



International
Labour
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► **Workers with Family
Responsibilities
Convention, 1981 (No. 156)**

**Committee of Experts on the Application of
Conventions and Recommendations**

General observation, publication 2020



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At its 2019 session (November–December), the Committee of Experts on the Application of Conventions and Recommendations (CEACR) adopted a general observation on the application of the Workers with Family Responsibilities Convention, 1981 (No. 156). The text of this observation is reproduced below.

As part of the regular supervisory system on the application of ILO international labour standards, the CEACR is an independent body whose function is to provide an impartial and technical assessment of the application of these standards by ILO Member States. The CEACR is composed of 20 experts, eminent jurists from different geographical regions, legal systems and cultures.

In addition to the comments directly addressed to governments, the CEACR may decide to publish the so-called “general observations” on certain issues concerning the application of a Convention.

General observation

GENERAL OBSERVATION ON DISCRIMINATION BASED ON WORKERS' FAMILY RESPONSIBILITIES

The Committee recognizes that in today's world, reconciling work and family responsibilities and more generally promoting a better work–life balance for *all* workers, irrespective of their sex, is essential to the achievement of gender equality and decent work. The Committee acknowledges that addressing these issues has become more urgent than ever before due to societal, demographic and organizational changes, including: (i) the increase in women's labour force participation and changes in the family structure; (ii) population growth combined with an ageing population and increasing care needs; and (iii) transformative changes in the world of work, particularly in work organization, driven by technological innovations.

The Committee also recognizes that the bulk of family responsibilities is generally carried out by women, and in some societies girls, who are subject to a double burden of both paid work and unpaid care work. In order to cope with the care demands, a higher proportion of women have to work in diverse forms of employment, such as part-time work, on-call work, casual jobs, or as own-account workers. These forms of employment negatively impact their income, with the International Labour Organization (ILO) estimating the gender pay gap to be 16–19 per cent, often based on this care divide (Global Wage Report, 2018–19). They also affect social security entitlements, with both gaps (in wages and in social security entitlements) leading to higher levels of poverty for women as compared to men throughout the life cycle. At the same time, men taking up, or wanting to take up, more family responsibilities are also encountering difficulties and obstacles in seeking to realize this aspiration, while simultaneously reconciling it with their obligations in relation to paid work.

Although the intensity of these changes might differ depending on the regions, the issues of work–life balance are relevant to all workers and have become a priority in both urban centres and rural areas across the globe. Considering these developments, the Committee draws attention to the relevance, importance and practical usefulness of the principles laid down in the Workers with Family Responsibilities Convention (No. 156), and its Recommendation

(No. 165), 1981. The aim of these instruments is to ensure that all workers with family responsibilities – women as well as men – are not disadvantaged in relation to other workers and, in particular, that women with family responsibilities are not disadvantaged in comparison to men with family responsibilities. One of the essential components of the Convention lies in *Article 3(1)* that requires the adoption of a national policy on non-discrimination based on family responsibilities.

Implementation of Convention No. 156 is inextricably linked to the implementation of the principle of equality contained in the ILO Constitution, as well as the fundamental right to non-discrimination and equality of opportunity and treatment in employment and occupation set out in the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Equal Remuneration Convention, 1951 (No. 100). These principles are also incorporated in more general international human rights laws, such as the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The Committee wishes to emphasize that measures to assist both men and women with reconciling work and family responsibilities are essential to promote gender equality in employment and occupation and to close the gender pay gap. The Committee also points out that, while the Convention builds on the rights and protections laid down in the ILO's Conventions on maternity protection, it is intended to encourage men to take up their family responsibilities and to enable men as well as women to reconcile those responsibilities and their work obligations.

