

FROM THE “BOOM” IN CARE TO THE EXERCISE OF RIGHTS

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- *The right to care and care is already recognised, but it must still*
- *be translated into transversal policies, with a gender sensitive approach*

ABSTRACT

This article analyses the “explosion” in care over the past decade, which did not necessarily lead to advances in the institutionalisation and implementation of concrete measures in this area. It then presents an overview of regional agreements and the process of defining and recognising care as a human right and identifying essential standards for its provision. The article ends with some points to consider when implementing public policies, which must be cross-cutting and based on a gender perspective.

KEYWORDS

Care | Rights approach | Public policies

1 • The "*care boom*" or how care exploded

In Latin America, there is a tradition of analysing social processes decade by decade, with each one representing a milestone. The last few decades of the 20th century, for instance, were named the "lost decades."¹ They are characterised by the systematic interruption of democratic governments by bloody military dictatorships that left a legacy of human rights violations, the downsizing of the former welfare institutions, and important changes to the "public sphere" - both social relations and state institutions. Despite the renewed hope generated by the democratic transitions, the shift towards structural adjustment policies of the 1990s did not lead to "an overflow" of better conditions and opportunities for development. On the contrary, the policies concentrated income, poverty, and inequality, and restricted rights by imposing clearly regressive regulatory and political reforms that violated the principle of the progressive realisation of human rights.

The situation at the end of the century contrasts, though, with the breath of fresh air ushered in by the new millennium. New, more progressive coalition governments and, in other countries, left-wing governments declared that the first decade of the 21st century would be the "rights decade." This affirmation, however, remained mainly at the rhetorical level, rather than being effectively implemented. As for the second decade - that is, the one we are currently in (2010-2020) - it may be called the "*care decade*."

While the issue of care began to gain greater visibility from 2005, this increase in visibility was not linked to denouncements of the unfair sexual division of labour in our societies. According to this division, women assume all of the care work based on the "naturalisation" of their capacity to care for others, which continues to be reinforced and takes on new aspects and manifestations that far from challenge this power structure.

The care boom was brought on by the breakdown of approach to family which maintained and concentrated the work load on women. This put an end to the fragile arrangements whereby women would sustain work on various fronts while men only assumed a few care responsibilities. What is more, the accelerated demographic transition process in the region exposed the lack of public policies and infrastructure needed to respond to multiple demands from the elderly, people living with disabilities or diseases requiring intensive care, and, of course, in relation to care for children and adolescents.

In other words, the impact of this fragile distribution of care work in society was attributed mainly to the lack of infrastructure or time for dealing with various situations that demand care. It was not linked to a condemnation of the sexual division of labour as an expression of gender relations in the world of labour, which has organised and consolidated women's subordination. Their subordination can be seen in their concentration in care responsibilities and their lower and unequal participation in the labour market.²

These concerns are raised throughout this article, which begins by analysing the explosion of care as an issue for debate and the target of demands, followed by an examination of the recognition of care as a right. It ends by identifying a series of specific elements that the “care decade” should take into account. Recommendations based on feminist studies and a rights-based approach will be presented and the responsibilities of public and private actors in the provision of care will be more precisely defined.

2 • Needs and rights

As I mentioned earlier, the care issue exploded in the region, bringing tensions to light, but leaving the burden of care responsibilities and the restrictions it places on the autonomy of each woman invisible. This explosion is linked to the impact that the limits of attempting to resolve this issue in a stratified way have over the daily lives of homes. Many families who use commodified care solutions – especially the figure of a paid domestic worker – are not able to sustain themselves in the medium term. Responses from private employers are also lacking. With a few exceptions, states are providing only partial solutions in the form of legislative proposals or, in some cases, more infrastructure, but with differences in terms of the recipients: normally, the measures target mainly children and adolescents, the elderly and people living with disabilities – in that order of priority – and very little is designed for people requiring long-term care.³

