



A landmark opinion from the Inter-American Court of Human Rights establishes the autonomous right to care and expands labor rights and protections for all workers in the care sector.

Jeffrey Vogt, ILAW Network

1. What are the key elements of the advisory opinion on labor law?

By enshrining the right to care in the American Convention on Human Rights and other related instruments, the Court established care as an enforceable right rather than a policy option. Furthermore, although some aspects of care have been recognized in various areas of human rights law, it had not been fully articulated as an independent and autonomous right. Also significant is the framework of the opinion, which recognizes that gender equality is inseparable from care justice.

Of particular interest to workers is the Court's focus on the rights of *care workers*. It was essential for us that the rights of care providers be fully articulated. We were pleased to see that the Court addressed both *paid and unpaid care work* and recognized that the unequal distribution of such work had limited (and continues to limit) women's economic participation and autonomy. The opinion made clear that the inter-American body of law applies to care work, regardless of whether it is performed in the context of a paid relationship, and applies to care workers, whether they are formal or informal employees or self-employed, including domestic workers and those who work from home.

With regard to paid care work, the Court recognized the precarious nature of much of this work and emphasized that care workers, like all workers, must receive fair and equitable remuneration, job security, a safe and healthy working environment, and reasonable limitations on working hours (including an 8-hour workday, weekly rest, and annual leave). The Court also emphasized the importance of the right to freedom of association and collective bargaining to "enable workers to be on an equal footing with their employers and to demand fair and equitable working conditions." The Court also emphasized the need for the State to implement measures for the "prevention and treatment of risks associated with care work" and to ensure that workers in the sector have access to effective labor justice mechanisms.

With regard to unpaid work, the Court held that States have an obligation to provide minimum guarantees to ensure that the performance of such work does not affect the enjoyment of human rights, including the elimination of discrimination against persons performing unpaid care work. It is significant () that the Court also held that States must progressively guarantee access to health protection, dignity, and self-care for persons who perform unpaid care work on a permanent basis, including limits on daily working hours, minimum rest periods, and access to a social security system that protects them against the contingencies of illness and old age. The Court also developed a series of measures to enable workers with family care responsibilities to participate in non-care work outside the home, including greater flexibility in working hours and location, as well as paid leave and other supportive laws and policies.

2. What are the broader implications?

The ruling thus places care at the center of human rights, social justice, and sustainable development policy in the Americas. A transformative aspect of these obligations is the requirement to adopt intersectional and gender-sensitive approaches. States must address structural inequalities that place a disproportionate burden on women and marginalized groups with unpaid care responsibilities. This includes measures such as paternity leave, flexible working arrangements, investment in childcare and eldercare infrastructure, and recognition of unpaid care work in social security systems. These obligations go beyond formal equality to address substantive disparities in the distribution of care.

Across the region, fulfilling these obligations could significantly reshape public policy. States may need to design and implement national care systems—integrated policy frameworks that coordinate public services, social protection, labor regulations, and infrastructure investment to support care provision. This not only transforms gender relations but also has implications for economic development, as the Court has emphasized that care work is essential to labor markets and economic growth.

For care providers, who are mostly women, the recognition of care as a right could lead to tangible improvements in working and living conditions. Unpaid caregivers could gain access to social security benefits, training, and respite services, while paid workers could see strengthened labor protections, fair wages, and recognition of their work as skilled and essential. This legal recognition helps dismantle the systemic undervaluation of care work that has historically reinforced women’s economic dependence and social marginalization.

For care recipients—such as children, older persons, and persons with disabilities—the ruling establishes that access to quality care is a matter of right, not charity. States are obliged to ensure adequate, accessible, and culturally appropriate services. Vulnerable groups, often neglected in public policy, can now claim their legal rights to support. This will have profound implications for reducing inequalities.

Women and marginalized groups will benefit most from this recognition. By demanding the redistribution of care responsibilities, the ruling opens up opportunities for greater participation by women in education, employment, and political life. Marginalized communities, including migrants and people working in informal economies, may also see their demands for inclusive care services reinforced. Over time, this could change everyday realities by lightening the disproportionate burdens of care that perpetuate cycles of poverty and exclusion.

3. What is the role of trade unions in implementing the advisory opinion?

As with any legal standard, civil society will have a central role in translating the right to care into lasting reforms, both in law and in practice. I highlight four specific ways in which civil society, including trade unions representing care workers, can take action.

First, the rights articulated by the Court will need to be transposed into national legislation and regulations. This is, on the one hand, a technical issue, but at the same time a political one. There will undoubtedly be debates about the scope and speed with which the decision is implemented. It will be up to trade unions, women's movements, advocates for the rights of persons with disabilities, and organizations of older persons to convey the reality experienced by care workers and propose the legal and policy solutions that best respond to that reality. Ideally, these organizations should ensure that care workers themselves address policymakers and participate in the development of legislation and policies as they progress through the legislative process.

Secondly, trade unions and civil society organizations should break down the decision and provide public education to care workers, care recipients, and public institutions, so that everyone is aware of their rights and responsibilities. As mentioned below, this also presents an opportunity to shape public perceptions of care work, as well as the potential scope of the Court's decision, which will undoubtedly be controversial. This is a crucial step, as the general public does not usually read lengthy advisory opinions, assuming they even know about the Court's decision.

Third, once laws and policies are adopted, they will need to be institutionalized and implemented. Trade unions and CSOs must play their watchdog role to ensure that states comply with their obligations and hold them accountable through advocacy and litigation. Furthermore, given the novelty of some aspects of the Court's decision, it will be necessary to develop jurisprudence and practice through strategic and sustained collaboration between rights holders, their legal advocates, and the government.

Finally, trade unions and CSOs can play a role in cultural change by challenging entrenched gender stereotypes and advocating for the social recognition of care as a right and a shared social responsibility. By shaping public discourse, trade unions and CSOs can also help generate the political will necessary for sustained investment in public care systems.

4. What are some of the challenges ahead?

The challenges that states will face are manifold, but they can be overcome with the political will to prioritize the right to care and the rights of care workers. Ideally, states would come to view care not as an expense, but as an investment in human development, equality, and social cohesion.

However, the current reality is that many States in the Americas already face significant difficulties in effectively applying labor and social protection laws to workers who have more formal and traditional employment contracts. Many care workers fall outside formal labor relations, which in itself is a deliberate decision to deprioritize this work, which is often performed by women, racial or ethnic minorities, or migrant workers (or some combination of some or all of these identities).

Of course, states will need to allocate funds to establish comprehensive care systems and ensure that care workers, regardless of their place in that system, are covered by rights and protections. This includes ILO core labor rights and social protection coverage. Many States in the region face fiscal constraints and competing priorities, but trade unions and CSOs will need to ensure that this issue is included in the budget allocation agenda. At a minimum, states should progressively realize care-related rights, in line with available resources. This will certainly be the case, for example, for extending social protection coverage to unpaid care workers. Sufficient funding for labor law inspection and enforcement will also be necessary to ensure that these rights are actually respected in practice.

States will also need to address entrenched gender stereotypes in their bureaucracies that normalize laws and policies that lead women to disproportionately assume responsibility for care work. A thorough review of legislation and public policies will be necessary to identify and address the ways in which they directly and indirectly perpetuate the status quo. States will also need to shape public opinion, including through awareness campaigns, educational reforms, and workplace policies that perpetuate traditional gender roles and promote shared responsibility for care.

It will be essential for social dialogue to be central to this process in order to build consensus and legitimacy for reforms.