



*Shirley Greer, "Lunch at #16," lithograph, 2004 15" x 11".*

# Unpaid Workers

## The Absence of Rights

MARILYN WARING

*Utilisant une approche basée sur les droits, cet article examine le travail à temps plein des soignantes, celui qui est non payé, sous-payé ou encore celui qui est payé différemment. L'auteure explore à quel point la législation est discriminatoire envers les membres de la famille qui se dévouent à leurs malades à long terme. Elle les empêche de participer efficacement à la vie politique de la communauté, d'aspirer à une santé mentale et physique, elle les brime dans leurs droits à une complète éducation et à des conditions de travail sécuritaire, etc.*

The key impediment to recognition of rights has been the restriction of the words “work” and “worker” in international human rights texts, to those who are in paid work. The definition of the “economically active population” is “all persons of either sex who furnish the supply of labour for the production of economic goods and services” (ILO 32). It’s patently obvious that unpaid work furnishes the supply of labour for “the production of economic goods and services,” yet those doing the defining mean that there is only economic activity if there is a market transaction.

Unpaid work is the predominant form of labour in four sectors: subsistence production, the household economy, which includes unpaid productive, reproductive and service

work, the informal sector, and in voluntary and community work. The informal sector includes large numbers of people who are marginal to the “modern economy” and often invisible. Lourdes Beneria speaks of its “clandestine character ... often involving activities that are bordering on the illegal” and “its unstable, precarious and unregulated nature” (290-291). But it’s not all like that: a lot of the regular “babysitting” arrangements people make in their communities fall into this category.

The United Nations Systems of National Accounts (SNA) rules of 1993 expanded the boundary of production so that the accounts should include subsistence and informal sector work. It recommended that all production of *goods* in households for their own consumption be included, but it still excluded own-account production of *services*. This means that (subsistence) agriculture and non-market production of goods for household consumption now fall inside the production boundary as recommended by the SNA, but that household work (including meal preparation), child and elderly care and other family-related services are still excluded. This leads to the remarkable feats accomplished with one bucket of water: wash the dishes, wash the child, cook the rice—not production. Use the same water to spray the corn and wash the pig—

this is productive. The boundary has effectively shifted only theoretically, and not in practice, and the demarcations are increasingly blurred.

In this article I would like to focus on those in the unpaid, or underpaid, or differently paid full-time caregiving role, and the ways in which legislations and regulations continue to compromise their rights.

The UK Census 2001 was the first to include a question on health, disability, and the provision of care. It showed more than a million people working more than 50 hours a week unpaid to care for family members, friends, neighbours or others because of long-term physical or mental ill health or disability, or problems related to old age. More than 175,000 children under 18 were acting as caregivers, of which 13,000 were providing more than 50 hours care a week! Let’s reflect on the question of the rights of these workers, and imagine the compromised rights of these children—to leisure, to education; to full enjoyment of life.

### Who Does the Bulk of Unpaid Work?

Since I finished the first edition of *Counting For Nothing* in 1988 (Waring), there have been some extraordinary changes in the economic environment in which we live. Changes in technology, in women’s

paid labour force participation, in government provision of social services, and the impact of structural adjustment policies and globalization agreements are all of enormous significance. So just how resistant and entrenched have the patriarchal rules around unpaid work been?

Michael Bittman writes that "Finland represents an instance of a coun-

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try that combines a high level of expenditure on the public provision of social services and a remarkably high proportion of the female population in full-time employment." Yet women spend 25.78 hours and men spend 15.17 hours a week in unpaid work (Bittman 37). In a situation where the majority of women are in full-time as opposed to part-time paid employment, men in Finland seldom take parental leave. There are major divisions of labour by gender in the paid work force, more so than anywhere else in Europe. Women are paid on average 80 per cent of the male wage for full-time work. Men still occupy most managerial positions in the public and private sectors, and only two per cent of the top managers in big enterprises are women (CEDAW Finland Fourth Country Report). Bittman also reports that almost regardless of their position at any time in their life, Finnish men's weekly hours of unpaid work tend to be a fixed quantity, while the amount of time women spend in unpaid work varies.

