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## Commission on the Status of Women

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### **Statement submitted by Make Mothers Matter, a non-governmental organization in consultative status with the Economic and Social Council\***

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31.

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\* The present statement is issued without formal editing.



## Statement

### Recognizing Unpaid Care in Justice Systems

Access to justice is a foundational pillar of human rights and a prerequisite for achieving gender equality. Yet for women, particularly mothers who carry heavy responsibilities of unpaid care work, justice often remains elusive. Across the world, caregiving is rarely treated as real labour and taken into account in legal systems. Despite the essential role of unpaid care work in sustaining families, communities, and economies, it remains invisible and ignored in legal reasoning. This omission perpetuates injustice across multiple domains that shape women's and mothers' everyday realities, including separation and divorce, property rights, social benefits, and employment disputes.

To ensure inclusive, equitable, and effective legal systems, caregiving responsibilities must be acknowledged and addressed as fundamental components of social justice and gender equality.

### The realities of women's unpaid care work are ignored in legal systems

All over the world, women shoulder a disproportionate share of unpaid domestic and care work, which affects their economic autonomy and legal standing, in particular when they are mothers. This pattern of unequal sharing and undervaluation of unpaid care work and responsibilities has far-reaching consequences: it limits women's opportunities to engage in paid employment, access education, and participate in public life. It is a cause of social and economic injustice and hardship for women, and too often puts them in a situation of financial dependence and vulnerability to violence.

It also impacts Court decisions: in cases of separation or divorce, legal systems typically prioritise monetary over caregiving input, often leaving mothers economically disadvantaged or even pushing them into poverty. Unpaid care work is rarely accounted for in the division of marital assets, spousal support, or child custody decisions. This omission not only perpetuates gender inequality but also discourages and further devalues caregiving.

Without financial compensation or legal recognition, caregiving continues to be excluded from frameworks that define economic value and social contribution.

In addition, structural barriers such as limited access to legal aid, lack of childcare during legal proceedings, and institutional bias further prevent mothers from accessing justice. These barriers are magnified for women from marginalised communities, including migrants, minorities, and those with disabilities, who face compounded discrimination. Recognizing the value of caregiving within legal systems is not only a matter of fairness but also an imperative of intersectional justice.

### Inadequate legal systems fail unpaid caregivers

Unpaid caregivers, especially mothers, face legal systems that were not designed with their realities in mind. Legal representation is frequently out of reach due to cost, and court systems lack the flexibility needed for those juggling care responsibilities.

These challenges are not isolated; they are interconnected and systemic. When court schedules do not accommodate school pickup times, when hearings are delayed without taking caregivers' constraints into account, or when caregiving is dismissed as non-economic, the system communicates that care does not count.

The consequences are profound: economic insecurity, emotional exhaustion, and institutional mistrust. When legal systems fail to care for the caregivers, they alienate the very individuals they are meant to serve. For justice to be truly accessible and inclusive, it must reflect, respect, and support the role of caregiving.

International Legal Frameworks exist, but are not sufficiently respected

Several international instruments support improvements to justice systems to better address the specific needs of women. These include several General Recommendations from the Committee on the Elimination of Discrimination Against Women:

- General Recommendation No. 33 highlights the structural barriers women face in accessing justice and calls for legal systems that respond to gender-specific realities.
- General Recommendation No. 29 underscores that legal frameworks must recognise the economic value of unpaid care work when determining the consequences of marriage dissolution.
- General Recommendation No. 17 advocates for measuring and accounting for women’s unpaid contributions in national accounts, a principle that also should apply in family and justice systems.

In addition, as part of its national review process, the Committee on the Elimination of Discrimination Against Women promotes the equal sharing of responsibilities within families and challenges gender-based stereotypes in caregiving and parenting. It also highlights the importance of maternity protection in the workplace and promotes access to childcare.

Similarly, international frameworks like the International Covenant on Economic, Social and Cultural Rights emphasise that maternity requires special legal and social support and call for recognition of caregiving responsibilities in public policy.

Despite these commitments, many national legal systems fall short. The long-term and deeply embedded nature of caregiving continues to be overlooked, eroding the transformative aims of gender equality envisioned by international human rights standards.

