

CARING FOR THE CAREGIVERS: REIMAGINING INSTITUTIONAL RECOGNITION OF CAREGIVING WORK AFTER THE COVID CARE CRISIS

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Locked down we were. Many health professionals and epidemiologists have applauded this move. Perhaps they are right in theory. But surely none of them can support the calamitous lack of planning or preparedness that turned the world's biggest, most punitive lockdown into the exact opposite of what it was meant to achieve.

—Excerpt from *The Pandemic is a Portal*¹

I. INTRODUCTION

The COVID-19 pandemic² washed over the already uneven landscape of legal academia with an unrelenting force, hitting the most vulnerable most harshly while leaving others bobbing or churning in the waves, loosening the tethers to the social and institutional structures that had previously supported them. Some of the most devastating losses were unsurprising and indeed played out as had long been feared or predicted in times of crisis.³ Other harms played out in entirely new ways, creating new

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1. Arundhati Roy, *The Pandemic is a Portal*, FINANCIAL TIMES (Apr. 3, 2020), <https://www.ft.com/content/10d8f5e8-74eb-11ea-95fe-fcd274e920ca>.

2. *Coronavirus Disease (COVID-19) Pandemic*, WORLD HEALTH ORG. [WHO], https://www.who.int/health-topics/coronavirus#tab=tab_1.

3. See Meera E. Deo, *Investigating Pandemic Effects on Legal Academia*, 89 FORDHAM L. REV. 2467, 2468 (2021) (“Even before the COVID-19 pandemic changed the landscape of the

scars and obstacles.⁴ As we survey the changes brought across this landscape in the pandemic's wake, several emerging themes deserve further scrutiny and attention from the academy.

First, as the quote above laments, many of the pandemic's impacts on academia were not only asymmetrical and inequitable but also often operated with a particularly twisted or cruel logic. Measures meant to protect became shackles, while those who most needed a safety net or support found themselves becoming the safety nets and support of last resort.⁵ The negative health and social impacts of the pandemic and related safety measures put in place by institutional actors fell not only unevenly, but even worse, compounded one another and accumulated along and reinforced the lines of marginalization.⁶ Many of the perverse incentives embedded within academia were sharpened, further entrenching the disparate impacts and dynamics of hierarchy and power.⁷ Finally, the pandemic that began with a bang ended with a whimper, with its after-effects continuing to ripple through and multiply throughout all levels of academia, though increasingly met with indifference or inaction as the world moved on.⁸

American workplace, challenges based on race, gender and 'raceXgender' (the combination of race and gender) were the norm in legal academia."').

4. Audrey Mengwasser Shillington et al., *Commentary: COVID-19 and Long-Term Impacts on Tenure-Line Careers*, 11 J. OF THE SOC'Y FOR SOC. WORK AND RSCH. 499 (2020), <https://doi.org/10.1086/712579> (discussing both pre-existing challenges for marginalized faculty in academia but also how the COVID-19 pandemic created new challenges and forms of disruption for such faculty as teaching, research, communication and collaboration were rapidly shifting).

5. *Id.*; see also Caroline Kitchener, *Female Professors Have Less Time to Research in the Pandemic. It Could Force Them Out of Academia, Experts Say*, WASH. POST: THE LILY (Apr. 5, 2021), <https://www.thelily.com/female-professors-have-less-time-to-research-in-the-pandemic-it-could-force-them-out-of-academia-experts-say/>.

6. See Shruti Rana, *Seismic Shifts: The COVID-19 Pandemic's Gendered Fault Lines and Implications for International Law*, 39 AUSTL. Y.B. OF INT'L L. 91, 9192 (2022) (describing how the COVID-19 pandemic deepened pre-existing inequalities, hit hardest on already marginalized groups, and these impacts in turn further amplified the harms stemming from the pandemic).

7. See Deo, *supra* note 3, at 24682469 ("Existing research has documented the extra service burdens many women of color carry both professionally and personally, meeting with students and organizing committees on campus, to being the default parent and household manager at home COVID-19 has intensified these pressures in forceful ways. Women faculty have been expected to augment what were already substantial contributions to academic caretaking by crafting new policies, arranging online meetings with vulnerable students and serving on an increasing number of committees . . . stymying opportunities for women, who are more likely to be caretakers of these now homebound children, to engage in focused research or scholarly writing."').

8. In the United States, the end of the Federal COVID-19 Public Health Emergency (PHE) declaration was marked on May 11, 2023. See *End of the Federal COVID-19 Public Health Emergency (PHE) Declaration*, CTNS. DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/>

This article aims to provide a snapshot of the COVID-19 pandemic's impacts on caregivers in legal academia, focusing on some of its continuing impacts and implications and lessons we might draw for a more equitable future. It seeks to characterize and explain how the dichotomies, harsh logic and perverse incentives visible in the ways that the pandemic played out impacted academic caregivers and created what we might call a crucible for care work that has led us to a critical point in the social and institutional recognition of care work and caregivers. Applying principles from vulnerability theory, the article argues that we can and must flip this script by re-orienting academic support systems and dynamics around new logics and systems that build and support resilience, innovation, and human potential, rather than require and exploit them. It concludes with a call for dialogue and action, highlighting some of the opportunities and pathways we might pursue to achieve such goals during this pivotal moment of possibility and change.