A reduction in men's paid work hours generally results in greater leisure time, so that men literally can choose between (paid) work and leisure. The best predictors of the hours men make available for leisure are the hours they must commit to paid work. For women, however, it is statistically more likely to be a choice between paid and unpaid work. (28)

In Australia the gap between men's and women's average time spent in unpaid work has decreased, but because of a sharp reduction in women's hours of work in the kitchen, and in laundry, ironing and clothes care, rather than because of any large change in men's hours. The major reason for the change was attributable to increased reliance on market substitutes for women's domestic labour (Bittman 27). Women have also increased their activity in home maintenance and car care.

While men have increased the hours they devote to child care, their share of this responsibility has not grown because women's time spent in child care has increased at the same rate. Parents have been devoting an ever increasing amount of time to primary face-to face child care despite falling family size. (Bittman 30)

In New Zealand, 60 per cent of men's work is paid, but almost 70 per cent of women's work is unpaid. The New Zealand time use survey of 1998-1999 demonstrated how economically valuable the contribution of this work is to the nation's economy. "In a year, the time spent by men and women on unpaid work in New Zealand as a primary activity equates, at 40 hours per week, to two million full-time jobs. This compares with the equivalent of 1.7 million full-time jobs in time spent in labour force activity" (*Around the Clock: Findings from the New Zealand Time*

*Use Survey 1998-99* 17-18).

A combination of the most advanced collection of national data on unpaid work by Statistics Canada, and the use of this data by advocates and scholars, makes it possible to track the effects of unpaid work on the lives of men and women in Canada.

The *Canada Year Book 2001* reported that in 1998 women spent 15.2 hours on unpaid housework (not counting childcare) per week compared with 8.3 hours for men. Mothers aged 25-44 who were working full-time also spent nearly 35 hours a week at unpaid work (Statistics Canada 2001).

Data from the 1995 Statistics Canada General Social Survey reveals that between married couples, few husbands take over their wives' unpaid work responsibilities when wives' paid work hours increase (cited in Phipps, Burton and Osberg 2). At the same time there's a market premium rather than a penalty associated with being a father (the ratio of income for fathers who worked full-time in the paid labour market to men who had never had children was 133.6 per cent in 1996) (Phipps *et al.* 412). My own suspicion is that this is a marriage premium rather than a child premium.

Any woman who has ever had a child earns less than women who have never had children. For example, in 1996 mothers in Canada (aged 24 to 54) who worked full-time in the paid labour market received 87.3 per cent of the income received by women who had never had children (Phipps, Burton and Lethbridge 412). Research results suggest a "human capital depreciation" for each year of absence from the paid labour market. The magnitude of the depreciation is substantial (what is lost in one year out is equal to about 37 per cent of what is gained by one year in) (Phipps *et al.* 420). For women, the finding of a child penalty is consistent regardless of whether or not we control for marital history. Thus, the "child pen-

alty” is not actually a “marriage penalty” for women, though the “child premium” may be a “marriage premium” for men (Phipps *et al.* 416-417).

Canada’s method of assessing the value of unpaid activities is one of the more conservative approaches, but even that gives a result of the value of unpaid work being one third of Canada’s Gross Domestic Product (GDP).

What does that mean? If you take a look at the monthly GDP figures for Canada in March 2004, unpaid work was equal to the total production from agriculture, forestry, fishing, hunting, mining and oil and gas extraction, manufacturing, and the construction industries utilities—and at that point it was still \$20 million short.

### Have We Ever Made Progress?

In reviewing where the feminist movement needs to go with respect to unpaid work, its important to ask if we ever made some headway in achieving recognition of unpaid work and the rights of the workers in that sector. In 1975 when I was elected to the New Zealand parliament our issues and situation were very different. In a country that had gained full suffrage in 1893, I was only the thirteenth woman elected. There were no women Cabinet Ministers, no women judges, no women editors of major daily newspapers, or jockeys or firefighters or Air New Zealand pilots. There were no rape amendments, no matrimonial property changes, no domestic protection legislation, no reproductive freedom, no Human Rights Commission, little formal quality childcare provision for working parents, no parental leave, and an even larger pay gap between men and women.

