

# challenges

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Newsletter on progress towards the Millennium Development Goals from a child rights perspective

## >> Childcare and parental leave



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## Childcare leave: an unpaid debt

Policies on care in early childhood should be framed within an approach that integrates children's rights, gender equity and the social inclusion of families. A variety of service providers, including the family, the State, the market and civil society, need to be engaged in this effort.

Childcare regulation and provision in Latin America and the Caribbean suffer from serious shortfalls. Among other things, this makes it difficult for women, especially those from poor households, to join the labour market. In this connection, labour policies need to offer better articulation between the productive and reproductive spheres.

This issue of *Challenges* examines the progress made thus far on childcare leave for parents—mothers and fathers—and turns a spotlight on pending debts in this regard. Few legislative or practical measures exist for satisfying the many types of early childhood care needs, and inequalities of origin are still rife. In order to meet those needs, the policy response must be aimed at ensuring universal satisfaction of children's right to care regardless of the formal employment status (or otherwise) of their parents, and the existing models of care from birth must be thoroughly reviewed.

This issue also contains some testimonials from children on caring for their younger siblings. The Viewpoints section offers insights by Argentine expert Cecilia Grosman. Under Learning from Experience is an account of national initiatives aimed at striking a better balance between working and family life. Recent events and key documents are also briefly outlined.

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## Recent events

### >> Fifth World Congress on Child and Adolescent Rights 2012

In 2012 Argentina will host the fifth meeting of this Congress, whose objective is to further the debate on "A world fit for children" – the declaration adopted by the General Assembly of the United Nations at its Special Session on Children, held on 8–10 May 2002 in New York.

<http://foroparlamentarioinfancia.blogspot.com/2010/11/argentina-fue-elegida-sede-del-v.html>

### >> International Year for People of African Descent 2011

At its sixty-fourth session, the General Assembly of the United Nations declared 2011 the International Year for People of African Descent, in order to strengthen national measures and regional and international cooperation for the full enjoyment of this population's rights and participation in all spheres of society.

<http://www.oei.es/afro01.php>

### >> Meeting of Experts on Family Policies

The Department of Economic and Social Affairs and the Division for Social Policy and Development of the United Nations held an Expert Group Meeting on the theme "Assessing family policies: confronting family poverty and social exclusion and ensuring work-family balance" on 1–3 June 2011 in New York.

## Key documents



### >> UNICEF, 2011

"The State of the World's Children 2011. Adolescence: an age of opportunity", New York, February.

[http://www.unicef.org/sowc2011/pdfs/SOWC-2011-Main-Report\\_EN\\_02092011.pdf](http://www.unicef.org/sowc2011/pdfs/SOWC-2011-Main-Report_EN_02092011.pdf)



### >> ECLAC and UNICEF, 2010

"Child Poverty in Latin America and the Caribbean", Santiago, Chile, December.

<http://www.cepal.org/publicaciones/xml/6/42796/Libro-pobreza-infantil-America-Latina-2010.pdf>



### >> ECLAC, 2010

Morlachetti, Alejandro (2010), "Legislaciones nacionales y derechos sociales en América Latina. Análisis comparado hacia la superación de la pobreza infantil", Santiago, Chile, September.

<http://www.eclac.org/publicaciones/xml/9/40949/sps164-derechos-sociales-pobreza-infantil.pdf>

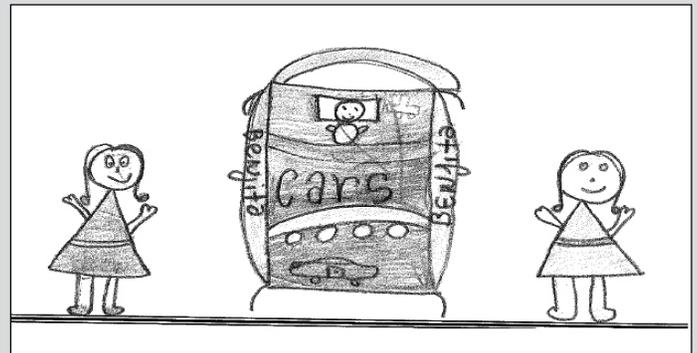


### >> UNDP, 2010

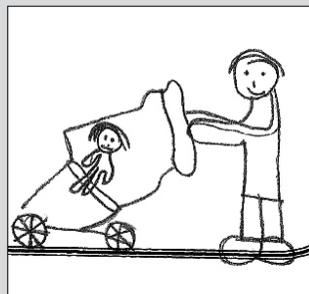
Rossel, Cecilia, Denise Courtoisie and Mariana Marturet (2010), "Servicios de cuidado infantil: condiciones de calidad y resultados", Uruguay, April.