The Committee notes that the Centenary Declaration for the Future of Work, adopted by the International Labour Conference in June 2019, commits the ILO to directing its efforts towards achieving gender equality, inter alia, through a transformative agenda with progress towards those goals regularly evaluated. In so doing, the Declaration emphasizes the importance of a more balanced sharing of family responsibilities and the attainment of a better work–life balance, as well as investing in the care economy, and ensuring that diverse forms of work arrangements, production and business models provide for decent work. At the same time, it calls for the development of adequate and sustainable social protection systems adapted to developments in the world of work. Gender equality and decent work for all, which are at the heart of the ILO's work and its Centenary Declaration, also comprise two of the 17 goals (goal 5 and goal 8) adopted by the international community in its 2030 Agenda

for Sustainable Development to achieve its pledge “*to leave no one behind*”.

Despite undoubted and marked progress having been made over the past 35 years since the adoption of Convention No. 156 and Recommendation No. 165, the Committee finds, following a review of the reports of the governments and the observations of the social partners, that there are many gaps in the implementation of the Convention. The Committee intends this general observation, first, to promote full application in law and practice of the Convention and Recommendation; secondly, to promote better reporting on the application of the Convention under article 22 of the ILO Constitution; and, thirdly, to stimulate awareness, understanding and use in all Member States, at national, community and workplace levels of the principles and guidance set out in these instruments.

Observing that the absence of measures designed to achieve these objectives may lead to indirect sex discrimination, the Committee wishes also to note that at its 337th Session (October–November 2019), the Governing Body decided to select Convention No. 156 together with Convention No. 111 and Convention No. 183, as the subject of the 2021 General Survey to be prepared by the Committee of Experts, with a focus on the fundamental principle of equality of opportunity and treatment between men and women workers. The Committee welcomes the choice made for the forthcoming General Survey and anticipates that it will be an opportunity to demonstrate the close link between these three instruments, in particular their crucial role in the achievement of gender equality. It hopes that this general observation will pave the way for renewed interest in Convention No. 156.

Scope and national policy (Articles 1 to 3). The Convention calls for the adoption of a national policy “to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities”. This national policy which is wide in scope and applies to all sectors of economic activity and all categories of workers, should be implemented through the adoption of a combination of specific legislative, administrative, policy or practical measures adapted to national conditions concerning employment participation and security, conditions of work, social security, and the provision of community services. The scope of the term “family responsibilities” is broad, covering

responsibilities towards both “dependent children” and “other members of the immediate family who clearly need care and support”. Each ratifying State shall determine who comes within these two categories, without undermining the principle of equality.

In seeking specifically to protect all workers with family responsibilities from discrimination, the Convention defines discrimination in the same way as Articles 1 and 5 of Convention No. 111: that is, discrimination is “any exclusion, restriction or preference which has the effect of nullifying or impairing equality of opportunity and treatment in employment and occupation”, but not the adoption of “special measures of protection or assistance” that are needed to remedy the effects of past discriminatory practices and promote equality for all. The definition covers both direct and indirect discrimination. While recognizing that prohibitions of sex- or gender-based discrimination may sometimes provide important protection to women against the disproportionate impact on them of barriers arising from family responsibilities or stereotyped assumptions regarding family responsibility roles, the Committee has emphasized that such protection may fall short of meeting the objectives of Convention No. 156. Convention No. 111 also provides for the possibility to designate additional prohibited grounds of discrimination at the national level in consultation with representatives of workers’ and employers’ organizations. In that regard, the Committee welcomes the fact that an increasing number of countries are adding “family responsibilities” and/or “family situation” or more broadly “care responsibilities” as a prohibited ground of discrimination in labour policies and laws.

The Committee notes that a growing, though insufficient, number of countries have adopted national policies that explicitly address the needs of workers with family responsibilities. Some of the relevant measures are contained in gender equality policies or equal employment opportunity policies, and more recently, in specific work–life balance policies. However, the Committee has also noted a number of important shortcomings with regard to the adoption of national equality policies covering workers with family responsibilities. In some countries certain categories of workers (such as domestic, migrant, or temporary workers) or sectors (such as workers in the informal economy or in the agriculture sector) are excluded from the national law and policies, and thus from the application of the Convention. In a number of countries, policies and specific measures, such as the entitlement to parental or family leave, protection against overtime and dismissal, or access to childcare