Various analysts state that Latin America is experiencing a “care crisis,” which “has emerged at a juncture when patterns of paid employment and unpaid domestic work are shifting, while at the same time the sexual division of labour in the household and gender-based segmentation in the labour market remain firmly entrenched.”⁴ Different schools of feminist thought associate the care issue to patriarchal domination, as patriarchy is in itself the institutionalisation of male domination in all spheres – both public and private – and the multiple forms it may take. Authors such as Walby⁵ argue that one must not only concentrate on the analytical dimension of the domestic sphere. Instead, paid employment, domestic production, sexuality, violence, cultural institutions, and public policy must be analysed simultaneously. All of these spheres are facing various dilemmas, in reference to the classic studies of Nancy Fraser,⁶ and in the case of Latin America, there will be specific elements related to different spheres to consider, including the community sector as a provider of care facilities.⁷ Other lines of analysis look at the institutional arrangements of the welfare systems in which care was considered primarily the responsibility of households (and of the women in them) and the state’s role was reserved to intervening on very specific aspects (for example, school education) or as a complement to the efforts of households in need of support (for instance, in the case of economically and socially vulnerable homes). These arrangements ended up shaping models that discourage women from entering the formal labour market and, consequently, encourage them to stay at home as the main person responsible for the provision of “care”.⁸

In sum, there is an abundance of theoretical and academic work and international commitments on this issue, such as the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the Optional Protocol; the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women: “Convention of Belem do Pará”; the Beijing Platform for Action (1995); and the International Convention on the Rights of the Child, which assigns the responsibility of caring for children to both parents, to name but a few. While important advances have been made in effectively implementing these obligations, the heterogeneity both among countries and also within each one of them is notorious and has limited the consolidation of the structural changes they demand.

Thus, the greatest impact of the international covenants and agreements can be seen in a process of legislation reform that involves the adoption of highly innovative and highly effective measures to combat discrimination and the promotion of public policies on gender equality. In all countries, mechanisms for the advancement of women (MAM) were created and reforms to many political and social institutions were being promoted - albeit in a heterogeneous way. However, they were met with political and cultural resistance to gender equality and came up against meagre budgets and fund allocations, limits on the advances in gender parity in decision-making processes, and statistical invisibility - all this together with counterfactual evidence on the persistence of violence against women.

With regards to putting care on the public agenda, the path has been similar. Here, we find it appearing on the regional gender equality agenda built during the Regional Conferences on Women in Latin America and the Caribbean, especially in the last three consensus adopted: the Quito Consensus (2007), the Brasilia Consensus (2010), and the Santo Domingo Consensus (2013).⁹ It was precisely in the framework of these agendas and consensus that care appeared – not as a need to be met by an external source, nor as a denunciation – but as a right.

3 • The arrival of rights

It is important to highlight that the inclusion of care in the regional agenda based on its recognition as a right creates an entirely new scenario for its enforceability. In the tenth session of the Regional Conference on Women in Latin America and the Caribbean held in the city of Quito in 2007, the issue of care was presented from a rights-based perspective,¹⁰ which means that everyone has the right to “provide care, receive care and take care of oneself (self-care).” This not only situates and empowers each rights holder differently, but also unlinks the exercise of the right from the condition or position one holds – for example, the ability to exercise a right does not depend on whether one is formally employed or not. Furthermore, the recognition of care as a right means standards and principles for state action in concrete situations must be adopted, such as: the obligation to guarantee a minimum level of rights; universality; prohibiting states from passing regressive policies and the consequent obligation

to implement only progressive measures; the duty to guarantee the participation of citizens; the principle of equality and non-discrimination; access to justice; and access to public information. These standards are integrated into a common matrix that can be used for defining policies and intervention strategies for both states and social actors, designing measures for monitoring and assessing public policies and for the pursuit of policies, and practices that promote equality. It can also supply indicators for verifying compliance with policies, which take on fundamental importance in the guaranteeing of the rights of all individuals who must provide care and take care of themselves, as well as those who need to be cared for.