[http://www.proyectodesarrolla.org/wp-content/files\\_mf/1279548241LibrilloServiciosdecuidadoinfantil.pdf](http://www.proyectodesarrolla.org/wp-content/files_mf/1279548241LibrilloServiciosdecuidadoinfantil.pdf)

## Caring for young children



Bárbara, age 10



Bruno, age 9



Paloma, age 10

When your Mom is working, who takes care of your little brother or sister?

"My grandparents, and if it's after 6 in the evening, my Dad"

Roberto, age 11

"My little sister goes to the day-care centre"

Carlos, age 9

"My Mom's boyfriend, who's my brother's Dad"

Sebastián, age 9

"My Mom hired someone to take care of him"

Danka, age 10

"A neighbour takes care of me and my brother, who's 7 months old"

Sofía, age 10

"My Mom works at home and she takes care of her; my Dad and I help"

Anaís, age 9

"Mom and Dad sell *empanadas* while I take care of my baby brother, who's 9 months"

Camilo, age 9

Source: The drawings and quotes in this section are by children from Monseñor Luis Arturo Pérez School, in José María Caro district, Santiago, Chile.



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# Childcare leave: A right of children and parents

Laura C. Pautassi<sup>1</sup> and María Nieves Rico<sup>2</sup>

Undeniably, children need care from the moment of birth. They need feeding, health care, early stimulation, love and everything else that is part of full development. In Latin America and the Caribbean, care is traditionally provided at home, almost always by the mother. Sometimes she has help from the father, another family member or the community. She may have access to some form of public service or buy market services.

From a review of the labour regulations on parental leave in the region, it is evident that progress needs to be made on recognizing care as a universal right for all children to enjoy, not as something that depends on particular aspects of their parents' labour-market status or job quality.

The analysis of early childhood care must take into account the providers (family, State, market and civil society), the receivers (children), and public and private steps to satisfy these needs. The approach taken must therefore engage complementary perspectives –children's rights, gender equality and inclusive social policies– in dialogue. As stated in the Report of the Secretary-General of the United Nations on the Status of the Convention on the Rights of the Child, one of the most effective ways to guarantee that all children have a good start in life is through quality programmes in childcare and education, starting at birth (United Nations, 2010, p.7).

## The right to care in early childhood

Providing childcare means time, know-how and exclusive dedication, especially for children in the first months of life. Childcare is “labour-intensive” work with three components:

material, economic and psychological care (Batthyány, 2004). The sexual distribution of work and time, especially time devoted to caring for children, is a clear reflection of the organizational dynamics of the labour market and families in Latin America and the Caribbean (Rico, 2011). These dynamics are regulated by labour legislation and show a number of gaps which condition the way women and men participate in productive work and caregiving and affect children's opportunities for development and growth.

The first gap is associated with the steep rise in women's participation in the paid labour market, which has not been balanced out by men's participation in caregiving; this overburdens women with work and obligations and is detrimental to their job and wage trajectory (ECLAC, 2010). Furthermore, the population in typically active age groups, i.e. those aged 25 to 54 –which has expanded by an estimated 20 percentage points over the past 15 years– shows clear stratification and differences by number of children aged under five in the household. Women who belong to the lowest quintiles or to impoverished households, have little schooling and are responsible for very young children face many more difficulties in entering good quality paid employment (ECLAC, 2009).

Another gap arises from the failure of labour policies to incorporate, right from the design stage, necessary linkages between the productive and reproductive spheres of people's lives. This represents an obstacle to the equitable performance of work in both spheres. Nor has there been an increase in public care infrastructure and services –which in most of the

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## Box I CHILDCARE IN INTERNATIONAL LAW

region's countries is scarce and in some is almost non-existent (Marco Navarro, 2007, Rodríguez, 2007 and Lamaute-Brisson, 2010). Furthermore, there are few State mechanisms to enforce private-sector compliance with legal obligations; and labour regulations apply only to waged workers in the formal sector and exclude those who work outside the sectors covered by social security and, hence, their children.

In view of the principle of the interdependence and universality of human rights, childcare in the broad sense should be treated as forming part of the body of rights enshrined in international instruments. Furthermore, various instruments do refer to different aspects of childcare, although it is not yet explicitly termed as such (Pautassi, 2007) (see box 1). Many countries in the region have incorporated the obligations and rights set forth in international instruments into their political constitutions and have made the requisite adjustments to domestic legislation, which has made it possible to monitor the commitments undertaken by States with regard to childcare.