II. THE COVID CARE CRISIS: HOW A SEARCH FOR SAFETY AND PROTECTION CREATED THE OPPOSITE OF WHAT IT WAS MEANT TO ACHIEVE

A. *Articulating the COVID Care Crisis and its Impacts on Academia*

In the midst of the COVID-19 pandemic's first wave during the spring and summer of 2020, many of us found ourselves grappling with the sudden and drastic changes to our professional and personal lives stemming from both the threat of disease as well as personal, community, state, and institutional responses to the pandemic.⁹ Overnight, the pandemic

coronavirus/2019-ncov/your-health/end-of-phe.html# (last updated Sept. 12, 2023); see also *WHO Chief Declares End to COVID-19 as a Global Health Emergency*, UNITED NATIONS (May 5, 2023), <https://www.un.org/en/coronavirus> (the World Health Organization “declared ‘with great hope’ an end to COVID-19 as a public health emergency, stressing that it does not mean the disease is no longer a global threat”); *The Covid-19 Pandemic: Three Years In*, HUM. RTS. WATCH (Mar. 21, 2023), <https://www.hrw.org/feature/2023/03/21/the-covid-19-pandemic-three-years-in> (quoting Kyle Knight, “The pandemic has been a disaster for human rights, but I think the hardest part of it is watching institutions fade away and kind of give up. It’s a huge challenge to be entering the third year of an era-defining pandemic and have so many health authorities simply shrugging at it: The US Center for Disease Control has basically given up on any sense of equitable protections.”); Brooks Barnes, *Box Office to the World: The Pandemic is Officially Over*, N.Y. TIMES (July 26, 2023), <https://www.nytimes.com/2023/07/23/movies/barbie-openheimer-box-office-numbers.html> (describing in-person movie theater attendance figures as “the blockbuster turnout signaled that Hollywood as finally bounced back from the pandemic”).

9. See Shruti Rana & Hamid Ekbia, *Crisis, Rupture and Structural Change: Re-Imagining Global Learning and Engagement While Staying in Place During the COVID-19 Pandemic*, 16 FIU L. REV. 133, 133134 (2021) (Introduction from the authors explaining that in the first months

“upended almost every facet of academia” with abrupt and far-reaching transitions to remote teaching and learning, changes in grading and evaluation systems, and for many, loss of access to resources and opportunities for research and collaboration.¹⁰ Researchers across most disciplines, institutions, and career stages found their projects suddenly halted, disrupted, or negatively impacted by lockdowns, mitigation measures, and the inability to travel or meet in person.¹¹

These changes led to additional, rapid and transformational “shifts in household labor, childcare, [and] eldercare” as schools, daycares, and other support systems closed for in-person access.¹² For caregivers (primarily women both in terms of academic caretaking and caretakers at home), these disruptions were thus accompanied and amplified by new, additional, or heavier care responsibilities at the exact time that caregiving social and institutional support outside of the home nearly vanished.¹³ Caregivers in

of the COVID-19 pandemic “[f]or us, educators focused on global engagement and analyzing international law and society, the abrupt retreat into the shelter of domestic walls disrupted the very subjects we were studying—inside and outside the classroom We were forced to scramble to accommodate the needs of our students who were suddenly sent home or had travel plans canceled. At the same time, the global nature of this and other ongoing crises (from humanitarian emergencies that spill across borders to the global impacts of climate change) underscored the need to prepare students for a future where both cross-border crises and the need for international collaboration and education will be heightened.” This all occurred while we were simultaneously “[i]solated in our homes with our own public and domestic lives collapsing and colliding . . .”).

10. Jessica L. Malisch et al., Opinion, *In the Wake of COVID-19, Academia Needs New Solutions to Ensure Gender Equity*, 117 PROCS. NAT’L ACAD. OF SCI. 15378, 1537880 (July 7, 2020), <https://www.pnas.org/doi/epdf/10.1073/pnas.2010636117>.

11. Nicola Byrom, *The Challenges of Lockdown for Early-Career Researchers*, ELIFE (June 12, 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7292644/>; see also Shillington et al., *supra* note 4, at 50002 (“Many junior faculty reported that research projects were paused for a variety of reasons, including curtailed in-person data collection; negative effects on budget and personnel; and community and system partners struggling with the pandemic, which deprioritized research. Respondents also reports that the COVID-19 pandemic and concurrent racial justice issues were distressing and fragmenting, shifting research to online platforms was slow and disruptive, and the ability to meet planned deadlines (e.g., grant applications) was impaired.”).