But there was a consciousness about unpaid work. In a formal international context the first references on unpaid work were at the first United Nations World Conference for Women held Mexico City in 1975. I was on the floor in the New Zealand

delegation in Copenhagen to extend those paragraphs, and references continued in other major UN conferences in Nairobi (1985), Beijing (1995), Copenhagen (1995), Vienna (1993), and Rio de Janeiro (1992). Through publications such as the United Nations Development Program’s *Human Development Reports* and *The World’s Women*<sup>1</sup> commentary and statistics and research kept up the pressure.

But the ideology of the New Right swept through our national and international movement post Nairobi. The women’s movement was caught between Structural Adjustment Policies and the World Trade Organization agendas. The market ruled our economic lives and the energy required for activism in the face of its power dominated the movement’s activities. The feminist response and focus was to allow itself to be restricted to activity and energy around that debate—fostered in part by the old left approach about exploitation of women only happening in the market.

Isabella Bakker has written that “researchers have argued that gender-neutral macro-economic policy will only address women’s needs and experiences to the extent to which they conform to male norms” (1). And feminist advocates were overwhelmingly co-opted to work primarily on analysis and criticism of the dominating economic paradigms in their political and academic work too, and far from proposing alternatives, addressed women’s needs and experiences in the realms in which women conformed to male norms, and could be measured against them. There have been a number of exceptions to this framework in Canada: Carol Lees, Evelyn Drescher, Beverly Smith, Meg Luxton, Isabella Bakker, Shelley Phipps, Lynn Lethbridge, Peter Burton, Ron Coleman, Mark Anielski, and others.

I don’t want to set up an either/or or dichotomous debate here: we have always needed both/and approaches to the issues of women in paid and

unpaid work, but that has simply disappeared. For feminists actively concerned with the both/and approach, this has made us very wary of the kind of support we attract. In Canada, Meg Luxton wrote:

The absence of much of the feminist movement from these debates was reflected in the discussion about whether or not unpaid work would be included in the 1996 Canadian census. With the notable exception of Mothers Are Women (MAW) and the Work is Work is Work coalition, the women’s groups lobbying for its inclusion were non-feminist or explicitly antifeminist and represented women who were primarily homemakers themselves, or whose political activities focused on what they call “the family.” (436)

### Statistics Canada reported this advocacy as follows:

Proponents for inclusion indicated that recognizing unpaid work promotes the status of those

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who choose to stay at home to look after young children, seniors or other family members. (cited in Luxton 436)

Note the use of the word “choose” which is of key importance to issues raised a little later in the paper. But,

in addition, Luxton focused attention on the double work situation of significant numbers of the paid work force:

Missing was any recognition that most women, including those with paid employment, do domestic labour and would benefit from having its (and therefore their) status promoted. A bias in favour of women “who choose to stay at home” could have serious implications for policy development. (436)

The consultation for the 2006 Canadian Census resulted in 42 comments on unpaid work. Fifty-five per cent of these asked for the question to be removed or asked only every ten years. Among the reasons given were that there was no widespread need for unpaid work data. The estimates were not reliable enough because “some respondents might confuse family and friendship support with a broad range of volunteer activities” (Statistics Canada 2004: chapter 14). (So that means it’s not work?)