Productive cycles affect the private lives of workers, and family arrangements, in turn, affect employment options and opportunities. These long unacknowledged linkages first appeared on the public agenda in the twenty-first century. A further strong boost came from the Quito and Brasilia Consensuses, which were adopted, respectively, at the tenth (2007) and eleventh (2010) sessions of the Regional Conference on Women in Latin America, and from the twentieth Ibero-American Summit of Heads of State and Government, at which States committed to increasing the availability of comprehensive attention for early childhood and guaranteeing its quality.<sup>3</sup> However, little progress has been made in designing and implementing policies to provide the means, services, time, and economic and human resources to make childcare socially inclusive.

### Parental leave: advances and limitations

The regulation of childcare in labour laws or codes tends to be limited to the protection of working mothers during pregnancy, childbirth, postpartum and breastfeeding, but does not consider the child-rearing and care needs of children at this stage. It also disregards or minimizes men's responsibility for their young children. Legislation thus shows heavy gender biases and the measures adopted do not necessarily consider the needs of care receivers. Crucially, labour regulations are targeted: they exclude from the respective benefits anyone who is not a formal-sector waged worker, to the detriment of informal-sector, independent, part-time and rural workers—and their children. Special mention is warranted by domestic service—the foremost economic activity among poor women—since these workers receive discriminatory treatment in much of the region. This is beginning to change, however, as reflected in

The Convention on the Rights of the Child (CRC) establishes in Article 18, subsections 1, 2 and 3, that the State must guarantee “the recognition of the principle that both parents have common responsibilities for the upbringing and development of the child”. It affirms that “States shall render assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children”. Furthermore, “they shall take all appropriate measures to ensure that children of working parents have the right to benefit from child care services and facilities for which they are eligible”.

The Convention on the Elimination of All Forms of Violence against Women specifies that the rights of working women must be protected against potential discrimination resulting from motherhood. States must prohibit and sanction all kinds of discriminatory practices and ensure the provision of paid leave, care services and other measures that facilitate combination of labour and family responsibilities. The Convention states that men and women must share domestic and child-rearing responsibilities (Article 11, subsection 2).

Article 10 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) establishes that States must provide protection and assistance to families for the care and education of their children.

International Labour Organization (ILO) Convention 156 on Equal Opportunities and Equal Treatment for Men and Women Workers implicitly recognizes the responsibility of men and women in the provision of childcare in order to ensure that, whatever their kind of employment, both may enter the labour market on an equal footing with those who do not have parental responsibilities.

Source: Prepared by the authors on the basis of the Convention on the Rights of the Child, Convention on the Elimination of all Forms of Discrimination against Women, the International Covenant on Economic, Social and Cultural Rights and ILO Convention 156.

recent reforms in Brazil, Chile, Costa Rica and Uruguay, which recognize the labour rights of domestic service workers and afford them entitlement to maternity leave.

### Childcare leave in Latin America

In recent years progress has been made on legislation, for example by attaching the same benefits and rights to adoption as to birth and gradually providing paternity leave. The

<sup>3</sup> Article 8, Mar del Plata Declaration, twentieth Ibero-American Summit of Heads of State and Government, December 2010.

Table I  
MATERNITY AND PATERNITY LEAVE IN SOUTH AMERICA

Country	Maternity leave			Paternity leave
	Duration	Benefit	Breastfeeding	
<b>Argentina</b>	90 days 6 months for a child with Down's syndrome	100% of salary, financed by the social security system	1 hour daily, divided into two breaks, up to child's first birthday	2 days for a new birth 5 days in some public sector jurisdictions Up to 20 working days in some local administrations
<b>Bolivia (Plurinational State of)</b>	45 days before and 45 days after birth, extendable for illness.	100% of salary: 90% social security and 10% employer	two breaks totalling up to 1 hour per day	Not included
<b>Brazil</b>	120 days for birth or adoption of a child under 1 year of age 180 days for birth in the public sector Can be extended to unemployed women	100% of salary, financed by the social security system	two 30-minute breaks per day between birth and 6 months. May be extended.	5 days
<b>Chile</b>	18 weeks for birth or adoption	100% financed by social security system	two 1-hour breaks per day to feed children under 2 years of age Extension of time and travel allowance if mother must travel from workplace	5 days for birth or adoption For serious illness of a child under 18, may be absent from work for the number of hours equivalent to 10 ordinary workdays, per year
<b>Colombia</b>	12 weeks; at least 6 after the birth. 6 weeks for adoption of a child up to the age of 7 years	100% financed by social security system	two 30-minute breaks per day until the child is 6 months old	4 days for birth if father is sole contributor to social security system and 8 days if both parents contribute 6 weeks for adoption of a child under age 7, where there is no spouse or partner
<b>El Salvador</b>	12 weeks	75% employer in advance and 25% social security system	1 hour per day	Not included
<b>Ecuador</b>	12 weeks Father may use full maternity leave in the event of the death of the mother	100% of salary: 75% social security system and 25% employer	2 hours per day up to child's first birthday	10 days for birth, 15 days of paid leave for adoption, extendable for 5 days for multiple births or caesarean section, 8 days for premature birth and 25 days in case of a child born with degenerative disease or severe disability
<b>Paraguay</b>	12 weeks	100% financed by social security system	two 30-minute breaks per day	2 days
<b>Peru</b>	90 days (30 more days for a multiple birth) 30 days for adoption	100% financed by social security system	1 hour per day up to child's first birthday	4 days
<b>Uruguay</b>	12 weeks (private sector) 13 weeks (public sector) 6 weeks for adoption	100% financed by social security system	two 30-minute breaks per day until the child is 6 months old Reduction of the work day by half in the public sector.	10 working days in the public sector 3 days in the private sector, financed by the employer 6 weeks for adoption
<b>Venezuela (Bolivarian Republic of)</b>	18 weeks: 6 weeks before and 12 weeks after the birth, may be extended for illness 10 weeks for adoption	100% financed by social security	two 30-minute breaks per day for breastfeeding in the nursery. two 1-hour breaks per day if there is no nursery, for 9 months	14 continuous days for a birth or the adoption of a child under age 3 21 days for a multiple birth 28 days for illness of mother or child