12. Malisch et al., *supra* note 10, at 15378–79.

13. See Deo, *supra* note 3, at 2468–2469 (discussing how the pandemic intensified the pressures of academic and personal caretaking on academics); see also Rosa Celorio, WOMEN AND INTERNATIONAL HUMAN RIGHTS IN MODERN TIMES 114 (2022) (Describing the initial stages of the COVID-19 pandemic and associated mitigation measures as follows: “In order to prevent further contagion, countries implemented a number of measures, including orders to shelter in place for all persons, curfews, and lockdowns; social distancing; the wearing of masks in public; and the closing of all businesses and schools. Most international flights were canceled, and borders were closed. Public life and mass gatherings stopped. Social interactions became virtual and limited. Millions of persons and their families were confined to their homes for months at a time. Hospitals became overburdened and thousands of health workers were on the front lines risking their lives every day to fight for the survival of those affected. Nursing homes, prisons,

academia were forced to find alternative support arrangements or assume primary supervision and caregiving responsibilities for children and other family members while also needing to work from home or without access to formal work environments.¹⁴ These demands were further intensified “in forceful ways” as faculty, especially marginalized faculty members who already faced multiplied demands for service and emotional labor stemming from dynamics of race, gender, relative precarity, or power, among other factors, were “expected to augment what were already substantial contributions to academic caretaking by crafting new policies, arranging online meetings with vulnerable students, and serving on an increasing number of committees,” along with increasing emotional burdens.¹⁵ These disruptions and reconfigured responsibilities took a “heavy toll on parents, especially mothers”¹⁶ and caregivers more generally¹⁷, throughout the academy.

Not surprisingly, these changes rippling through society, workplaces, and homes led to another deeply inequitable and troubling repercussion that reverberated across academia: within weeks of the pandemic’s first shutdowns and transitions to remote education, many “academic disciplines

and health institutions became breeding grounds for virus, causing numerous casualties. In simple words, life as we knew it stopped.”).

14. Jessica McCrory Calarco et al., “Let’s Not Pretend It’s Fun”: How Disruptions to Families’ School and Childcare Arrangements Impact Mothers’ Well-Being at 2–3 (Nov. 1, 2020) (unpublished manuscript) (on file with SocArVix), <https://osf.io/preprints/socarxiv/jyvk4/>.

15. Deo, *supra* note 3, at 2469; *see also id.* at 2468 (explaining that “[e]ven before the COVID-19 pandemic changed the landscape of the American workplace, challenges based on race, gender and ‘raceXgender’ (the combination of race and gender) were the norm in legal academia” and that “[e]xisting research has document the extra service burdens many women of color carry both professional and personally, from meeting with students and organizing committees on campus, to being the default parent and household manager at home.”). *See also* Audrey Williams June, *The Invisible Labor of Minority Professors*, THE CHRONICLE OF HIGHER EDUCATION, (Nov. 8, 2015), <https://www.chronicle.com/article/the-invisible-labor-of-minority-professors/>.

16. Calarco et al., *supra* note 14, at 3.

17. *See* Cyra Akila Choudhury et al., *A Letter to Law Review Editors and Promotion and Tenure Committees at Law Schools*, FEMINIST L. PROFESSORS (July 17, 2020), <http://www.feministlawprofessors.com/2020/07/a-letter-to-law-review-editors-and-promotion-and-tenure-committees-at-law-schools/> (“It has been five months since the novel Coronavirus pandemic disrupted much of academic life in the United States. During these months, we have seen a steady stream of evidence about how the ensuing shutdown has affected women. Our colleagues with children and elder care responsibilities report that it has been very difficult to juggle between those obligations and work. Many of us have experienced this for ourselves. The division that separates work from home has collapsed, threatening the very notion of ‘work-life balance.’ And, increasingly, some employers have begun to reshape what used to be the private domain of family and home through ‘work at home’ requirements that disregard the ways in which care work happens. These requirements add to the burdens on workers already struggling to accommodate new working arrangements.”).

noted an immediate drop in the number of publication submissions by women.”¹⁸ Moreover, studies and data began to show that “across disciplines, women’s publishing rate has fallen relative to men’s amid the pandemic.”¹⁹ This likely reflected not only additional caregiving responsibilities straining caregivers’ time and capacity for research, but also that, ironically, faculty “without caregiving responsibilities reported having more time under stay-at-home restrictions to focus on their research because of reductions in commute time, professional travel, and committee work.”²⁰ One researcher reported that the drop in submissions in their field by women indicated “perhaps up to 50 percent more productivity loss among women.”²¹ The impact from a comparative perspective appeared to be even deeper than simply focusing on what the drops would indicate, given the increased time for research reported by many without caregiving responsibilities;²² for example, one study found that “although the total research productivity increased by 35 percent, female academics’ productivity dropped by 13.9 percent relative to that of male academics.”²³

