the natural habitat in which it operates, based on the interdependence and essential vulnerability of human life. This article 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. Article 4 defines the activity, specifying that caregiving covers a wide array of everyday activities for managing and sustaining life, that take place inside and outside the home, and they allow the physical, biological and emotional well-being of people, particularly those who lack the autonomy to perform these activities on their own. This article sets out the four dimensions that comprise caregiving: self-care, providing direct care for others, establishing the pre-conditions for care, and managing care.

Starting with these fundamental premises, the Model Law covers the five structural nodes identified by the CIM, which are also opportunities for social transformation and change: the right of people to be cared for, support for families through social protection

systems, men participating in care, the value chains that connect the productive sector, and caregiving as an essential element.

Chapter I establishes the principles and general guidelines on which the Model Law is based, and they address these structural nodes. In this sense, the Model Law seeks to regulate, redistribute, provide and promote care; recognize unpaid caregiving as work; and recognize and provide a universal guarantee that everyone can exercise 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 the social co-responsibility between women and men, families, the community, the private sector, organized civil society and the State.

The purpose of the Model Law is also defined by the need to restore the balance between men and women by recognizing women's historical contributions to unpaid caregiving, and the resulting impact on their opportunities for development and full access to rights, ordering the state to promote gender equality, women's participation in the labor force, their access to decent jobs and their economic empowerment, thereby establishing a connection between their fully guaranteed rights, sustainable economic development and social welfare.

In this order of ideas, Article 3 describes the natural consequence of social interdependence and the central role of care in sustaining life by establishing the principle of social co-responsibility for caregiving, which defines the shared responsibility of every actor in society to create the conditions so everyone may freely join adequate caregiving networks that sustain life and allow them to reach their full spiritual and material potential.

Article 5 recognizes the universal right to care and defines it as the right of everyone, in line with their dependence status, to receive quality care that guarantees their full development throughout their life cycle, and to provide care under the same conditions and with dignity, co-responsibility and self-care. In this sense, Article 6 specifically positions the State as the guarantor for the protection and exercise of this right. Therefore, the redistribution, reduction, regulation and provision of caregiving is set out as an integral part of the welfare state and the social protection system. It is viewed as an essential service, so the State must work towards eradicating reproductive discrimination that results in women assuming a disproportionate amount of caregiving. The state's guarantor role is based on and works in conjunction with introducing statewide coordination orders in Article 11 and effectiveness orders in Article 12.

Delving further, by recognizing the caregiving economy (Article 8), State spending on caregiving is redefined as a social investment instead of an expense. This investment

contributes to the productive, occupational and social lives of current and future generations, as well as to the country's well-being, growth and economic productivity (Article 9).

The subsequent chapters of the Model Law specify the fundamental principles of Chapter I and address the structural nodes identified by the CIM in a transformative agenda that can be summarized with the five Rs: recognition, reduction, redistribution, remuneration and representation, based on the universality of the rights entailed in the caregiving system.

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.

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 is 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.

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. 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.

The Model Law shapes and promotes a new paradigm: a society that provides care, that views caregiving 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. Promoting the transformation towards a society that provides care places us in a new ethical framework and allows us to do so in a culturally sustainable manner.

VII

We are moving towards a cultural transformation that recognizes the value of caregiving, the historical contributions of women in sustaining life and the economy, and the impact on the day-to-day lives of women. We are shifting towards a society in which the social organization of caregiving is done through co-responsibility and its equal distribution represents progress on gender equality by revolutionizing practices, customs and paradigms around caregiving, thereby reaching substantial equality and autonomy for women in every sphere.

Chapter I

Principles and General Provisions

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

Article 2. Purpose of the law. The Model Law seeks to regulate, redistribute, provide and promote care as a fundamental public good and to recognize unpaid caregiving as work.

This law recognizes and guarantees 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 between women and men, families, the community, the private sector, organized civil society and the State.

Additionally, and recognizing the fundamental historical contributions of women to unpaid caregiving, this law recognizes these efforts as work to correct the economic and social inequalities that have divided this work according to gender, that hinder or impact the development opportunities for women and their guaranteed rights in the country's social and economic life.

In compliance with this law, the State must promote gender equality, women's participation in the labor force, their access to decent jobs and their economic empowerment, thereby guaranteeing their full rights, sustainable economic development and social welfare.