Source: Prepared by the authors based on the labour legislation of the respective countries; official web pages of ministries and parliaments; Gender Equality Observatory of Latin America and the Caribbean, Economic Commission for Latin America and the Caribbean (ECLAC) 2011 [online] [www.cepal.org/cgi](http://www.cepal.org/cgi); International Labour Organization (ILO), "Maternity at work. A review of national legislation", Geneva, 2010; What Kind of State? What kind of Equality? eleventh session of the Regional Conference on Women in Latin America and the Caribbean, Economic Commission for Latin America and the Caribbean (ECLAC), 2010.

regulations covering waged women working in the formal sector are restrictive, however, with maternity leaves currently averaging three months. This period begins mandatorily before the expected birth date, and is shorter than the 14-week maternity leave established in ILO Convention 183 on Maternity Protection. Chile and the Bolivarian Republic of Venezuela provide for longer maternity leave (with 18 weeks),

as does Brazil in the case of public employees (6 months). For multiple births, Peru's legislation extends the leave by a further 30 days and Colombia's, by four weeks. Importantly, in Brazil, Nicaragua and Peru maternity leave is also applicable to unemployed women on benefits. Some countries (Brazil, Chile and Costa Rica) establish the same leave for adoption as for birth, but others allow more limited time: Colombia (6 weeks,

**Table II**  
**MATERNITY AND PATERNITY LEAVES IN CENTRAL AMERICA, CUBA, MEXICO AND THE DOMINICAN REPUBLIC**

Country	Maternity leave			Paternity leave
	Duration	Benefit	Breastfeeding	
<b>Costa Rica</b>	16 weeks for birth or adoption	100% of salary: 50% social security and 50% employer Employer pays 100% if contributions are not up-to-date	1 hour per day	Not included
<b>Cuba</b>	18 weeks	100% social security system	1 hour per day until child's first birthday	After leave and breastfeeding benefits, the parents may decide which of them will care for the child until its first birthday
<b>El Salvador</b>	12 weeks	75% employer paid in advance to the worker and 25% from social security system	1 hour per day	Not included
<b>Guatemala</b>	12 weeks	100%: 75% social security system and 25% employer Employer pays 100% if contributions are not up-to-date	Two 30-minute breaks per day for 10 months after leave ends	2 days
<b>Honduras</b>	10 weeks for birth or adoption.	100% between the social security system and employer. Employer covers 100% if social security contributions absent	Two 30-minute breaks per day for 6 months	Not included
<b>Mexico</b>	12 weeks	100%: 75% social security system and 25% employer. Employer pays 100% if contributions are not up-to-date	Two 30-minute minute breaks per day	Not included
<b>Nicaragua</b>	12 weeks 14 weeks for a multiple birth Extended for unemployment for 23 weeks upon dismissal	100%: 60% social security system for active or unemployed workers having contributed within the 39 weeks prior to the birth; 40% covered by the employer Employer pays 100% if contributions are not up-to-date	15 minutes every 3 hours	Not included
<b>Panama</b>	14 weeks	100%: between the social security system and employer. Employer pays 100% if contributions are not up-to-date	15 minutes every 3 hours or two 30-minute breaks.	Not included
<b>Dominican Republic</b>	12 weeks	100% covered by the social security system with a minimum of 8 months contributions during the 12 months before the birth. Employer pays 100% if contributions are not up-to-date	at least three 20-minute breaks per day	2 days of paid leave for a birth, and 3 for death of a grandparent, parent, child or spouse