The implications and impacts of these drops and relative losses are potentially deep and continuing. Research, scholarship, and publications are foundational and often primary requirements for promotion and tenure in the academy and drops in submissions and publications therefore “threaten to derail the careers” of women and caregivers in academia, while also impacting trajectories of research and productivity in ways that will continue to ripple throughout the entirety of a career.²⁴

The impacts and potential long-term impacts on academic caregivers went still further, however. Many caregivers began to report increased stress and mental health concerns, both from the disruptions to support and

18. Deo, *supra* note 3, at 2469 (“Other academic disciplines noted an immediate drop in the number of publication submissions by women as early as April 2020.”).

19. *Id.* at 2469 n.8, citing Giuliana Viglione, *Are Women Publishing Less During the Pandemic?: Here’s What the Data Say*, 581 NATURE 365, 365 (2020).

20. Shillington et al., *supra* note 4, at 502.

21. Caroline Kitchener, *Women Academics Seem to Be Submitting Fewer Papers During Coronavirus. ‘Never Seen Anything Like It,’ Says One Editor*, WASH. POST: LILY (Apr. 24, 2020), <https://www.thelily.com/women-academics-seem-to-be-submitting-fewer-papers-during-coronavirus-never-seen-anything-like-it-says-one-editor/>.

22. Shillington et al., *supra* note 4, at 502.

23. Deo, *supra* note 3, at 2486 quoting Ruomeng Cui et al., *Gender Inequality in Research Productivity During the COVID-19 Pandemic*, 24 MFG. & SERV. OPERATIONS MGMT. 707 (June 16, 2021).

24. Kitchener, *supra* note 21 (describing patterns in academia of the productivity impact of interruptions and “stop the clock” policies); Shillington et al., *supra* note 4, at 501 (noting that with respect to interrupted scholarly and academic trajectories, “the impacts of pandemic-related disruptions may be felt for years or decades to come.”).

additional care burdens²⁵ as well as the accumulating stress from the health implications of the pandemic.²⁶ For many, these burdens were amplified by a rising “climate of fear” stemming from rising pandemic-related hate crimes and state targeting of marginalized groups among other external traumas and events.²⁷ The accumulated impacts of these stressors—that is, an “increase in work obligations coinciding with an increase in domestic duties—while simultaneously managing a climate of raceXgender anxiety”—created an almost perfect storm preventing caregivers, women of color, and others in academia from focusing “their primary attention on professional obligations, especially scholarship.”²⁸

Three of us, myself, Cyra Choudhury, and Meera Deo, began an effort to track, memorialize, and understand the impacts of these changes on caregivers in legal academia, with a special emphasis on finding ways to support the most vulnerable before their voices were irretrievably lost.²⁹ We were motivated by the fear that, left unaddressed, losing these voices “would alter the landscape of legal thought and public discourse, as well as the makeup of a profession that has only gotten used to the presence of women in appreciable numbers in the past 30 years.”³⁰ We held a series of symposia, put together a variety of advocacy efforts, and put together special journal issues highlighting the voices and experiences of caregivers in academia and opportunities for change.³¹

25. Calarco et al., *supra* note 14, at 22.

26. Deo, *supra* note 3, at 2483.

27. *Id.* at 2490 (pointing out that women of color in particular faced additional stressors during the COVID-19 pandemic in light of events and developments including increased hate crimes against people of Asian descent, the 2021 Capitol attack and rhetoric and policies targeting people of color, and government rhetoric and policies targeting people of color); *see also* Shillington et al., *supra* note 4, at 501 (reporting on the “distressing” impacts on researchers of the “COVID-19 pandemic and concurrent racial justice issues”); Choudhury et al., *supra* note 17 (describing how caregiving and other burdens were disrupting research and scholarship time and productivity).

28. Deo, *supra* note 3, at 2490.

29. *See* Karen Sloan, *The Pandemic Could Set Women Law Professors Back Years. These Academics Want to Find Solutions*, LAW.COM (Jan. 13, 2021), <https://www.law.com/2021/01/13/the-pandemic-could-set-women-law-professors-back-years-these-academics-want-to-find-solutions/?sreturn=20221119144453>.

30. Shruti Rana & Cyra Akila Choudhury, *America’s Care Crisis is Exploding and Women Lawyers are Being Forced to Pick up the Pieces*, ABOVE LAW (Aug. 6, 2020), <https://abovethelaw.com/2020/08/americas-care-crisis-is-exploding-and-women-lawyers-are-being-forced-to-pick-up-the-pieces>.

