**Need Help? The EU and the Challenge of Eldercare[[1]](#footnote-1)\***

Please note: this is WORK IN PROGRESS: thank you for any comments

Any comments

# Law and the Ageing of Humankind

# WG Hart Workshop 22-23 June 2015

**Introduction**

It is a well-established fact that, across Europe, the population is ageing.[[2]](#footnote-2) A greater life expectancy combined with declining birth rates, has meant that the number of older (55-64), elderly (65-79) and very elderly (80+) people has grown to an unprecedented level and this trend is steadily increasing. It is estimated that those over the age of 79 are expected to triple across the EU by 2060 (see Table 1).[[3]](#footnote-3) Specifically, by then, the age band 80+ is expected to increase from 5% to 28% of the population, whilst those aged 55+ are expected to rise from 18% to 28%.[[4]](#footnote-4) It will not be unusual to see four surviving generations of the same family. Whilst this may be “wonderful news”,[[5]](#footnote-5) a growing elderly population creates multiple and complex challenges. These entail, *inter alia*, the sustainability of the old age-pension system, the inclusion into the labour market of both individuals who need care and those who care for, and the establishment of adequate health and social care services and provisions. Indeed, the rising life expectancy means that more people now reach an age where declining physical and mental health make them dependent on help from others. In other words, it is now widely acknowledge that an ageing society is a key challenge for both domestic governments and the EU that needs to be addressed as a matter of urgency.

This paper aims to explore how the law and policy of the European Union (EU) have engaged, with the challenges of an ageing population. It focuses on one of such challenges, namely the Long Term Care (LTC) requirements of the elderly population and its impact on informal carers.[[6]](#footnote-6) Although the need for high quality, financial sustainable and accessible adult care services has been highlighted for some time,[[7]](#footnote-7) progress in this area remains very slow. Yet, it is becoming increasing clear that “the previously held assumption that that EU law has little relevance for (…) the long-term care of older people is increasingly under question … EU law is [now] an important element of the policy context within which changes to the long term of care for older people … are taking place.”[[8]](#footnote-8)

This paper argues that the EU has an obligation to lead policy and legislation aimed at developing a coherent strategy and to lead the development of good quality, accessible, affordable and flexible provisions to care for older citizen and for those who provide care. This can be achieved by using the EU core values as a starting point.

It is organised in three main sections. Section one explores the meaning of Long Term Care and its specific challenges for the EU; against this background, the second section focuses on the rationale behind the EU engagement with eldercare and the third section reviews the position of the EU in this area. In light of this discussion, this paper concludes by seeking to devise a workable model and a way forward.

1. **Long Term Care and its challenges**

Long Term Care is a general term that indicates the support that certain individuals need, as a result of mental and/or physical disability or old age or both, over an extended period of time to enable them to perform basic tasks necessary for their daily living.[[9]](#footnote-9) Care means different things to different people: for certain people might mean help with daily living activities (get out of bed and get dressed); to some it might mean help with housework (cooking and shopping); to others might mean company and emotional support; and to yet others, might mean help with caring for somebody else.

Perhaps as a result of these multiple quests, across Europe Long Term Care has been organised - and financed - in different ways: as part of health care or welfare/social care. The latter is the focus of this paper and, in turn, it consists of a combination of formal and informal measures.[[10]](#footnote-10)

*Formal* care involves a specific range of services, from home help to providing care in an institutional setting. People who work to provide these services are “formal” carers: they are (poorly) paid and work under a contract. By contrast, *informal* care is often provided by family or friends, often by women. Although informal carers play a key role in delivering high level of care,[[11]](#footnote-11) they are untrained and unpaid.[[12]](#footnote-12) Informal care is the most common approach, perhaps because it is perceived as being, the only available option, or possibly because the parties concerned prefer it.[[13]](#footnote-13) It is estimated that today 20 million of people across Europe care for older members of their family.