So many of the key policy agenda items for the feminist movement have just made it easier for women to do two jobs more effectively, becoming the cohort group who work the most hours of any in the nation’s economy. For example, when social policy suggests “family-friendly” alternatives, from childcare to flex-time to family leave, the implementation of these policies is often skewed by patriarchy and the marketplace. Since women’s market wages are, on average, lower than men’s, and women’s traditional role has been that of caregiver, the burden of using family-friendly policies is often shifted, as an implicit cost, to women, further restricting their labour market options. Almost all the recent CEDAW reports from the Scandinavian countries reflect this position.<sup>2</sup> In addition, wherever there are policy provisions for unpaid leave, or parental leave at a reduced salary, it is clearly biased in favour of high income, dual-earner families

who can more easily absorb a cessation one member’s income; in Canada, up to 12 months combination of paid maternity and parental leave are available.

In Canada a range of policies discriminate against the unpaid worker and alternative arrangements. The child care expense deduction under the *Income Tax Act* is restricted to receipted daycare or nanny care and excludes recognition of market costs and social capital benefits of other forms of care of children. Unpaid caregivers are ineligible to contribute to their own registered retirement savings or pensions under the Canada Pension Plan. New mothers who are self-employed, or unpaid caregivers are ineligible for maternity benefits under the *Employment Insurance Act*. Unpaid caregivers in the home are also excluded from parental benefits under the *Employment Insurance Act* (Smith).

The policies of most OECD-member countries to try and persuade men to accept an equal share of unpaid work rely on round-about (“soft”) measures such as education and information. An additional disadvantage of this strategy is the presupposed presence of someone with whom to share your household chores. Lone mothers and singles of all ages and sexes lack a “sharing partner” (Swiebel 17).

### Specific Cases

In New Zealand, I have been following the Human Rights decisions and complaints of the full time caregivers of members of their immediate families who are not remunerated, or remunerated on a different basis from other caregivers. This situation was first covered in *Hills v IHC*. Two parents of a disabled child were found to have been discriminated against on the ground of family status (they were the child’s parents and therefore related to him) because the IHC (New Zealand’s largest provider of services to people with intellectual disabilities and their families) would

not pay them to care for him in the same way they would pay caregivers not related to him to take care of him.

More recently complaints have been made in regard of the government policy of not contracting or paying parents to provide residential care to their disabled children. Although the complainants receive some income replacement from the government (in the form of NZ superannuation—the retirement pension paid to every person aged over 66—or the Domestic Purposes Benefit (DPB) for care at home of sick or infirm), they are discriminated against in the government’s disability services purchasing policy of not contracting/employing/paying parents for the provision of residential care services to their disabled children.

The New Zealand government currently has no idea how many families are currently “justifiably” subject to discrimination. As at July 25, 2003, there were 3,260 people in receipt of the DPB (caring for sick and infirm). No one knows how many people in receipt of NZ superannuation are full-time caregivers of family members who are sick and infirm. If the majority of these older caregivers are women they are likely to have fewer resources with which to carry out their care. Indeed, even Finance Minister Michael Cullen has spoken of a “hugely pronounced” bias existing in relation to women and retirement in New Zealand (*New Zealand Herald*).

The rules and regulations governing any “assistance” for caregivers have been a series of knee jerk responses to differing circumstances over time, that were sufficiently highlighted to demand political response. Caregivers are subject to different levels of funding and different assessment criteria. The sickness community (distinguished in New Zealand as separate from those who are infirm as a result of an accident) is not identified as part of the disability community. The rules are different depending on whether the person being cared for is a partner, a parent, or a child. There are also regional

differences in the subsidies allowed and in the regionally-available budgets, which will impact on the benchmarks of assessors. Subsidies can range from \$260 per week to \$670 per week. Benchmarks are not about the quality or amount of care, but about the nature of the disability of the person being cared for. But full-time care is not about the amount of time the caregiver works. It is about the

ily member, I would be able to gather receipts for full-time attendant care, for supervision if I was residing in a home with a prolonged impairment, and for sign language interpreter fees if I was deaf. The attendant care component would cover health care, meal preparation, housekeeping, laundry, a transportation driver, and security services where applicable. Now when my mother or father or

suffers from cerebral palsy and requires 24-hour attendant care. She receives services under B.C.'s Choices in Supports for Independent Living (CSIL) program, an individualized funding program that allows people with disabilities to arrange their own caregiving according to their needs and to hire the caregiver of their choice. However, the CSIL program prohibits people with severe disabili-