31. *See The COVID Care Crisis Symposium, Part II: Imagining Solutions and Taking Action* [hereinafter COVID Care Crisis Symposium, Part II], HAMILTON LUGAR SCH. GLOB. & INT’L STUD. (2022), <https://hls.indiana.edu/covid-symposium/index.html> (With Professor Meera Deo (Southwestern Law School) and Professor Cyra Akila Choudhury (FIU Law School), I organized a nation-wide initiative to recognize and address the impact of the COVID-19 pandemic on

Our initial *COVID Care Crisis Symposium* was, to our knowledge, the first collaborative effort to sound the alarm about the pandemic's rippling disparate impacts throughout legal academia.³² As the boundaries between work and home collapsed while inequalities deepened, our symposia and related efforts shed light on the inequities, traps, and obstacles caregivers in academia faced. Foremost on this list was trying to track, understand, and address how and why caregivers' scholarly output and publications were dropping at precisely the time that their service and care responsibilities were disproportionately growing, and starting a search for ways to mitigate and address the harms from these developments to people, the profession, and the production of knowledge.³³

We coined the term "COVID Care Crisis"³⁴ to capture these challenges, as well as to highlight how these pressures were compounded and concentrated along the lines of race, gender, disability, tenure status, seniority levels, and other inequalities. The term "care crisis" had been previously used to refer to the impact of structural adjustment policies in Latin America, where women's traditional roles as caregivers came into conflict with their newly required roles as economic engines in the formal economy.³⁵ In both that care crisis and during the COVID-19 pandemic, society and institutions shifted so quickly and without adequately taking

caregivers in academia. We drafted an advocacy letter and organized two symposia in 2021 and 2022, with a third planned for 2023. The first symposium in January 2021 addressed the impact of the COVID Care Crisis on caregivers' advancement in academia, and the COVID Care Crisis Symposium Part II in June 2022 focused on institutional best practices. We also produced two symposium law journal volumes and multiple op-eds, panels, and individual scholarly articles.); see generally Rana & Ekbis, *supra* note 9; Rana & Choudhury, *supra* note 30; Deo, *supra* note 3; Rana, *supra* note 6.

32. See *The COVID Care Crisis Symposium, Part I: Symposium on the COVID Care Crisis and its Implications for Legal Academia*, HAMILTON LUGAR SCH. GLOB. & INT'L STUD. (2021), <https://hls.indiana.edu/covid-symposium/2021-symposium.html>; see also Hamilton Lugar Sch., *Pioneering Symposium Analyzes COVID's Effect on Caretakers*, HAMILTON LUGAR SCH. NEWS (Jan. 27, 2021), <https://blogs.iu.edu/hamiltonlugar/2021/01/27/pioneering-symposium-analyzes-covids-effect-on-caretakers>.

33. See Choudhury et al., *supra* note 17; see also Sloan, *supra* note 29.

34. See Shruti Rana, *Seismic Shifts: The COVID-19 Pandemic's Gendered Fault Lines and Implications for International Law*, 39 AUSTL. Y.B. OF INT'L. L. 91, 100 n. 43 (2021).

35. See U.N. Econ. Comm'n Latin Am. & Caribbean, *Social Panorama of Latin America, 2021*, at 214, LC/PUB.2021/17-P (2022) (After the "stalled revolution" in Latin America, "[w]omen have entered the public sphere, especially employment, without their role as caregivers in the domestic sphere diminishing" and that "[a]lthough the COVID-19 pandemic brought this to the fore internationally in 2020, feminist studies had been arguing ever since the *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)* for the need to correct the systematic incompatibility that women experience between the reproductive and productive spheres The factors that have exacerbated the care crisis are long-term features of the region.") (citations omitted); see also *id.* at 217 ("While the care crisis predates the pandemic, all its dimensions worsened during 2020 and 2021.").

gendered caregiving roles into account (or perhaps rather taking these roles for granted), that the clash of private and public created a “crisis of care” leaving the most vulnerable adrift while caregivers struggled to adjust to their dual or triple roles.³⁶

We thus re-purposed the term “crisis of care” to articulate the looming “COVID Care Crisis” in academia, to describe the fraught experiences of and impacts upon caregivers caught in the newly emerging—yet achingly familiar—binds that deepened as the COVID-19 pandemic played out.³⁷ Approaching the pandemic’s impacts on academia from these perspectives sheds light on a number of the most critical harsh ironies and inequitable impacts of the pandemic, while also offering pathways and hope for the future. These inequitable binds and the ways they played out, amplifying and reinforcing one another, are discussed below.