It is not the aim of this paper to argue that one form of care should be preferable or better than the other: the two types might substitute or complement each other and each case should be determined according to the needs and interests of the parties to the caring relationship in each individual case.[[14]](#footnote-14) Often, however, the choice element is inexistent: for example, the austerity measures recently introduced to address the financial crisis (lack of eligibility for free or affordable care or lack of support for informal carers in the workplace) have had the effect to dictate the “appropriate” type of care.[[15]](#footnote-15)

For the EU, Long Term Care, whether formal or informal, presents very specific challenges. The Council of the European Union has recently identified three.[[16]](#footnote-16) First, the *increasingly raising age of the population* that means that those in need of LTC are expected to triple by 2060 (see Table 1).[[17]](#footnote-17) Secondly, *the availability of carers is expected to decline*. Because of the decrease in fertility rates, a 14.2% (2010-2060) decrease in the EU27’s working age population is expected; therefore there will be less people able to provide formal care. Equally, the capacity of family and friends, who are currently estimated to provide around 80% of care,[[18]](#footnote-18) is projected to decline as a result of changes to society, higher pensionable ages and family structures: people are having fewer children, who may also live further away from their elderly parents and are unable to provide the required care.[[19]](#footnote-19) The European Commission estimates that, should no action be taken, at least 15% of necessary care will not be covered by 2020.[[20]](#footnote-20) Thirdly, the increase in the number of people needing care and the decrease in the number of people who can offer care creates the so-called “care gap” which, in turn, makes it difficult to ensure the *quality of the care* offered.

This brings us to a further - and to a certain extent less discussed – challenge, namely the acknowledgement of the the vital connection between the needs of carers and of those for whom they care.[[21]](#footnote-21) In other words, the role of carers is crucial to secure the wellbeing of those in receipt of care and therefore, in the development of an EU LTC strategy it is essential to consider and protect carers.[[22]](#footnote-22) However, although the needs of carers and cared for are interconnected, they deserve independent recognition in order to be adequately addressed: carers should not be protected because of their association with people in need[[23]](#footnote-23) of care but because they are themselves a vulnerable group.

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| EU 27 | 2008 | 2010 | 2020 | 2030 | 2040 | 2050 | 2060 | % change 2008/2060 |
| 65 + | 84.6 | 87 | 103.7 | 123.5 | 143.1 | 149.9 | 152.7 | 80.50% |
| of which 80+ | 21.8 | 23.3 | 29.7 | 36.6 | 48.8 | 57.7 | 62.2 | 185.40% |

Table 1: Development in Numbers of People 65+ and 80+ in EU27, 2008-2060, millions (source 2010 EUROPOP).

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **Total Years Life Expectancy at 65 (men)** | **Healthy Years Life Expectancy****at 65 (men)** | **Percentage of Healthy Years Life Expectancy****at 65 (men)** | **Total Years Life Expectancy at 65 (women)** | **Healthy Years Life Expectancy****at 65 (women)** | **Percentage of Healthy Years Life Expectancy****at 65 (women)** |
| **EU -27** | 16.5 | 8.4 | 51.0 % | 20.1 | 8.6 | 42.0% |

**Table 2: Life Expectancy and Healthy Life Expectancy at 65 in the EU-27 in 2009 (Source: Eurostat Statistics Database)**



1. **Should the EU be concerned with eldercare?**

Eldercare is increasingly becoming an issue that the EU needs to engage with.[[24]](#footnote-24) Broadly – and risking of being over simplistic - there two other main reasons for such engagement: an economic one and a more human rights/moral oriented.