Source: Prepared by the authors based on the labour legislation of the respective countries; official web pages of ministries and parliaments; Gender Equality Observatory of Latin America and the Caribbean, Economic Commission for Latin America and the Caribbean (ECLAC) 2011 [online] [www.eclac.org/oig/default.asp?idioma=IN](http://www.eclac.org/oig/default.asp?idioma=IN); International Labour Organization (ILO), "Maternity at work. A review of national legislation", Geneva, 2010; What Kind of State? What Kind of Equality? eleventh session of the Regional Conference on Women in Latin America and the Caribbean, Economic Commission for Latin Americana and the Caribbean (ECLAC), Santiago, 2010.

for the mother only), Bolivarian Republic of Venezuela (10 weeks), Peru (30 days, and for the mother only if both parents work) and Uruguay (6 weeks for both parents). Also, Argentina extends maternity leave to 6 months for children with Down's syndrome. In all cases these are paid leaves, most financed by the social security system (see tables 1 and 2). They are also accompanied by provisions such as maternal job protection, whereby women workers may not be dismissed without just cause during pregnancy, breastfeeding and post-partum. This right varies greatly in terms of duration, application and sanctions, and is beginning to be extended to working fathers (Marco Navarro, 2009).

Most countries have no provisions incorporating children's life cycle needs into the work cycles of their parents. There has been some progress, however, on provisions for cases of sick children in Chile, Ecuador and Uruguay; cases of accident or serious illness of a spouse or partner in Colombia and Ecuador; and in cases of spousal death in Argentina, Ecuador and the Bolivarian Republic of Venezuela.

As children grow older the gaps increase, since periods of recognized and paid childcare apply only to birth. If a waged woman working in the formal sector decides to take longer leave—or her baby needs it—only three of the region's countries offer the possibility to do so. Two of these are Argentina and Brazil, which allow a period not exceeding six months, available only to women workers, unpaid and counting as a period of non-contribution for social security purposes. Cuba allows such an additional period to either mother or father during the child's first year of life; in this case the period counts as contributory towards social security and is paid at 60% of regular maternity leave. Some legislations provide one day of leave per month for medical appointments (Nicaragua, Dominican Republic and Cuba), but not for other child-rearing requirements like school activities occurring during working hours (see tables 1 and 2).

The many care needs of early childhood have not been given adequate legal and practical application. Labour regulations, for example, afford less time off for working fathers than their

Table III  
MATERNITY AND PATERNITY LEAVE IN THE CARIBBEAN

Country	Maternity leave		Paternity leave
	Duration	Benefit	
Antigua and Barbuda	13 weeks	100% for first 6 weeks: 40% employer and 60% social security system 60% for 7 remaining weeks	Not included
<b>Bahamas</b>	12 weeks	100%: 33.3% employer 66.7% social security system 100% covered by the social security system if worker's contributions are not up-to-date	7 days without pay
<b>Barbados</b>	12 weeks	100% covered by the social security system	Not included
<b>Belize</b>	14 weeks	100% for first 12 weeks covered by the social security system 80% for 2 remaining weeks	Not included
<b>Cayman Islands</b>	12 weeks	4 weeks	Only for the public sector
<b>Grenada</b>	12 weeks	65% covered by social security system	Not included
<b>Guyana</b>	13 weeks	70% covered by social security system	Not included
<b>Haiti</b>	12 weeks	100% for 6 weeks covered by social security system	Not included
Jamaica	12 weeks	100% for 8 weeks covered by employer 100% covered by social security system for domestic workers	Not included
<b>Saint Lucia</b>	13 weeks	65% covered by social security system and remainder by employer	Not included
<b>Saint Kitts and Nevis</b>	13 weeks	65% covered by social security system	Not included
<b>Saint Vincent and the Grenadines</b>	13 weeks	65% covered by the social security system	Not included
<b>Suriname</b>	12 weeks in the public sector In the private sector only where collective labour agreement exists		Not included
<b>Trinidad and Tobago</b>	13 weeks	100% the first month, covered by the employer, and the two following months: 50% employer and 50% social security system	Not included

Source: Prepared by the authors based on the labour legislation of the respective countries; official web pages of ministries and parliaments; Gender Equality Observatory of Latin America and the Caribbean, Economic Commission for Latin America and the Caribbean (ECLAC) 2011 [online] [www.eclac.org/oig/default.asp?idioma=IN](http://www.eclac.org/oig/default.asp?idioma=IN); Country reports presented at the eleventh session of the Regional Conference on Women in Latin America and the Caribbean, Economic Commission for Latin America and the Caribbean (ECLAC), 2011.

childcare responsibilities require (see tables 1 and 2). Paternity leave varies from two to five days for a new birth, and only a few countries have extended that time: Ecuador (10 days for a birth and 15 for an adoption), Uruguay (10 days), and the Bolivarian Republic of Venezuela (14 days for a birth or adoption). Cuba stands out from the rest of the region, since in addition to the six-month post-natal period—which may be shared between mother and father—a three-month period of unpaid additional leave may be taken by the father or the mother. This emerging corpus of fathers' rights is consistent with the recommendations arising from the international experience, whereby paternal leaves have been found to be positive in terms of harmonizing the work and family spheres, child development, and the exercise of men's right to care for their children.