B. A Crucible for Care Work: Growing Pressure for Those Caught Between the Increasingly Constricting Binds of Multiple Roles

Care work has long been de-prioritized, disregarded, or devalued.³⁸ The term care economy is often used to refer to “the production and consumption of goods and services necessary for the physical, social, mental and emotional well-being of care-dependent groups, such as children, the elderly, the ill and people with disabilities as well as healthy, prime working-age adults”³⁹ and covers relational tasks such as tending to another person as well as domestic tasks such as cooking, cleaning, washing, and household maintenance.⁴⁰ Worldwide, care work falls disproportionately on women, as “[w]omen’s cultural and social status are typically linked to their roles as child bearers and child carers” and such work is generally “unpaid, unrecognized as economically productive and

36. See *id.* at 221 (explaining that in the Latin American region, the “COVID-19 pandemic has meant an unprecedented setback for the economic autonomy of women in the region, reflected in rising time and monetary poverty, an excessive burden of care work and an unfair distribution of power.”).

37. See Calarco, *supra* note 14; see also Deo, *supra* note 3; Rana, *supra* note 6, at 100 n. 43.

38. See U.N. Econ. Comm’n Latin Am. & Caribbean, *supra* note 35, at 215 (discussing the “care economy” and how care-related tasks are “usually undervalued” and often not assigned monetary value despite how critical care work both economically and in terms of improving “present and future capabilities and well-being of society as a whole.”).

39. U.N. Women, *Promoting Women’s Economic Empowerment: Recognizing and Investing in the Care Economy*, at 8 (May 2018), <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2018/Issue-paper-Recognizing-and-investing-in-the-care-economy-en.pdf>.

40. *Id.*

largely invisible in national accounts.”⁴¹ At the same time, caregivers who provide unpaid care labor often find that their physical and mental health, workforce participation, income, and financial security are negatively impacted.⁴²

This devaluation and lack of recognition and support for care work are even more critical given that care work and caregivers are crucial to the functioning of all aspects of society. In the United States alone, at least fifty-three million people are also providing family caregiving.⁴³ Fundamentally, “[a]ccess to care is a crucial element of human well-being as well as an essential component of a vibrant, sustainable economy with a productive labor force” and as part of “a complex [and] life-sustaining web on which our very existence depends.”⁴⁴

The devaluation of care work, including the most critical forms of care work undergirding society as a whole, is its own longstanding and escalating social challenge.⁴⁵ At the same time, however, the pandemic’s shifts resulted in both new and familiar binds that constricted ever more tightly as the pandemic deepened and spread. The COVID-19 pandemic’s impacts not only landed harshly and suddenly on the academic landscape, but also deepened and distorted existing inequities while creating new ones.

This section examines and characterizes these burgeoning and shifting inequities in more detail below, arguing that the pandemic created a crucible for care givers in academia that has also brought us to a critical moment which offers opportunities for re-imagining social and institutional recognition of care work. Further, to re-envision recognition of and support for caregivers in academia, it is important to understand the nature of both the new, pre-existing, and redrawn binds surrounding caregivers in academia, and their continuing impacts.

First, one of the most striking aspects of the pandemic’s impacts was the ways in which it deepened divisions and accentuated pre-existing

41. Hilary Charlesworth & Christine Chinkin, *THE BOUNDARIES OF INTERNATIONAL LAW: A FEMINIST ANALYSIS* 78 (2022); see also U.N., *Policy Brief: The Impact of COVID-19 on Women*, 3 (Apr. 9, 2020) [hereinafter U.N. Policy Brief], <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2020/Policy-brief-The-impact-of-COVID-19-on-women-en.pdf> (“In the formal economy care jobs, from teachers to nurses, are underpaid in relation to other sectors.”).

42. Yiran Zhang, *The Care Bureaucracy*, 99 *IND. L.J.* (forthcoming 2023) (manuscript at 7) (on file with author).

43. Emily Kenway, Opinion, *Family Caregiving Should be Seen as an Expectation—Not an Exception*, *WASH. POST* (May 22, 2023, 7:30 AM), <https://www.washingtonpost.com/opinions/2023/05/22/family-care-crisis-emily-kenway/>.

44. U.N. Women, *supra* note 39, at 8.

45. See U.N. Econ. Comm’n Latin Am. & Caribbean, *supra* note 35, at 217 (“the care crisis predates the pandemic”); see also Charlesworth & Chinkin, *supra* note 41, at 78.

inequalities.⁴⁶ From the beginning, the COVID-19 pandemic's threats to health and safety, and the impacts of related mitigation measures, landed forcefully upon and further fractured gendered social and institutional divisions.⁴⁷ The gulf between the necessity of care work and ways it is valued or devalued throughout society is itself predicated upon the gendered dichotomy of labor, recognition, and value underlying society and institutions⁴⁸ where public-facing work and institutions, generally correlated with "male" jobs and roles, are more highly valued and recognized than work that occurs in the private sphere, traditionally associated with the home and "women's work."⁴⁹ This gendered inequality is reflected in society, legal systems, and institutions that remain "permeated by outmoded but nevertheless deeply entrenched attitudes concerning the roles and status of men and women in society."⁵⁰