As far as the economic rationale is concerned, simply put, an ageing population has implications that, if not carefully managed can be very expensive for both individuals and society. First of all there is a clear argument for keeping people in employment as long as possible.[[25]](#footnote-25) Some people, with adequate support, might still be able to work and contribute to the overall economy. Equally, people with heavy eldercare responsibility are less likely than people with less or no care responsibilities to be in (full-time) employment. In turn, if individuals are unable to work, business is likely to experience the loss of skilled employees and leadership capacity. It will not only be individual *business* that will suffer detrimental consequences but the economy as a whole will be affected. The latter does not only benefit from the fact that individuals are actively engaged in paid employment. It also benefits by avoiding long term consequences of the so-called “old social risk”[[26]](#footnote-26) such as unemployment and long term-poverty,[[27]](#footnote-27) as well as the “new social risks”,[[28]](#footnote-28) most notably inadequate social security coverage.[[29]](#footnote-29) By the same token, if individuals do not go to work, they will not be able to contribute to a pension fund to sustain an ageing society.[[30]](#footnote-30) Finally, the economic value of care for individual States cannot be underestimated: for example, in the UK research showed that the cost of the unpaid care contributed by carers is around £ 119 billion per year.[[31]](#footnote-31) Regulation of care is also instrumental to the achievement other important policies such as employment - in particular the targets of 75% employment of the Europe 2020 strategy[[32]](#footnote-32) - and gender equality. There is evidence in fact that, on the main, care is a gendered activity:[[33]](#footnote-33) overall, women are more likely to both be more likely to be recipient of care (see Table 2), and to provide long term care. Conversely men, unless caring for spouses or partners, care for fewer hours per week and undertake less demanding tasks.[[34]](#footnote-34)

Eldercare however not only creates challenges but also opens up opportunities opportunity for new jobs and growth. The so-called Silver Economy covers new market opportunities arising from public and consumer expenditure related to the rights, needs and demands of the (growing) population over 50.[[35]](#footnote-35) It could potentially create jobs in the long term care sector and a wide range of older-age related goods and services such as the development of new technologies.[[36]](#footnote-36)

Finally, care demand and care providers might well be affecting the free movement provisions within the European Union. Some care is already being provided on a global market, mostly coming from the south. The European Union is at least concerned with free movement of person of EU citizen.

Thus, the economic rationale and the business case to address eldercare are straightforward and show that the EU needs to develop as a matter of urgency suitable strategies. However, to focus the policy development discourse merely on economic concerns, is likely to lead to legislative solutions which simply seek to ensure that *some form* of care is provided; and a risk that any legislative proposals which are developed may then not be sufficiently sensitive to the needs of those involved and the choices of both carer and cared for as to how and by whom care will be provided.[[37]](#footnote-37)

The very value of care, indeed, goes beyond its economic currency and the economic argument cannot be “decoupled” from moral considerations: care is the foundation of society, a part of human life,[[38]](#footnote-38) a most basic human need[[39]](#footnote-39) that all of us at some stage will encounter.[[40]](#footnote-40) In particular, without LTC certain individual wellbeing, dignity, health and safety and even survival might be severely compromised. The same argument applies to carers: they should be valued for their contribution to society rather than focusing on their reduced potential in the employment market.[[41]](#footnote-41) There is also a wealth of evidence emphasising that caring does not only bring financial disadvantage associated with exit from the workforce or a change to part-time hours, but also the so-called “hidden costs”[[42]](#footnote-42), such as poorer physical and mental health, depression as well as increased risk of social exclusion.[[43]](#footnote-43)

Seen in this light, (elder)care is a form of social capital[[44]](#footnote-44) that should be constructed as a (at least moral) obligation to provide for people who cannot support themselves any longer. Accordingly, a normative framework that values (elder)care and support carers should be provided. (EU) law might struggle to provide such framework within a traditional setting. Indeed this would be more easily placed within an ethic of care discourse,[[45]](#footnote-45) rather than in a traditional right-based framework. Although, the theory on the ethic of care is vast and “there is no complete agreement over what (…) [it] means”[[46]](#footnote-46) it is widely acknowledged that it is based on the idea that life is a series of mutual and interdependent relationships without which we would not exist.[[47]](#footnote-47) According to an ethic of care, these relationships are used as a starting point to revaluate legal norms and, accordingly, the law should promote care and enable caring relationships.[[48]](#footnote-48) The primary focus should be “what is my proper obligation within the context of this relationship” rather than “is it my right to do X?”[[49]](#footnote-49)

1. **The EU Legal Provisions**

In light of the above (brief) discussion it appears that there is a clear rational to address LTC at EU level. And indeed, arguably, over the years, a “rhetoric of care” has permeated the EU agenda. Already in 1997, Advocate General Cosmas referred to carers as “unsung heroes” and pointed out that “measures should also be taken to protect those persons because of the range of risks they run (psychological damage, social isolation, and so forth) as a result of being continually occupied in looking after someone reliant on care”. [[50]](#footnote-50)