### Childcare leave in the Caribbean

Regulations in the Caribbean also associate the right to childcare with the mother's labour-market status. Generally, leave does not exceed 13 weeks and covers a varying proportion of the mother's wage: 100% in Antigua and Barbuda, the Bahamas, Barbados, Haiti, Jamaica, and Trinidad and Tobago; 80% in Belize; 70% in Guyana; 65% in Grenada, Saint Vincent and the Grenadines, Saint Kitts and Nevis and Saint Lucia; and

only 60% in Dominica (see table 3). The payment of leave at a lower proportion of the mother's wage has negative effects for working women, their children and their families, because the responsibility and costs of providing care are compounded by the reduction of income and the incentive to return to fully paid employment before the leave is over, in a context of few State or market options for early childcare. Paternity leave is not yet widely established as an institution in the Caribbean, nor is time off for breastfeeding. This leaves children more vulnerable to lack of care and discourages fathers who want to exercise their right to care for their children.

### Provisions which treat children as bearers of rights

Labour regulations throughout the region establish that employers must provide day-care centres or nurseries, usually where the female employees in the establishment exceed a certain number. This completely sidesteps the working father's responsibility for childcare and encourages employers to hire fewer women than the proportions required by law. Furthermore State enforcement is inadequate and non-compliance with this legal obligation usually goes unsanctioned. Nor do working parents generally receive an equivalent cash transfer with which to pay for services in the market—where the availability

is broader, although stratified by family income. For the great majority of households, the effort to find a formula for securing childcare in which both partners can also combine their work and family development is in effect a private strategy in which family networks and social organizations play a crucial role in meeting care needs (Pautassi and Zibecchi, 2010).

The fact that regulations cover only a small percentage of women and exclude working women outside the formal sector and adolescent mothers who are still studying, combined with the lesser entitlement afforded to men to provide childcare, causes great difficulties to individuals and families. Expanding the coverage of early childhood care is one of the most important tasks facing States.

### **The urgent need for a cross-cutting perspective and an inclusive agenda**

In order to reduce inequalities of origin and the dynamics that reinforce them, policies are needed to ensure universal satisfaction of children's right to care, regardless of their parent's formal or informal employment status. The State must make the most of scarce existing resources, increase social spending on early childhood beginning at birth (the life-cycle stage which attracts the lowest spending in the region) and act as a provider of care and guarantor of care quality. The action of the State must be cross-cutting, since childcare involves many spheres: economics, childhood, labour, education, health, social security, gender, infrastructure and public budgets. Bearing in mind the relevant international commitments, this cross-cutting perspective can then form the basis for a rights-based approach to designing a new social policy agenda for children, free of biases or stereotypes regarding the provider and receivers of care.

In this regard, the reform agenda should include:

(i) Redistribution and allocation of time, resources and care services, delinking them from the wage status of parents.

(ii) Universal free education, care and health services for early childhood.

(iii) Establishment and expansion of paid leave for fathers, while maintaining maternal leave in all cases. Parents should not be legally forced to choose which of them takes parental leave. In all cases the cost should preferably be covered by general social security budgets, not by individual contributions.

(iv) Legislation on paid parental leave that includes child-rearing and life-cycle needs, as well as time off to care for a child who is ill.

(v) Regulations on additional leave for both men and women for providing care in early childhood, including mandatory job protection and no break in the accounting of time employed for the purposes of seniority, health services and pension systems.

(vi) Establishment of the obligation of firms to set up, maintain or provide childcare facilities, regardless of the sex of its employees, and the creation of State oversight systems and sanctions for non-compliance.

(vii) Transfer of resources to families to help with the cost of childcare; support through grants or tax breaks for private businesses that acquire or provide childcare services; and the creation of satellite accounts as part of budgeting resources for early childhood.

(viii) Coordination of social policies with childcare policies, taking into account the role of the State, the market, and the social and community fabrics which families use today to reconcile working and family life.

(ix) Dissemination of information about the implications of the right to childcare, the need to redistribute work and the time required to design comprehensive child protection systems, in order to move beyond the treatment of childcare as a matter that must be resolved by personal and private means.