facilities, continue to be directed only at women. Although certain targeted temporary “special measures” may still be taken to address the disadvantages faced by women workers with family responsibilities (such as measures directed at helping women re-entering employment after extended maternity and parental leave), the Committee stresses that the impact of such measures needs to be regularly monitored and restrictions and limitations should be removed as soon as possible. The Committee reiterates its view that when national policy, legislation, collective agreements or other measures reflect the assumption that the main responsibility for family care lies with women and so exclude men from the rights and benefits aimed at enabling reconciliation of work and family responsibilities, this reinforces traditional stereotypes and impedes the attainment of equality. The Committee underscores the importance of challenging traditional stereotypes of gender roles in caregiving, unpaid work and paid employment in order for families to be free to divide and share care-giving responsibilities regardless of gender and to allow them to reconcile those responsibilities with employment to the fullest extent possible. Thus, the Committee calls for the extension of measures adopted at the national and workplace levels enabling the reconciliation of work and family responsibilities also to apply to men.

Social dialogue (Article 11). The Committee wishes to highlight the value of social dialogue and collective bargaining in the implementation of the Convention. In this respect, the Committee notes the adoption of codes of good practice for companies and guides for collective bargaining which promote the adoption of concrete measures to enable better reconciliation of work and family life. The Committee hopes that employers’ and workers’ organizations will continue to participate in the design and implementation of national, sectoral and workplace policies and innovative measures to give effect to the rights in the Convention. The Committee stresses the important role that national mechanisms on gender equality, business associations, trade unions and other non-governmental associations can play in promoting the aims of the Convention through research, training, awareness-raising and exchange of lessons learned and good practices. Examples of such action it has noted, include such things as the establishment of a paternity website aimed at promoting equitable gender relations and men’s participation in care tasks, the setting up of a national task force on the integration of work and family life, and family-friendly company certification systems providing positive recognition to enterprises which adopt family-friendly measures for their workers.

Terms and conditions of employment and social security (Articles 4(b), 7 and 8). The Convention calls for the adoption of measures to enable workers with family responsibilities to enter, remain integrated in and re-enter the labour force after a period of leave, and prohibits termination of employment based on family responsibilities. The Committee is pleased to note that many Member States have adopted legislation that protects employees against dismissal related to family responsibilities, such as through provisions on unlawful dismissal. The Committee observes the importance of extending the protection afforded by employment legislation, including renewal of contracts and prohibition of dismissal or non-renewal based on family responsibilities, to workers in diverse forms of employment, as it is often these workers who most need protection. The Committee further recalls the importance of taking into account not only persons who combine employment and care responsibilities, but also those who take time off to provide care and then wish to re-enter the labour market. Measures to this effect are often integrated into the national, municipal and sectoral-level vocational training and guidance services, and focus on facilitating women's re-entry into the labour force after child-rearing. Other measures aim at maintaining or strengthening the link between the employer and workers on parental or care leave in order to facilitate their re-entry into employment. The Committee calls for greater efforts to be made, through active employment policies, to target all workers with family responsibilities so as to facilitate their entry and re-entry into the labour force.

The Convention calls for the adoption of measures, compatible with national conditions and possibilities, to take account of the needs of workers with family responsibilities in terms and conditions of employment and in social security. It notes that for many workers, rigid schedules and long daily and weekly working hours are incompatible with achieving a work-family balance. The Committee welcomes the increasingly wide range of measures introduced into laws, regulations, collective agreements, and human resource policies and practices to promote equality and facilitate the reconciliation of work and family responsibilities. Many of these measures address working hours, working arrangements and leave based on a recognition that such innovations can benefit both workers and employers. The Committee notes that the adoption of such measures is critical to the full application of the Convention in practice.