However, overall, the EU engagement in this area has been scarce. This is due to several reasons. First, the development of care policy is not a direct competence of the EU. Secondly, care has traditionally been perceived as a private issue, rather than a “genuine economic activity.”[[51]](#footnote-51) As such, it is often invisible, unpaid, not all of it is productive[[52]](#footnote-52) often performed gratuitously by women, rather than men and thus care work remains outside the traditional market-based, commodifiable EU notion of work.[[53]](#footnote-53) Thirdly, LTC provisions are the responsibility of Member States, where approaches and solutions provided for both cared for and their carers vary widely. The different approaches reflect, among other things, differences in working patterns (in particular amongst women) and in societal attitudes to care, and different level of resources.[[54]](#footnote-54) In a recent report prepared jointly by the Social Protection Committee and the Commission acknowledged that “there are more pronounced differences between Member States in the way long-term care is provided than in any other aspect of social protection.”[[55]](#footnote-55) Perhaps the only common element that these different approaches share is that “non-professional family care plays a major role” although even in this case “the extent to which this is complemented by formal, publicly provided care varies widely”.[[56]](#footnote-56)

In turn, this makes it difficult to establish a common model. A number of relevant policy documents acknowledge that this is an issue of public interest.[[57]](#footnote-57) However, these do not make up for a coherent policy framework and there is no specific legislation or even a “strategy” to address elderly care.

Thus the EU mainly acts as a facilitator that provides “policy support” and “information sharing”. It promotes cooperation between Member States in this field. It does so mainly through the open method of coordination (OMG) in particular on closing the gap between the supply and demand for long-term care by exploring how to extend or restore older people's autonomy and capacity to live independently.

By contrast, perhaps as a consequence of the large involvement of informal carers, a tentative (and often inadequate) legislation to protect carers has developed. These rights originally, targeted to carers of young children as part of the work-life reconciliation discourse.[[58]](#footnote-58) They are articulated around leave and forms of flexible working, and protection from dismissal where these rights are asserted. Where - and if – specific rights for carers of adults have been created, they also tend to take this form, mapping onto existing rights for parents.[[59]](#footnote-59) A good example is the right to emergency leave available to workers “on grounds of force majeure for urgent family reasons in cases of sickness or accident making the immediate presence of the worker indispensable”.[[60]](#footnote-60) However, while this may be of valuable assistance in emergencies, it is clearly not a useful right in relation to meeting on-going care needs typical of LTC.[[61]](#footnote-61)

The rights available to carers have been complemented by a number of provisions prohibiting discrimination, such as the prohibition on indirect sex discrimination and the provisions on disability discrimination. These provisions, however, benefit *some* working carers (female carers and those who care for someone with a disability and who are discriminated against for that reason). In addition, some carers might benefit from two Directives[[62]](#footnote-62) offering protection against discrimination to those engaged in part-time and agency work. These types of work are often used to accommodate the demands of long term care.[[63]](#footnote-63)

Overall, rights for carers are framed as “workplace rights” and can only be a small part of the response to the challenges posed by the increasing demand for care for both children and adults. A policy and legislative response should be aware of the conceptual, political and practical difficulties.

**Conclusion**

An ageing society is a key challenge for domestic governments across Europe. This paper has explored to what extent the EU legislator and policy making are engaging with it. The EU is not directly responsible for the development of this area because it does not have any specific competences. Yet, the existence of EU competence is not necessarily preclusive to EU action. Indeed the EU has, without competence developed a set of policy provisions and a tentative strategy is emerging in relation to the carers of young children. [[64]](#footnote-64) The contrast between the development of childcare and elder care is striking. While childcare policy is being developed by the EU on the basis of investment into the future, elder care has hardly been addressed by the EU and Member States’ policy and any relevant initiative was developed in a reactive fashion.

As discussed above, the EU role is limited to promoting and facilitating exchange of good practices between the Member States and this is done mainly through the framework of the Open Method of Coordination.