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# The importance of legislating for childcare

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The importance of legal regulation is that it places upon fathers and mothers the responsibility of caring for their children, both biological and adoptive, and satisfying their needs for sustenance, education, health, housing and clothing. This means they must provide dedication, affection, energy, time and economic resources. Both parents must be treated under the egalitarian principles enshrined in human rights treaties in order to ensure children's comprehensive development. Thus, one concern is to find strategies for articulating family and working life, which calls for changes in family dynamics and the joint action of the State and the market.

How does family law contribute?

Legislation concerning the rights and obligations that accrue in marriage or cohabitation must include the duty of both parents to care for their children, and must underpin a cooperation ethic in which each partner enjoys equal possibilities for growth and fulfilment. Human rights treaties and conventions do establish the principle of equality with respect to family responsibilities, but this needs to be expressed in domestic legislation as well since it also has a pedagogical function in steering conduct.

But legislation is not enough. Progress towards more equal roles for men and women also requires changes in ideology and culture, as well as in the fields of labour, social security and the economy, which all involve different kinds of policies. The State must help parents to fulfil their family responsibilities, including by taking positive steps to enable parents to combine those responsibilities with workplace

demands. Furthermore, because caregiving in the household is not assigned a monetary value and so tends to be treated as free, civil law should specify that child-rearing and caregiving have economic value, with all the resulting implications.

What happens in the case of separation or divorce?

Women's double workday is even more burdensome in single-parent families, i.e. where a woman has children in her care following separation or divorce. The difficulties multiply in cases where the father fails to meet child support obligations, where a mother's devotion to child-rearing for a lengthy period leaves her ill-prepared to (re)join the job market, or where she encounters difficulties in reconciling childcare with paid work.

In family law, enforcing observation of the principle of equality in children's rearing and education means ensuring that both parents continue to fulfil their responsibilities even if they do not live together. Preferably, the law should establish a shared childcare regime that reaffirms the principle of co-parenting. In Latin America's legal systems, upon separation or divorce, children's custody and care is usually given to one of the parties –almost always the mother– and provisions are made to guarantee contact with their father and his obligations towards them. Although this is established in the Convention on the Rights of the Child (Article 9.3), the evidence suggests that in practice it does not work, socially and legally speaking, either because the father ceases to see his children or because the mother obstructs the relationship. Much remains to be done in this regard to safeguard children's best interests.

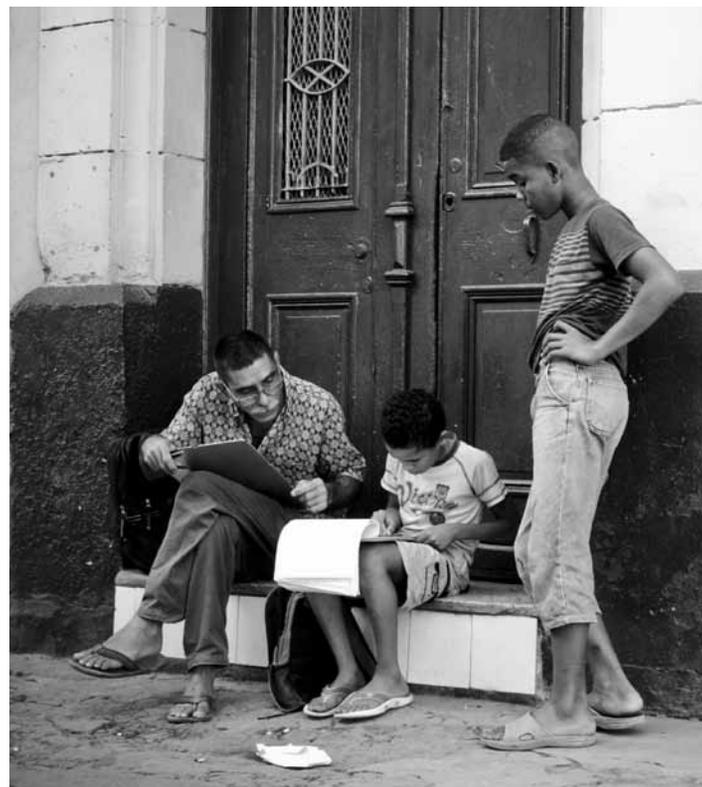
## Beyond legislation: initiatives for improving articulation between working and family life

It is essential to adopt and fully enforce legislation guaranteeing decent work and the egalitarian reconciliation of labour and family life between men and women, as well as children's right to care. Initiatives that go even further make a positive contribution to spreading new standards, as different experiences in Latin America in the past decade have shown.