One example worth mentioning is that not only should the state avoid hindering a mother's effort to breastfeed her child, but it should provide the conditions necessary for her to do so. When a woman works in the productive sector, she must be granted leave or be provided a physical space for breastfeeding, regardless of whether she is a public or private sector employee. Fathers must also be granted leave so they may assume their share of the responsibility in the care for and development of each child and adolescent. The positive obligation of the state, for its part, involves imposing certain obligations on third parties such as, in this case, making it mandatory for private employers to effectively provide infrastructure for care or grant leave as defined by law. Strictly speaking, it is a question of guaranteeing the right to care as a universal right of all individuals.

Following the main line of argument of this approach, which seeks to empower recipients of public policies as one of its main goals, the point of departure is to recognise recipients as rights holders – which generates obligations for the state – and not merely as “beneficiaries” of state policy. Furthermore, this approach does not establish a framework with additional guarantees to support women so they can provide care. On the contrary, it seeks to end the unfair sexual division of labour.

Along the same lines, the recognition of one's entitlement to rights seeks to challenge the passive relationship that exists between rights holders and the public administration, which uses discretion when guaranteeing these rights. With regards to care, it aims to break with the binary active-passive logic of the relationship between the care provider or giver and the recipient, which not only includes the interpersonal practice of providing care for others, but also demands a whole set of cross-cutting actions to be undertaken. For this approach, which demands that care be made visible and that the rights approach be used in order to confirm that it has been recognised, there is even an international instrument that explicitly recognises it: the Inter-American Convention on Protecting the Human Rights of Older Persons, approved in 2015. However, more action must be taken in order for it to be implemented.

What is striking about this is the imbalance in the obligations imposed on women during this entire process. They are asked to be “good caregivers,” efficient, work voluntarily, and show affection while providing care. When they do not this can in many cases and when taken to the extreme, become a source of violence against women in their relationships with their partners, families, and with institutions. In the latter,

for example, this includes the ill-treatment that, for example, a woman receives in the health sector when she takes her children to an appointment and is accused of negligence towards them. This often reaches extreme proportions, such as women being cut off from a conditional income transfer programme for failing to comply with the programme's controls. Ironically, this failure is often not the responsibility of the woman in question, but rather of the system itself, which is flooded with demands, or, in other cases, when women do not have access to adequate public transportation.¹¹ In other words, the recognition of the right to care does not necessarily mean it can be exercised.

4 • The full enjoyment of the right to care

To consider care as a universal right of all people, who have the possibility of demanding the right to receive care, provide care, and take care of themselves (self-care), promoting actions to increase the provision of reproductive services (educational, early childhood, health, cultural, social security) is not enough. While these services are undoubtedly fundamental, responsibilities, legally recognised leaves of absence, and family and social arrangements must be dealt with in a cross-cutting manner: through investment, but also recognition.

At the same time, we must avoid reproducing the gender gaps that exist in labour regulations – such as the fact that employers are obligated to provide directly or subsidise day care services once the company has hired a certain number of female employees. This is based on the assumption that these services must be guaranteed only for female workers and not male workers. This is only one example of the numerous gaps that are reproduced, including by legislative reform proposals that aim to be egalitarian.

The urgency to adopt actions based on a rights-based approach to care requires transforming the current logic of care so that we begin to consider each individual as an autonomous rights holder who can and must demand that his or her demands for care be met, regardless of whether he or she is in a situation of vulnerability or dependency or not. The duty to provide care that this right generates is not founded on one's needs, but rather on the fact of being a person. In other words, one should not argue that a person needs care because he or she is a child or is living with a certain disease, but rather because the state and the other holders of obligations - such as both parents in regards to their children, or employers - must offer it to them regardless of their situation simply because they are a person. This is the only way one's ability to exercise full autonomy will be restored, as the holder of the right to care can demand and choose the options related to care regardless of their family arrangements or employment status.