This paper argues that the EU should go further and take a proactive and leading role in *framing* the principles and the conditions under which LTC is organised: policy and legislation need to be reconceptualised to include the needs of recipients of care (older and frailer people) as well as those who provide care.

The EU fundamental values and principles can help a development in such direction; furthermore, the recent and growing influence of the human rights discourse could also provide the possibility to develop a legal base in this area. Article 2 of the Treaty on the European Union (TEU) states that human dignity is one of the values on which the Union is based; Article 3 TEU goes further by stating that the Union “… shall promote (…) solidarity between generations and protection of the rights of the child”. These provisions could provide a base to ensure that “relationships of care, love and solidarity are nurtured”[[65]](#footnote-65) and valued. The EU Charter of Fundamental Rights[[66]](#footnote-66) by stating that the Union recognises “the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life”,[[67]](#footnote-67) “the rights of persons with disabilities”[[68]](#footnote-68) as well as the reference to inviolability of “human dignity”[[69]](#footnote-69) further reinforce this message.

Using these provisions as a starting point, the EU needs to develop a range of possible short and long term responses addressing both recipient (thus the very organisation of care) and carers.

As far as the organisation of LTC is concerned, a recent report[[70]](#footnote-70) has identified possible steps to improve health among the older population. These are based around three main concepts: **prevention, rehabilitation and re-enablement.** Prevention refers to services for people with poor physical or mental health to help them to avoid unplanned or unnecessary admissions to hospital or residential settings. In certain circumstances, it can include short-term emergency interventions as well as longer term low-level support; **rehabilitation** services to help people with poor physical or mental health to get better; finally and **re-enablement**, a recent concept and policy developed especially in Denmark and in the UK, that aims to maximise independence and quality of life in older age, whilst at the same time reducing costs. It encourages individuals to do things themselves rather than doing it for them; focusing on real practical outcomes within a specified timeframe; and continuous rather than one-off assessment of an individual’s care needs.

Overall these three principles are aimed at better prevention and management of disability and frailty; improved coordination between health and social care providers; more effective deployment of technology to promote independent living among the older population; Furthermore, these steps need to be complemented with measures aimed at recruitment and retention of formal carers; as well as measures to support informal carers, including those who need or want to combine informal care with paid work outside the home.

When it comes to carers, as this paper has highlighted above, some rights already exist. These are based on the model provided by carers for young (and healthy) children. However, although both types of carers are in a similar position because of their vulnerability, there are important differences in the demands that they face. These entail, *inter alia*, the duration, the intensity or nature of the care needed by adults that is likely to fluctuate significantly across time depending on the nature and the cause (such as old age, disability) of vulnerability which has generated the need for care in the first place.

It is crucial that these differences are acknowledged and thus, whilst the rights for carers of children are an obvious starting point for considering the structure of legal rights for adult carers. As James argues, the difficulties in reconciling unpaid care for elderly dependents with paid work “is a conundrum it is no longer, if it ever was, wise to pursue as an awkward extension of childcare/paid work contexts.”[[71]](#footnote-71)

The European Commission and European Parliament have considered the introduction of specific legislation to benefit specifically adult carers but this has not, to date, resulted in regulation. Specifically, in 2006 the European Commission advocated for the need to explore measures such as “leave to care for elderly parents or disable family members”. In 2011, a consultation was initiated on possible EU measures in the area of carers’ leave[[72]](#footnote-72) and in 2013 the European Parliament passed a Resolution[[73]](#footnote-73) calling on the Commission and the Member States to “develop a coherent framework for all types of care leave” and to “propose a directive on carers' leave, in line with the subsidiarity principle as set out in the Treaty”.[[74]](#footnote-74) In a speech last year to the European Parliament Interest Group on Carers Commissioner Tonio Borg promised a *possible* carers’ strategy. Also in this case, no specific mention of legislation was made.[[75]](#footnote-75)

Concluding, it is established that the EU needs to address the growing demand for a LTC strategy: this will be no easy task. In particular, in light of the divergent long term care structures across Member States, there is an argument to support the idea that regulation of long term care should remain addressed at national level and the role of the EU should remain that of a facilitator. However, the EU should make sure that the basic values enshrined in the EU Treaty and of the Charter of Fundamental Rights are upheld. Finally, this paper remains aware that the current economic climate is likely to provide a strong counter argument to the improvement of social rights. There is a widespread perception that social rights increase burdens on business: yet, economic priorities should not be used to bypass fundamental rights.