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patient having access to 24-hour care. The Ministry of Social Development rules for the administration of the DPB state that "a caregiver can be away from the home for a few hours per week." And, it is recognized that when the patient needs 24-hour continuous care, "it is not reasonable to expect one person to manage. However, there is no provision to pay more than one Domestic Purposes Benefit in respect of the same patient." Home help might be available temporarily and in an emergency to some caregiver, but "generally home help should not be approved if able relatives other than primary or secondary school students live in the home." Home support services are different again, and may be available from a District Health Board Assessor to provide relief for a caregiver. Those who don't qualify for a Domestic Purposes Benefit might qualify, under special circumstances, for an Emergency Benefit, but if the person who is ill is their partner there will be more stringent tests applied before the Emergency Benefit can be received.

In Ontario, Canada the situation is also variable, but let me present one example. If I was extremely ill or lived with a severe disability and I was not being cared for by an immediate fam-

my sister or brother or my daughter or son are doing this work full-time for months if not years, they are allowed to deduct reasonable expenses associated with the cost of training required to care for me. They might get a disability credit, as a caregiver, which varies according to whether I am under 18 years of age and which can be claimed with other expenses to a maximum of \$5,808. If the family income of my caregiver was less than \$33,487 in 2003, they might have received another \$1,600. Then, there are also personal tax credits for caregivers of relatives over 17 years old of up to \$587. This is an extraordinary exploitation (Ontario Government).

But, a recent ruling on a case tried in British Columbia this past summer will have significant implications for the unpaid work of family members providing care for relatives that are severely disabled. On June 29, 2004, the B.C. Human Rights Tribunal ruled that the Ministry of Health had discriminated against a 34-year-old woman with severe cerebral palsy by denying her the right to pay her father as her caregiver (*C & P Hutchison v. HMTQ*). Phillip Hutchinson, who is 73 years old, had been caring for his daughter Cheryl since she was 13. Cheryl Hutchinson

ties from hiring relatives as personal care attendants. Ms. Hutchison challenged that policy arguing she could not find a reliable caregiver to meet her most intimate needs that she trusted as much as her own father. The government was ordered to pay Mr. Hutchison \$105,000 in wage loss for the services he provided (B.C. Association for Community Living). The provincial government has, however, filed an appeal of the decision, and it will be interesting to watch what happens.

The introductory speech to Parliament of Chris Bentley, Ontario Minister of Labour, in moving the *Employment Standards Amendment Act (Family Medical Leave) 2004* on April 13, 2004 is revealing in terms of the motivations for enactment of such legislation. The bill is intended to provide up to eight weeks of job-protected, unpaid time off work for those taking care of seriously ill family members. He said:

It is clear that an aging population and significantly increasing workplace demands have contributed to growing levels of employee stress due to work-family conflict.... A recent Ipsos-Reid poll found that almost 32 per cent of Canadian adults were

now responsible for the care of older relatives.... Most of our work life schedules do not include the additional time to provide the necessary care and support for seriously ill dependents.

(I love it when men use “we” in situations in which they would never find themselves!)

... Employees making the impossible choice are less productive. They are often forced by circumstance into unplanned absences. When employees are forced to quit their job, the employees lose their skills, training and experience as well as their work. The costs to business are massive.

And finally, “the availability of Family Medical leave will support our existing health services. In some cases, it might reduce the demand on these services.” At last came the admission that the unpaid work is relieving expenditure by the state.

Unlike some of the other supposedly women-friendly leave policies in Canada, this applies to all employees including those working part-time. Seniority and credit for length of service and length of employment will count as if they had been at work. Employer contributions to the premiums for pension plans, life and extended health insurance plans, accidental death plans, and dental plans will have to be kept up. But for those in the full-time unpaid workforce in the same circumstances, there is nothing.