Article 3. Co-responsibility and social organization of care. Social co-responsibility for caregiving is the shared responsibility of every actor in society to create the conditions so everyone may freely join adequate caregiving networks that sustain life and allow them to reach their full spiritual and material potential.

Social co-responsibility for caregiving requires the State, local governments, the private sector, the community, the men and women who comprise households and the multiple generations to provide and contribute equally and mutually to caregiving to protect families and people, foster their development, and promote people's autonomy, particularly that of women.

Article 4. Care. Caregiving is viewed as a wide array of everyday activities for managing and sustaining life that take place inside and outside the home, and that allow the

physical, biological and emotional well-being of people, particularly those who lack the autonomy to perform these activities on their own.

Caregiving includes self-care, providing direct care for others, establishing the pre-conditions for care, and managing care.

Article 5. The right to care. Everyone, in line with their dependence status, has the right to receive quality care that guarantees their full development throughout their life cycle, and to provide care under the same conditions and with dignity, co-responsibility and self-care.

Article 6. The State's role as guarantor. The redistribution, reduction, regulation and provision of caregiving are set out as an integral part of the welfare state and the social protection system, and it is viewed as an essential service.

As a promoter of collective well-being and guarantor of human rights, through this law, the State must work towards eradicating reproductive discrimination that results in women assuming a disproportionate amount of caregiving, as well as the structural gender inequalities that perpetuate the cycle of poverty, marginalization and inequality.

Article 7. Work-life balance and caregiving needs. The State must promote an employment system that works in harmony with the need for human care, and that facilitates services, infrastructures and adequate work systems so workers with family responsibilities can perform their professional duties. The State must also support co-responsibility and reciprocity between men and women for caregiving and family obligations.

Article 8. Caregiving economy and affirmative action. Unpaid caregiving is the set of exchanges, services and transfer of free goods between the people—primarily women—who sustain life and make it possible for the economy and markets to operate.

The State must design affirmative compensation actions through public policies and social security programs.

Article 9. Social investment, progressiveness and gradualness. The economic investment in caregiving services is a social investment made by the State and it contributes to the productive, occupational and social lives of current and future generations, as well as to the country's well-being, growth and economic productivity.

The State must implement measures through all the appropriate means and use all of its available resources to progressively implement the rights recognized by this law. It must also create public-private alliances to expand care and make it sustainable.

Article 10. Funding. Public policies for caregiving must be funded through intergenerational solidarity, combined risk and collective financing.

The State must allocate public resources to finance social investments for caregiving.

Article 11. State coordination. Public policies for caregiving will be addressed through the intersectoral coordination and organization of State bodies, particularly those with areas of competence over childhood matters, health, work, gender, the economy, public works and transportation, and that address policy in a comprehensive manner through alliances and the joint implementation of productive, occupational and social measures.

Article 12. Effectiveness. Public policies for caregiving must address the suitability and effectiveness of the measures, modifying their design and implementation to achieve specific, measurable and evaluable results in the redistribution, reduction and regulation of caregiving and in reducing the substantial gender equality gaps.

Article 13. Participation. The State must provide mechanisms so citizens may participate in the design, execution and evaluation of public policies for caregiving.

Article 14. Interpretive principles. The human rights principles established in international instruments will help guide the interpretation and application of this law, with a special emphasis on the principle of equality and non-discrimination between men and women; and the support of intersectionality, interculturalism, territoriality and universality in caregiving, which should be addressed in the design and implementation of public policies.

Chapter II

Recognition and Value of Care

Article 15. The value of the care economy. The State recognizes the economic value of the care economy as a source of well-being and wealth, which should be quantified in national accounts to measure the contribution to the country's economic and social development to define and implement public policies.

Article 16. Time-use survey and satellite account. The National Statistics Institute and the Central Bank, with advice from the National Machineryes for Women, as per their duties, will safeguard and guarantee that results from the time-use survey are included in the satellite account for unpaid caregiving and domestic work, and in the calculation

of the gross domestic product (GDP). The State must include in the time-use surveys the amount of time spent by children being cared for by other people.

Once the initial time-use survey is applied, it must be repeated periodically according to the frequency defined by the National Statistics Institute as the responsible authority. In any case, the period between measurements must be less than three years.