Work organization, in particular working time, working arrangements and leave arrangements, are key factors that can either help facilitate work–life balance (e.g. flexible work schedules, worktime banks, telework, family leave) or hinder it (e.g. excessively long hours, unpredictable schedules, no family-related leave). The Committee stresses that workers should not be denied access to work organization entitlements, where they exist, and workers who take up these measures should not be subject to acts of reprisal or be negatively impacted in their career advancement or employment.

The changing nature of work and work processes, along with technological innovations and changes in attitudes, have the potential to allow for more adaptation and worker control over their working arrangements. Many of these adaptations can and should help workers balance family responsibilities and work more effectively. Examples of such working arrangements include possibilities for voluntary reduction of working hours generally, flexible working hours, part-time work, homework, remote work, telework, and flexible annual leave. Also, the importance of taking into account family responsibilities (e.g. care needs of older persons and spousal work schedules) in assignments of shift and night work, job mobility, job transfers, travel schedules, and meeting schedules is underlined. The Committee welcomes the adoption of these work arrangements when they are voluntary and protected in accordance with other international labour standards, such as the Part-Time Work Convention, 1994 (No. 175). More generally, with respect to measures that facilitate work–life balance, the Committee notes that providing more autonomy and flexibility to workers can create a positive organizational climate that may also lead to improved performance. At the same time, the Committee cautions against flexible working arrangements, such as part time-work, being imposed upon workers, in particular women with family responsibilities, in a manner that could penalize them in terms of their pay, job security, social security, training or promotional opportunity.

Leave entitlements have a direct bearing on how easy or difficult it is for a worker to be able to be absent from the job to deal with a family emergency or to take a longer break for caring responsibilities. The Committee is pleased to note that, in addition to the strengthening of maternity protection, paternity leave is increasingly being introduced. Arrangements to facilitate the reconciliation of work and family life following maternity and paternity leave may include: parental leave; adoption leave; family

support leave; caregiver leave; leave to look after a family member who is sick, seriously ill, or has had an accident; leave for family medical reasons; leave for family events, such as weddings and funerals; and leave to take care of a close relation suffering from a serious condition or with a disability. It notes that despite the gradual uptake in paternity leave by men and the expansion of parental leave for both parents, mothers are still overwhelmingly the primary users of parental leave. From a review of the reports submitted by governments on the implementation of the Convention, the Committee finds that the reasons for men not taking up an equal share of available leave (as well as for not applying for certain working arrangements, such as part-time work or telework) are reported to include first and foremost the national, social and employment culture, then fear of retaliation (or stigma affecting workers using flexible work options), and concerns over loss of income or career development opportunities. The Committee welcomes the efforts undertaken by a small number of Member States to adopt concrete measures to encourage men to take a greater role in relations to family responsibilities through, for example, introducing mandatory parental leave to be taken by both parents in turn and increasing leave allowances and other incentives. It calls on more governments and enterprises to adopt such measures and to ensure that men are included in conversations about family-friendly policies. The Committee also notes that there has been less progress regarding the right to paid leave and flexible work for those caring for older or disabled persons compared to those caring for children. Given the demographic projections demonstrating the growth of the dependency ratio of the elderly in addition to that of children, and the increasing pressure this is likely to place on the working generation, the Committee hopes that more leave arrangements will be adopted to facilitate workers' care for their elderly family members. The Committee is concerned that where leave arrangements do exist, they are not accessible to all workers, they are disproportionately taken up by women, and they are often unpaid or paid at a low rate. It calls on governments to take steps to address these gaps in the implementation of the Convention.

The Committee notes that social security plays a crucial role in implementing flexible working and leave arrangements by ensuring income support and access to medical care to workers and their families during periods of leave and beyond. Social security benefits are generally financed through employers' and workers' contributions and/or out of the state budget and may be accompanied by fiscal (tax) and other public measures for enhanced protection, as

foreseen by the Convention. Many countries use a combination of benefits and approaches to ensure income and healthcare protection to workers and their families, during periods of leave related to family responsibilities. These include: maternity benefits; paternity or parental allowances; childcare allowances or subsidies; family benefits; home care allowances; disability care allowances and carers' allowances; as well as various tax credits, subsidies and grants.