Care work is thus devalued within the formal economy; and, to the extent care work is recognized economically, "[i]n the formal economy care jobs, from teachers to nurses, are underpaid in relation to other sectors" while at the same time "[i]n the home women perform the bulk of care work, unpaid and invisible."⁵¹ In these ways, care work and care jobs are both "foundational to daily life and the economy [they] are premised on and entrench gendered norms and inequalities."⁵²

Almost inevitably, then, landing on these existing dichotomies, the ways the pandemic played out not only "magnifie[d] all existing inequalities" but also created perhaps "one of the most striking effects of the coronavirus": the "distorting" and "deep, long-lasting effects on gender

46. See Rana, *supra* note 6, at 9192 (during the COVID-19 pandemic, "inequality has both deepened and exacerbated as the pandemic's impacts accumulate and intensify along the lines of marginalization" with the impacts falling unevenly and more powerfully on marginalized groups).

47. See Rana, *supra* note 6, at 94 ("The pandemic has reinforced one of the primary gender-based critiques of the liberal international order, that it is predicated upon a public/private dichotomy that is itself gendered.").

48. See U.N. Policy Brief, *supra* note 41, at 3 (noting that the underpaid and undervalued nature and devaluation of care work both in the formal economy and in the home "are premised on and entrench gendered norms and inequalities.").

49. See *id.*; see also Charlesworth & Chinkin, *supra* note 41, at 4, 6 ("Although its forms differ significantly across societies and cultures, the phenomenon of women's subordination is found worldwide. Throughout the world women are economically, socially, politically, legally and culturally disadvantaged compared with similarly situated men. These disadvantages operate on a number of levels, international, regional, national, local, communal and familial . . . they are interconnected and mutually reinforcing. Indeed, the very categories used – 'economics', 'society', 'politics', 'law', 'culture' – are defined by reference to male lives and male experiences.").

50. See Charlesworth & Chinkin, *supra* note 41, at ix.

51. U.N. Policy Brief, *supra* note 41, at 3.

52. *Id.*; see also U.N. Women, *supra* note 39, at 9.

equality.”⁵³ This development had multiple asymmetrical impacts on caregivers, both generally and specifically for those in academia. Most notably, the simultaneous shutdowns of schools and workplaces to in-person learning, while both academic work and care work were expected to continue, created a “double-bind” for the many people who had to “shoulder the burdens of caretaking, household labor, and now children’s education along with formal employment or civic participation.”⁵⁴

As a result for caregivers in academia, many of whom already as discussed earlier carried multiple burdens, the pressures from work, home, and society all ratcheted up simultaneously,⁵⁵ while the nature of the pandemic—a crisis focused on individual and public health and safety—escalated the demands and needs for care.⁵⁶ A new and particularly harsh dynamic became visible. Ironically, as the COVID-19 pandemic “played out as a public health crisis and flipped some of the most underpaid and undervalued works into ‘essential’ workers, the gendered devaluation of care and service work has simultaneously rendered these workers most subject to exploitation as ‘disposable’ workers.”⁵⁷

This dynamic was visible across society and across academia. The same people, often “black and brown people” were simultaneously “more likely to lose their jobs in the crisis (and suffer food and housing insecurity),” while they were also the ones most likely to be on the frontlines fighting the pandemic’s impacts.⁵⁸ Similarly in academia, women and caregivers, often women of color were the most likely to face added burdens at their workplaces, homes, and communities while being called upon to provide extra support and academic caregiving on academia’s front lines.⁵⁹

53. Helen Lewis, *The Coronavirus is a Disaster for Feminism: Pandemics Affect Men and Women Differently*, ATLANTIC (Mar. 19, 2020), <https://www.theatlantic.com/international/archive/2020/03/feminism-womens-rights-coronavirus-covid19/608302/>.

54. Rana, *supra* note 6, at 98.

55. *See* Deo, *supra* note 3, at 246869.

56. *See id.* at 2469.

57. Rana, *supra* note 6, at 98.

58. Catherine Powell, Opinion, *Color of Covid: The Racial Justice Paradox of Our New Stay-At-Home Economy*, CNN (Apr. 18, 2020, 9:13 AM), <https://www.cnn.com/2020/04/10/opinions/covid-19-people-of-color-labor-market-disparities-powell/index.html>.