Article 17. Activity classification. Unpaid caregiving and domestic work include the following activities:

1. Organizing, distributing and supervising domestic tasks.
2. Preparing meals.
3. Cleaning and doing maintenance for homes and belongings.
4. Laundry.
5. Looking after, raising and teaching children (school pick-ups and drop-offs, assistance with homework).
6. Looking after older persons, people with medical conditions or dependents.
7. Shopping, making payments and handling household paperwork.
8. Doing home repairs.
9. Providing community service and unpaid assistance for other households.

Article 18. Funding the time-use survey. The State will cover the funding for the time-use survey.

Chapter III

The Right to Care

Article 19. Recipients. Recipients of the right to care:

1. Dependents, which are defined as individuals who require specific assistance to carry out their activities and basic needs for everyday life. Therefore, dependents include:
 - a) Children and adolescents.
 - b) People with disabilities who lack sufficient autonomy to carry out activities and handle their basic needs for everyday life.
 - c) People over the age of 60 who lack sufficient autonomy to carry out activities and handle their basic needs for everyday life.
 - d) Dependents with serious or chronic medical ailments, certified as such by the corresponding authority.
2. Caregivers.

SECTION I

The Right to Receive Care

Article 20. The right to receive care. All dependents have the right 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.

Specifically, dependents have the right 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.

The State will progressively provide protection and guaranteed rights to dependents as needed, striving to develop their highest degree of personal autonomy.

Article 21. Obligations of National Care System users. Dependents and their representatives (when applicable) will be specifically required to:

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.

SECTION II

Unpaid Caregiving

Article 22. Unpaid caregiving. By recognizing unpaid caregiving of dependents as work, the State dignifies and ensures that this work is done free from gender-based and other types of discrimination, respecting and promoting human rights, autonomy and well-being of caregivers, in compliance with the social co-responsibility and interdependence of care.

Article 23. Rights of unpaid caregivers. Unpaid caregivers have the right to provide care under the same conditions and with dignity and co-responsibility.

Particularly, they will have the right to:

1. Universal access to the services, benefits and programs of the National Care System for the dependents under their care, access to employment opportunities and decent work under the same conditions and free from discrimination, and access to free time and rest, to reasonable limits on caregiving hours, and to personal development.
2. Become progressive recipients of the social security system, thereby compensating the unpaid caregiving work performed throughout their life and guaranteeing access to decent and sufficient retirement pensions.
3. Receive protection from violence and harassment linked to or resulting from their caregiving work.
4. 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.

SECTION III

Paid Caregiving

Article 24. Paid caregivers. Paid caregivers will have the same rights, under the same conditions and free from discrimination, as those established for all works by general labor legislation.

Chapter IV

Redistribution of Care and Co-Responsibility

Article 25. Social co-responsibility for caregiving. Social co-responsibility for caregiving requires that caregiving tasks be equally distributed between State institutions, municipalities, the private sector, communities, families, and men and women.

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.

Article 26. Family co-responsibility for caregiving. 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.

Article 27. Maternity leave. Workers will have the right to 6 weeks of maternity leave with full pay before giving birth and 18 weeks after giving birth.

Maternity leave will be extended to fathers who care for the minor in the event of the mother's death, abandonment or illness. The father's employer will 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.

Article 28. Paternity leave. Workers will also have the right to paternity leave with full pay for the duration of 15 to 45 days after childbirth. To qualify for paternity leave, workers must submit to their employer the birth certificate issued by the corresponding health authority and with the address shared with the child.

Article 29. Shared parental leave. The mother may choose to share her maternity leave with the father for the number of weeks she specifies according to her recovery needs. In any case, the weeks used by the father must be added to the end of his paternity leave.

Article 30. Adoption. Adopters will have the same right to leave as biological parents.

Article 31. Duty to regulate caregiving leave. The State is required 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 when needed or in the case of serious or acute illness or accident or the risk of death, as well as in the case of chronic treatments or illness, regardless of the severity, if the worker does not have a substitute caregiver.

The State must also establish and regulate caregiving leave so workers with family responsibilities may take a temporary leave of absence to tend to their caregiving needs.

Article 32. Work-life balance. Employers must have internal work-life balance measures that allow workers with family responsibilities to tend to their caregiving needs.

Article 33. Job flexibility and support measures. The job flexibility measures available to workers may be requested for caregiving needs. Job flexibility measures include:

- a) Shorter hours.
- b) Remote work measures or extended remote work.
- c) Flexible hours at the start and the end of the workday.
- d) Priority given to results-oriented work.
- e) Internal or external caregiving network support.
- f) Temporary leaves of absence without salary reductions.