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2. See e.g. **J. Herring**, *Older People in Law and Society*, (OUP, 2009) and *Caring and the* Law (Hart, 2013). [↑](#footnote-ref-2)
3. European Commission, *The 2015 Ageing Report*, available at <http://ec.europa.eu/economy_finance/publications/european_economy/2015/pdf/ee3_en.pdf> [↑](#footnote-ref-3)
4. European Commission, *The 2015 Ageing Report*. [↑](#footnote-ref-4)
5. **J. Herring**, *Older People in Law and Society*, (OUP, 2009). [↑](#footnote-ref-5)
6. This can be particularly challenging: older people in fact might both need care and often at the same time are themselves (informal) carers to others. [↑](#footnote-ref-6)
7. See e.g., COM(2001) 723; COM(2002) 774; COM(2004) 304; COM(2007) 244 final andCOM(2008) 635. [↑](#footnote-ref-7)
8. **T. Hervey**, **A. Stark**, **A. Dawson**, **J. Fernandez**, **T. Matosevic**, **D. McDaid**, “Long Term Care for Older People and EU Law: The Position in England and Scotland”, 2012, 34(1) Journal of Social Welfare and Family Law, 105-124. [↑](#footnote-ref-8)
9. European Commission, Commission Staff Working Document, *Long Term Care in an Ageing Society – Challenges and Policy Options*, SWD (2013) 41 final. [↑](#footnote-ref-9)
10. European Commission Green Paper *Faced with Demographic change, a New Solidarity Between the generation* COM(2005) 94, European Commission, *The 2015 Ageing Report*. [↑](#footnote-ref-10)
11. European Parliament Resolution of 4 July 2013: *Impact of the Crisis on Access to care for Vulnerable Groups* ([2013/2044(INI)](http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2013/2044(INI)). [↑](#footnote-ref-11)
12. European Commission (Staff Working Document), *Long term Care in an Ageing Society – Challenges and Policy Options*, Brussels, 20.2.2-13 SWD (2013) 41 final. [↑](#footnote-ref-12)
13. Home care is what most elderly people want. The Special Eurobarometer survey of 2007, asked how they would prefer to be assisted with long-term care if the need arose, 45% of respondents said “in my own home by a relative”, 24% said “in my own home by a professional care service”, 12% said “in my own home by a hired carer” and 5% said “in the home of a close family member”; in total, 86% chose some form of home care and only 8% said “in a nursing home”; see European Commission (2007) *Health and Long-Term Care in the European Union* (Special Eurobarometer 283), <http://ec.europa.eu/public_opinion/archives/ebs/ebs_283_en.pdf> [↑](#footnote-ref-13)
14. Not surprisingly a EU survey reports that a high number of elderly people indicated that their prefer home care by a relative; see European Commission (2007) Health and Long Term Care in Europe (Special Eurobarometer 283) available at <http://ec.europa.eu/public_opinion/archives/ebs/ebs_283_en.pdf> [↑](#footnote-ref-14)
15. See also, European Parliament Resolution of 4 July 2013: *Impact of the crisis on access to care for vulnerable groups* ([2013/2044 (INI)](http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2013/2044(INI))); the Resolution expresses concerns about the percentage of those giving up work altogether in order to care will increase over the coming years as a result of the increased demand for care and the reductions in state support for care as a result of austerity measures. [↑](#footnote-ref-15)
16. The Council of the European Union, SOC 403; 18 June 2014. [↑](#footnote-ref-16)
17. See also European Commission (2012) *Long Term Care for the Elderly: Provisions and Providers in 33 Countries*. [↑](#footnote-ref-17)
18. European Commission (2012) *Long Term Care for the Elderly: Provisions and Providers in 33 Countries*. [↑](#footnote-ref-18)
19. **J. Gaymu**, **P. Ekamper**, and **G. Beets**, “Who will be caring for Europe's dependent elders in 2030?”, 2007 Population*, 62,* (4) 675‐706; **L. Pickard**, “A growing care gap? The supply of unpaid care for older people by their adult children in England to 2032”, 2015 Ageing and Society, 35,(1) 96-123 and European Commission (2011) *Commission Proposal for a Health for Growth Strategy 2014 – 2020*. [↑](#footnote-ref-19)
20. European Commission (2011) *Commission Proposal for a Health for Growth Strategy 2014 – 2020.* [↑](#footnote-ref-20)
21. See also **R. Horton**, “Work Life Balance and the Challenge of Eldercare”, 2015, Journal of Social Welfare and Family Law (forthcoming). [↑](#footnote-ref-21)
22. E.g., **I. Carpenter**, **J. Hirdes**, **N. Ikegami**, (2007), “Long-Term Care: A Complex Challenge”, OECD Observer, 27. See also Herring who argues that it is a recognition of the caring relationship and mutual vulnerability of the parties, rather than the separate rights and interests of each, that should underpin legal and policy approaches to care, **J. Herring**, Caring and the Law (Hart, 2013). [↑](#footnote-ref-22)
23. See the Case C-303/06, *Coleman v Attridge Law and Steve Law*, [2009] ECR I-5603, but compare with *Kulikaoskas* v *Macduff Shellfish*, UKEATS/62/09 [2011] ICT 48 and *Hainsworth v Ministry of Defence* UKEATPA/0227/13/GE. [↑](#footnote-ref-23)
24. In Italy, for example, it is estimated that three quarters of all carers are (often undeclared) migrant, see **M.** **Di Rosa**, **M. Melchiorre**, **M. Lucchetti** and **G.** **Lamura**, “The Impact of Migrant Work in the Elder Care Sector: Recent Trends and Empirical Evidence in Italy”, 2012, European Journal of Social Care, 9-27. More generally see also OECD, (2013), *Health at a Glance 2013: OECD Indicators*, (OECD Publishing). [↑](#footnote-ref-24)
25. **W. Loretto**, **S. Vickerstaff**, **P. White**, *The Future for Older Workers: New perspectives* (Policy Press, 2007). [↑](#footnote-ref-25)
26. **A. Gregory**, **S. Milner**, **J. Windebank**, 2013, “Work-Life Balance in times of Economic Crisis and Austerity”, 2013, 33 International Journal of Sociology and Social Policy, 528-541. [↑](#footnote-ref-26)
27. See the work of **N. Busby**, “Only a Matter of Time”, 2001, 64 *Modern Law Review*, 489. [↑](#footnote-ref-27)
28. **G. Bonoli**, “The Politics of the New Social Policies: Providing Coverage against New Social Risks in