The lack of access to adequate benefits has been found to act as a disincentive, in particular for men, to take up family-friendly leave and work arrangements. As for women, all too often they are working in forms of employment which are outside the scope of social security coverage or have limited entitlement to social security. The Committee wishes to seize this opportunity to underscore the need for social security laws and regulations to be reviewed in order to ensure that they include no direct or indirect sex-based discrimination, and for gender-inclusive measures to be taken to address inequalities. The Committee recalls that in many Member States social security coverage is limited and welcomes the new international consensus on the crucial role of social protection in furthering human dignity, social cohesion, equality, social justice, as well as sustainable social and economic development as embodied by the Social Protection Floors Recommendation, 2012 (No. 202).

Childcare and family services and facilities (Article 5). The Convention requires Member States to take into account the needs of workers with family responsibilities in community planning and in the development and promotion of community services, public or private, such as childcare and family services and facilities. The Committee notes that the lack of quality, affordable care services has been identified by both men and women as one of the biggest challenges for women with family responsibilities who are in paid work, as well as the inflexibility of the hours of care of these services. It further notes that, where funded childcare has been provided, labour participation rates of women have increased. In the view of the Committee, it is essential that workers with family responsibilities have access to child and family care facilities meeting the needs of children of different ages, after school care, care for the disabled, and elderly care, that are affordable, accessible to their home and work, responsive to working hours, and provide quality care. Such services should be available free of charge or at a reasonable charge in accordance with the workers' ability to pay. The Committee welcomes the expansion of such services in many

communities, including in rural areas. Nevertheless, the Committee is concerned that the demand exceeds the provision of such services and facilities in all parts of the world. Although the Convention does not place responsibility on the employer to provide such facilities, the Committee notes that employers have in some instances taken the initiative to establish childcare facilities and services for their employees, sometimes in collaboration with trade unions, and sometimes with a corresponding tax rebate or off-set or direct state subsidies. The Committee calls for surveys at community level to identify the needs of workers for childcare and family services and urges the establishment and extension of suitable services to meet those needs thus enabling all in paid work to better meet their family responsibilities.

Information and education (Article 6). The Committee stresses the importance of launching regular awareness-raising and education campaigns to promote broader public understanding of the difficulties faced by workers with family responsibilities. These interventions can be designed for any scale, from local to national and should aim to correct misinformation or contradict negative attitudes and beliefs vis-à-vis workers using flexible arrangements, while boosting their self-esteem, reducing self-stigma and promoting stress management; to encourage men to participate more in family responsibilities; and to promote understanding of the benefits to society, families and the workplace of gender equality and a better balancing of work and family life.

Recalling the ILO Centenary Declaration for the Future of Work's aim to achieve gender equality at work through a transformative agenda and stressing the importance of the Convention in achieving this goal, the Committee calls for Member States, and employers' and workers' organizations, to strengthen efforts towards:

- making non-discrimination of workers with family responsibilities and the adoption of measures to facilitate the reconciliation of work and family responsibilities explicit aims of their national policy;
- regularly monitoring and assessing the results achieved within the framework of the national policy towards achieving the aims of the Convention with a view to adjusting the measures adopted or envisaged;

- launching regular public information campaigns to promote the sharing of family responsibilities and remove misconceptions around care roles;
- ensuring that workers with family responsibilities have effective equal opportunities and rights to enter, re-enter and remain integrated in the labour market;
- expanding and increasing access of all workers to voluntary and protected measures of working arrangements and leave that facilitate reconciliation of work–family life;
- expanding measures that support the reconciliation of work and family responsibilities within social protection systems;
- establishing and expanding adequate quality childcare and family services at community level;
- promoting social dialogue, collective bargaining and other measures to strengthen, facilitate and encourage the implementation of the principles of the Convention; and
- enhancing the capacity of enforcement authorities, including labour inspectors, tribunals, courts, and other competent bodies, to identify, prevent and remedy cases of discrimination in employment and occupation related to family responsibilities.