### Rights Questions

These cases raise questions about many more potential complaints for lack of access to fundamental human rights. What of the family members who care full-time for someone who does not fit into the current operative definition of “disability” for the sake of a benefit? Should rights extend only to those full-time caregivers

whose work continues for years and years without ceasing? Is there some time consideration which would mean that a parent stopping work to care for a child accident victim or terminally-ill parent for six to nine months is in a different category from one who undertakes caring for five years?<sup>3</sup> What about grandparents who are full time caregivers for grandchildren, in a situation where the child might otherwise be placed in foster care?<sup>4</sup> Do we think that their capability and freedom to function effectively might be compromised? Do we think that the payment differential between their eligibility for assistance and that of foster parents might be discriminatory? Do we think that the rights of children who work long hours in unpaid work might be losing out on access and opportunities—to education, to leisure and enjoyment of life? Should day care subsidies flow to institutions, or with the child to the person who carries out the care? Unpaid caregiving of the sick is a critical part of the healthcare system which compromises the well being of the caregiver who is then further penalized by the system in terms of loss of earnings, or no recognition at all.

Canadian research has found evidence that women in dual-earner households are more time-stressed than men, apparently as a result of the continued gendered division of housework, despite high levels of paid work by wives (Phipps, Burton and Osberg 1).

In respect of a right to leisure, having a pre-school aged child in the household is important for men. A pre-schooler in the family reduces husband’s satisfaction with time for self by a small amount (about seven percentage points); *any* child in the family reduces wife’s satisfaction with personal time by a much larger amount (almost 20 percentage points). For women, there is no difference between having a pre-schooler and having an elementary-school-aged child; having *any* children is the key variable. The researcher’s note

that for men, making “leisure time for one’s spouse is a poor substitute for having such time for oneself” (Phipps, Burton and Osberg 18).

Women’s opportunities to take an equal part in civil and political life is compromised. In bolstering ... civil society ... strategies of increased civic participation and engagement rest on sufficient leisure time. [This is not possible when] women’s unpaid work is intensifying not easing (Bakker 17).

In terms of a rights-based approach to those in the unpaid workforce, and for example for those in the unpaid or underpaid or differently paid full-time caregiving role we have to ask: to what extent does the discrimination and different treatment of family members in long term care giving (in terms of the legislation and regulations surrounding this) compromise or inhibit their capacity to participate effectively in political or community life, to attain the highest possible standard of physical and mental health, to exercise their right to opportunities of lifelong education, to enjoy safe and healthy working conditions, etc? It’s time the rights debate encompassed and included (again) the exploited unpaid work of women.

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<sup>1</sup>These reports can be accessed on the United Nation’s Development Program website: <http://hdr.undp.org/>

reports/view\_reports.cfm?type=1.

<sup>2</sup>CEDAW Country Reports are available online: <http://www.un.org/womenwatch/daw/cedaw/reports.htm>

<sup>3</sup>The Federal Government of Canada has now introduced a compassionate leave policy which allows those paid workers who have put in at least 600 paid hours and who have a doctor's certificate to prove their relative is dying, the chance to spend six months at home caring for that person on partial salary. Of course the unpaid full-time caregiver remains unpaid.

<sup>4</sup>Under s.3 of the *Children Young Person's and their Families Act 1989*, payments received by people in receipt of a social security benefit and providing foster care under the *Act* have all payments disregarded as income for benefit abatement purposes, but no one has been able to tell me what the position is in respect of superannuation.

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## R. LEIGH KRAFFT

### rhythm

as the retching subsides  
I find a tissue  
wiping the bloody mucous from  
my hands

the ragged gasping  
tears at the room  
clawing every soft surface  
with its desperation

I turn away for a moment  
knowing that she's leaving me  
swallowing down the knot  
that will keep me from good byes

I keep throwing myself  
against the impenetrable wall -  
the one that represents our parting  
and all that I cannot know  
about her journey, her destination

she smiles  
and my heart resumes its rhythm

*R. Leigh Krafft's poetry appears earlier in this volume.*