The first unavoidable step in any agenda for change is fundamentally to begin by questioning the sexual division of labour and, thus, seek the best way to redistribute the obligation to care, while recognising the rights of those who need to be cared for and those who, one way or another, have to provide it to them.

NOTES

1 • This was the term used to refer to the 1980s. “From the viewpoint of economic development, the first half of the 1980s has been lost,” stated the then-Executive Secretary of ECLAC, Norberto González (1986). He later called the whole decade the lost decade and then said the same for the 1990s, due to the characteristics of the neoliberal policies that were adopted.

2 • Laura Pautassi, *¡Cuánto Trabajo mujer! El género y las relaciones laborales* (Buenos Aires: Capital Intelectual, 2007).

3 • A recent study presents an overview of the various care initiatives in Latin America (María Nieves Rico and Claudia Robles, *Políticas de cuidado en América Latina. Forjando la igualdad*, (Santiago de Chile: CEPAL, 2016) (Serie Asuntos de Género, no. 154)). The study highlights the case of Uruguay where a national care system has been established and, similarly, one for children and adolescents in Costa Rica.

4 • Economic Commission for Latin America and the Caribbean (ECLAC), *Social Panorama of Latin America* (Santiago de Chile: ECLAC, 2009), 159, accessed on November 9, 2016: <http://www.cepal.org/en/publications/social-panorama-latin-america-2009>.

5 • Silvia Walby, *Theorizing Patriarchy* (Oxford: Blackwell, 1990), quoted and applied to the case of Latin America by Martínez Franzoni and Voorend (Juliana Martínez Franzoni and Koen Voorend “Desigualdades de género en los regímenes de bienestar latinoamericanos: mercado, política social y organización familiar de los cuidados,” in *Las fronteras del cuidado. Agenda, derechos e infraestructura*, coords. Laura Pautassi, and Carla Zibecchi (Buenos Aires: Editorial Biblos, 2013): 59-98).

6 • Nancy Fraser, “Social Justice in the Age of

Identify Politics: *Redistribution, Recognition, and Participation*,” in *Redistribution or Recognition? A Political-Philosophical Exchange*, Nancy Fraser and Axel Honneth (London: Verso, 2003): chapter 1.

7 • The texts included in the publication by Pautassi and Zibecchi (*Las fronteras*) give a regional overview.

8 • Among others, Lewis (Jane Lewis, *Women and Social Policies in Europe: Work, Family and the State* (Aldershot: Edward Elgar, 1993)); Razavi (Shahra Razavi, *The Political and Social Economy of Care in a Development Context: Conceptual Issues, Research Questions and Policy Options* (Geneva: UNRISD, 2007)) and on the case of Argentina, Rodríguez Enriquez and Pautassi (Corina Rodríguez Enriquez and Laura Pautassi, *La organización social del cuidado en niños y niñas. Elementos para la construcción de una agenda de cuidados en Argentina* (Buenos Aires: ADC-CIEPP-ELA, 2014)).

9 • The Regional Conference on Women in Latin America and the Caribbean is comprised of all Member States. The ECLAC’s Division for Gender Affairs acts as its technical secretariat. It has been meeting on a permanent basis for 40 years and is convened every three years, thus constituting a body for promoting political agreements on gender equality issues. As such, it is unique. In October 2016 the Twelfth Conference will be held in Montevideo, Uruguay, <http://conferenciamujer.cepal.org/>.

10 • The proposal was elaborated in: Laura Pautassi, *El cuidado como cuestión social desde el enfoque de derechos* (Santiago de Chile: CEPAL, 2007). (Serie Mujer y Desarrollo, no. 87).

11 • Diego Hernández and Cecilia Rossel, “Cuidado infantil, tiempo y espacio: el transporte y la frontera del acceso,” in *Las fronteras del cuidado. Agenda, derechos e infraestructura*, coords. Laura Pautassi, and Carla Zibecchi (Buenos Aires: Editorial Biblos, 2013).



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