Whenever possible, businesses should implement awareness programs on parental rights along with additional support measures, such as paid maternity leave, extended paid paternity leave and/or professional guidance for workers returning from parental leave.

Article 34. Promoting co-responsibility. Employers should promote family co-responsibility throughout the organization, encouraging men to use co-responsibility and job flexibility measures.

Article 35. Fines. Failure to comply with the employer obligations listed in the above articles will be subject to audits and fines from the corresponding local authorities.

Chapter V

National Care System

Article 36. National Care System. The National Care System is 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.

The National Care System should 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.

Article 37. Goals of the National Care System. The National Care System has the following objectives:

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.

SECTION II

Governance of the National Care System

Article 38. Governance. The National Care System will be comprised by:

1. A high-level inter-ministry council (Inter-ministry Care Council) that will include, at the very least, the most senior authorities responsible for social development, work, social security, women, the economy, finance, public works, transportation, health, education, childhood and adolescence, older persons and people with disabilities. It will be responsible for defining general policies, strategic guidelines and priorities, and it will report to the National Care System.
2. An executive entity (National Care Secretariat) responsible for promoting, implementing and monitoring public policy on caregiving, under the guidance of the Inter-ministry Council, providing advice in its areas of specialization. It will be responsible for bringing together all the system's public and private actors along with the caregiving activities carried out in the country, and it will be responsible for ensuring that all the rights established by this law are protected.
3. An honorary public/private advisory body (Advisory/Consultative Commission) that acts as a consultant to the National Care Secretariat on the best practices for fulfilling the objectives, policies and strategies of the National Care System.

Article 39. Budget guidelines. The National Care System will identify the budget needs for caregiving requirements and send them to each of the public entities involved to ne-

gotiate budgets and allocate the corresponding amounts in the national budget.

Article 40. Care System users. All National Care System recipients 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.

SECTION III

Care Services

Article 41. Methods. Caregiving services may be provided in one of the following methods:

- a) Public: Funded and managed by the State, local governments and municipalities, or their institutions.
- b) Private: Created, funded and managed solely by individuals.
- c) Community: Created, funded and managed solely by community organizations.
- d) Mixed: Funded, implemented and managed by the state, local governments and municipalities in conjunction with private, community or civil society institutions.

Article 42. Caregiving services. The State recognizes and guarantees that dependents and caregivers have access to a variety of home care, nursing home and other types of support services, including personal assistance, ensuring that State, private and community services and facilities address their needs.

SECTION IV

Operation of the National Care System

Article 43. National availability. 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.

Article 44. Quality standards. The National Care System will establish the quality standards for providing the services and launch caregiver certification mechanisms within the framework of the institutions that provide training.

Article 45. Audits and supervision. 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.

Article 46. Promoting membership (caregiving cooperatives). The State will 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.

Article 47. Encouraging local and women hires. Caregiving facilities that are managed by the State or receive state funding must have policies that promote hiring women, local workers or system users who are self-employed or unpaid.

The State must promote and encourage companies to comply with policies for creating childcare spaces and facilities for caregiving employees.

Article 48. State infrastructure. The State must invest in providing direct care as well as in caregiving infrastructures and services.

Article 49. Partnerships. The National Care System must promote networking and the creation of collaborative alliances between public, private, community and business caregivers to strengthen and expand the availability and quality of services, taking into consideration criteria of regional decentralization and priority care areas.

Chapter VI

Caregiving and Global Value Chains

SECTION I

The State's Responsibility to Protect the Right to Care

Article 50. Caregiver State. The State must ensure that public bodies and institutions, and the companies they own or control, comply with the principles of co-responsibility for caregiving and promote the adoption of these policies with their counterparts.

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

Article 52. Training and awareness. The State, through the National Care System and with advice from the National Machinery, must promote continuing education for public officials in the areas of co-responsibility, gender and human rights.

It must also 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.

SECTION II

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

Article 53. Duty to protect. 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.

Article 54. Support for caregiving services. 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.

Article 55. Productive sector collaboration. Productive sectors may work together to collectively offer caregiving services for employees with family responsibilities.

Article 56. Promoting co-responsibility. 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.

Final Provisions

Article 57. Waiver of incompatible norms. Any regulatory and legal provisions that contradict or are incompatible with this law are waived.

Article 58. Regulations. The executive power will regulate this law within 120 days as of its enactment.

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