In the Dominican Republic, for example, the Business-Family Integration Programme developed by the León Jimenes manufacturing group offers employees summer camp and transport services for their children, while the Equilibrium Programme of Unilever Caribe S.A. gives employees an additional day's pay upon the birth of a child, beyond the provisions of the Labour Code. In Brazil, the SESI-Paraná project advises businesses on how to improve management processes and labour practices with a view to operating more equitably by eliminating discriminatory practices and recognizing the household and child-rearing responsibilities of male and female workers.

Also in recent years, awards have been given to businesses that show commitment to implementing management policies and measures that help male and female employees to balance the different areas of their lives: flexible work hours, agreements with nurseries or day-care centres, children's vacations, continuing education and telecommuting. This type of award is administered by private corporations or governmental organizations that uphold the maxim that family-friendly, family-responsible behaviour adds value for workers and businesses by helping to retain human talent, improve productivity and competitiveness, and give their products an advertising plus in the eyes of consumers. It also helps to raise awareness of social rights and foster similar initiatives among those still to adopt them.

A number of governmental machineries for women's advancement in the region also award seals of quality to public or private organizations whose labour and management



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practices promote equality and well-being among employees and their families. Examples are Chile's certification of gender-equitable best labour practices (Iguala Seal) and Uruguay's seal of quality with gender equity, both since 2009. In 2006 Costa Rica adopted a labour certification system which awards a gender equity seal (SISEG) to organizations that develop strategies for closing inequality gaps among their workers. And in Mexico the gender equity model (MEG) implemented in 2003 makes awards to private businesses, public institutions and social organizations that commit to a review of internal policies and practices with a view to adopting non-discriminatory management tools and affirmative actions for staff.

Sources: Chile-Iguala, [www.iguala.cl/](http://www.iguala.cl/); National Institute for Women, Presentación del Modelo de Certificación del Sello de Calidad con Equidad de Género en el Uruguay, [www.inmujeres.gubuy, 2009](http://www.inmujeres.gubuy, 2009;); National Institute for Women, El Sistema de Certificación Laboral en Igualdad y Equidad de Género en Costa Rica, [www.inamu.go.cr/documentos/Presentacion%20SIGEG%20Costa%20Rica%20actualizada\\_.pdf, 2009](http://www.inamu.go.cr/documentos/Presentacion%20SIGEG%20Costa%20Rica%20actualizada_.pdf, 2009;); National Institute for Women, Modelo de Equidad de Género, Mexico, [www.inmujeres.gob.mx/programas/modelo-de-equidad-de-genero.html, 2010](http://www.inmujeres.gob.mx/programas/modelo-de-equidad-de-genero.html, 2010;); International Labour Organization, "Ambos a dos: proveer y cuidar. El desafío pendiente en una sociedad en evolución, República Dominicana", San José, Costa Rica, 2010; Renata Fagundes and Flora Carrasqueira, "Impactos e innovaciones de las políticas de equidad de género en la industria", paper presented at a congress on gender equity policies—a prospective view: new scenarios, actors and linkages, Latin American Faculty of Social Sciences (FLACSO), Buenos Aires, November 2010.

**...that in July 2010, the chiefs of the Embera Wounaan indigenous communities in Panama met in the province of Darién and agreed to make their territories a “child-friendly” region?**

Source: United Nations Children’s Fund (UNICEF). “Los dirigentes indígenas de Panamá prometen un futuro mejor para sus niños” [online], [www.unicef.org/spanish/infobycountry/panama\\_55346.html](http://www.unicef.org/spanish/infobycountry/panama_55346.html), 2010.

**...that 55 million children and adolescents in Latin America live in poor households whose head is not working, unemployed or an informal worker?**

Source: Economic Commission for Latin America and the Caribbean (ECLAC) and United Nations Children’s Fund (UNICEF), “Pobreza infantil en América Latina y el Caribe”, Santiago, Chile [online], [www.cepal.org/publicaciones/xml/6/42796/Libro-pobreza-infantil-America-Latina-2010.pdf](http://www.cepal.org/publicaciones/xml/6/42796/Libro-pobreza-infantil-America-Latina-2010.pdf), 2010.

**...that in Latin America, 32,715,255 working women — or 53% of all working women between the ages of 20 and 45— are not registered with any social security system and have no access to maternity leave?**

Source: Economic Commission for Latin America and the Caribbean (ECLAC), on the basis of on special tabulations of household surveys conducted in the respective countries.

**...that 81% of the region’s households include children and adolescents who need care?**

Source: María Nieves Rico and Carlos Maldonado Valera (eds.), “Las familias latinoamericanas interrogadas. Hacia la articulación del diagnóstico, la legislación y las políticas”, serie Seminarios y conferencias, N° 61 (LC/L.3296-P), Santiago, Chile, Economic Commission for Latin America and the Caribbean (ECLAC), February 2011. United Nations Publication, Sales No. S.11.II.G.17.

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