Mature Welfare States”, 2005, 33 Policy and Politics, 431-449 at p. 433 *et seq*. [↑](#footnote-ref-28)
29. **J. Gormick**, **M. Meyers**, *Families that Work: Policies for Reconciling Parenthood and Employment*

(Russell Sage Foundation, 2005); **C. Saraceno**, “Childcare needs and Childcare Policies: a Multidimensional

Issue”, 2011, Current Sociology 78-96. [↑](#footnote-ref-29)
30. **P. Callister**, **J. Galtry**, “Baby Bonus” or Paid Parental Leave – Which One Is Better?”, 2009, 34 Social Policy

Journal of New Zealand, 1-11. [↑](#footnote-ref-30)
31. **L. Bukner**, **S. Yeandle**, Valuing Carers - Calculating the Value of Carers’ Support, CIRCLE (Leeds: University of

Leeds, 2011); see also a previous study *Valuing Carers – Calculating the Value of Unpaid Care*, (Carers

UK, 2007). [↑](#footnote-ref-31)
32. Communication from the Commission: *Europe 2020 -A strategy for smart, sustainable and inclusive growth*

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33. **L. Waddington**, “Carers, Gender and Employment Discrimination: What does EU Law offer

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56. Social Protection Committee and European Commission (2014) *Adequate Social Protection for Long-Term Care Needs in an Ageing Society*, at p. 8*.* [↑](#footnote-ref-56)
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