Discriminatory laws undermine women’s access to justice and economic empowerment

Beyond recognition in courts, discriminatory laws continue to act as systemic barriers to women’s economic justice. The World Bank’s Women, Business and the Law project, which tracks laws and regulations across 190 economies, shows that women worldwide enjoy only 64 per cent of the legal protections that men do when new indicators of childcare and safety are included. Moreover, despite progress in lawmaking, implementation lags severely: on average, countries have in place less than 40 per cent of the frameworks needed to enforce gender-equal laws in practice.

These gaps are especially visible in family laws, which directly affect women’s ability to work, own property, and make decisions within households. According to Women Business and the Law, 86 economies still restrict the types of jobs women can do, and in 75 economies women face limitations in managing or inheriting assets. In 19 countries, husbands retain the legal right to prevent their wives from working, a stark reminder that what is often treated as a “private matter” is in fact a structural determinant of women’s economic participation.

Such legal discrimination compounds the invisibility of unpaid care work in justice systems: when women lack equal rights to assets, mobility, and employment, they also lack bargaining power in courtrooms and in family disputes. The continued existence of these barriers confirms that without eliminating discriminatory laws and valuing unpaid care, women's access to justice will remain incomplete.

This global evidence underscores the urgency of translating international commitments into reality—through reforms that dismantle discriminatory laws, recognise caregiving, and deliver justice that reflects the lived realities of women and mothers.

#### A national case study: Spain recognises unpaid care work in a divorce settlement

The persistence of discriminatory laws and the invisibility of care in justice systems contrasts with promising national reforms that demonstrate what change can look like in practice. A landmark ruling in a divorce case by a Spanish court in February 2023 awarded more than €200,000 to a woman for 25 years of unpaid domestic and caregiving work during her marriage. The court calculated the amount using Spain's minimum wage, recognizing the full-time work she performed at home while her husband built a business.

This case sets an important precedent: legal systems can and should quantify unpaid labour and treat it as a meaningful contribution to the economic partnership of marriage. Such rulings validate caregiving as a legitimate basis for financial compensation and provide a model for other jurisdictions. This approach also aligns directly with General Recommendation No. 29, which calls for non-financial contributions to be recognised in legal decisions.

#### Framing Care as a right

Recognizing care as a human right would also contribute to improving the situation in justice systems, as it would shift care from being a private responsibility to being a collective one. While not yet a reality at the international level, framing care as a right would put obligations on States to invest in public care infrastructure, provide fair compensation and decent working conditions for care workers who are mostly women, and guarantee that quality, affordable care is accessible to everyone, regardless of their circumstances. In addition to promoting social justice, gender equality, and dignified lives for all by ensuring access to care services and supporting caregivers, it would also impact decisions adopted in Courts.

Some countries, including Colombia, have now recognised Care as a fundamental right through their Constitutional Court's jurisprudence (Sentencia C-400/24). In addition, in August 2025, the Inter-American Court of Human Rights issued a landmark Advisory Opinion (OC-31/25) in response to a request submitted by Argentina in January 2023, affirming that care constitutes an autonomous human right, which includes the right to care, to be cared for, and to self-care. It also recognises care as work (both paid and unpaid) and outlines the measures that States must implement to guarantee the right to care.

#### Recommendations

To ensure and strengthen access to justice for women, in particular mothers, Make Mothers Matter calls upon governments to act as follows:

- Legal Reform: Integrate unpaid care work into legal frameworks, including divorce settlements, custody decisions, and spousal support calculations.

- **Valuation of Care:** Develop methodologies to quantify caregiving in legal terms, drawing on international standards and successful precedents such as the Spanish case.
- **Training for Legal professionals:** Provide gender-sensitivity and care-awareness training for judges, lawyers, and legal aid providers to address existing biases.
- **Accessible Legal Systems:** Improve access through childcare provision at court facilities, more flexible hearing schedules, and expanded legal aid for unpaid caregivers.
- **Integrate Care into Justice Discourse:** Advocate for caregiving to be recognised as a legitimate and central basis for rights claims in legal and policy frameworks.

#### In conclusion

Despite its fundamental role in society, caregiving, often unpaid and disproportionately performed by women, remains legally ignored. Access to justice demands legal systems that reflect the lived realities of caregivers, particularly mothers.

The 70th Commission on the Status of Women is a critical moment to recognise that if caregiving remains invisible in courtrooms and legislation, then justice itself remains incomplete. Legal systems that fail to account for care work are not only perpetuating gender inequality, but they are undermining their own legitimacy.

Justice must not be blind to care. It must see caregiving as essential, dignified, and worthy of legal recognition. Only then can we claim to build just and inclusive societies.

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