59. *See* Deo, *supra* note 3, at 246869 (discussing “the extra service burdens many women of color carry both professional and personally, meeting with students and organizing committees on campus, to being the default parent and household manager at home” and how the COVID-19 pandemic intensified these pressures, particularly for “[w]omen faculty [who] have been expected to augment what were already substantial contributions to academic caretaking by crafting new policies, arranging online meetings with vulnerable students and serving on an increasing number of committees”); *see also* Shillington et al., *supra* note 4, at 502 (noting that “BIPOC pre-tenure faculty also carry a greater time and emotional burden from the need to support students of color

These dynamics further intensified the pre-existing perverse incentives in academia which in turn magnified the asymmetrical and amplified impacts discussed above. Caregivers, women, and especially women of color, are “often left with more teaching and mentoring responsibilities” while this labor is simultaneously devalued by academic institutions and also impedes the ability to do the academic work that is valued and rewarded—research and publications.⁶⁰ The support and caregiving roles tapped in the classroom and institutions, to the extent they are formalized, are also some of the most precarious positions in academia.⁶¹ In the pandemic and beyond, caregivers are also caught between both “intensive work pressures and intensive parenting pressures” in which each role requires 100% accompanied by a lack of adequate support from the government, their employers, and partners.⁶² Some academics have reported threats of stigma, reporting that they feared being perceived as caregivers who “couldn’t do the job.”⁶³ Even measures such as promotion and tenure-clock extensions can be counterproductive, as research shows that women and caregivers who pursue such delays may see the bar moved higher as they are then forced to compete against others who have had that time to strengthen their resumes and research and publication records, or find that these delays reduce salary gains and other benefits over the course of their careers.⁶⁴

The pandemic further underscored these dynamics, catching caregivers in an ever-constricting vise. The mitigation measures meant to protect public health and safety such as virtual learning created new binds for caregivers in academia who were forced to work harder at work, at home, and in their communities, with fewer resources.⁶⁵ In a cruel irony, the most

who are also distressed, along with requests for lectures and consultation responding to current events.”).

60. Kitchener, *supra* note 5.

61. See Deo, *supra* note 3, at 2471 (noting that “[u]ntenured faculty (including both pre-tenure and contract-based professors) and faculty members who are caregivers have also been particularly vulnerable during the pandemic” and were at greater risk for attrition because of the COVID-19 pandemic).

62. Anne Helen Petersen, *Other Countries have Social Safety Nets. The U.S. has Women*, CULTURE STUDY (Nov. 11, 2020), <https://annehelen.substack.com/p/other-countries-have-social-safety>.

63. Kitchener, *supra* note 5.

64. See Shillington et al., *supra* note 4, at 501, 504 (stating that the impact of pandemic-related research and trajectory disruptions “is likely to radiate through academic careers in a longitudinal manner” and that delays and extensions also “delay promotional salary increases and potentially affect faculty and administrator perception of whether or not pretenure faculty members are on track.”).

65. Cyra Akila Choudhury, *The COVID Care Crisis and Its Implications for Legal Academia*, 16 FIU L. REV. 1, 23, 6 (2021).

vulnerable, precarious, and overburdened academics (as well as their counterparts in society as a whole) were the very people now expected to serve as the safety nets and structures of last resort at the very time they most needed support themselves. As one sociology professor puts it:

Other countries have social safety nets. The U.S has women The pandemic came along and ripped a giant hole through what little safety net we did have to support women and especially mothers in the U.S. It's closed the childcare centers and schools mothers rely on for childcare; it's made it more difficult for mothers to rely on other people and organizations they might usually turn to for support.⁶⁶

All of these dynamics led to a “disproportionate impact” on caregivers’ careers with potentially long-term losses for both individuals and academia as a whole.⁶⁷ Notably, at the same time, relative inequities also increased, as academics without caregiving responsibilities often reported the opposite—that the pandemic’s health and safety closures and measures had left them with “more time under stay-at-home restrictions to focus on their research,” thereby widening gaps in research productivity.⁶⁸ In these ways, the multiple asymmetric and uneven dynamics of the COVID-19 pandemic created negative spirals of care. The ways in which society buckled and was reshaped almost overnight, with public and private divides fracturing against one another as they were redrawn, allowed the pandemic’s impacts to accumulate and intensify along the lines of marginalization.⁶⁹ These pressures eroded caregivers’ social and institutional capacity, which in turn further deepened the impacts of the crisis, leaving individuals to cobble together often flimsy or fleeting responses to collective problems.⁷⁰

This section has framed this predicament as a not just a moment of intensifying pressures, but rather a crucible for care work in academia rooted in deeper and pre-existing dynamics and struggles. While these challenges are deep, such moments of inflection points also provide opportunities for change, crucibles through which new ideas, practices, and innovations can arise, discussed in more detail below.

66. Petersen, *supra* note 62.

67. *Id.*

68. Shillington et al., *supra* note 4, at 502.

69. Rana, *supra* note 6, at 9192.

70. Petersen, *supra* note 62 (quoting Professor Jessica Calarco describing how the pandemics’ impacts on mothers and caregivers were amplified by a U.S. “narrative that promotes individual solutions to deeply structural problems.”).

III. FLIPPING THE SCRIPT: RE-ENVISIONING INSTITUTIONAL SUPPORT FOR CAREGIVING IN ACADEMIA

At the time of this writing, as 2023 draws to a close, we find ourselves in a moment where the COVID-19 pandemic has officially ended,⁷¹ but the disease itself and the crisis' impacts continue and linger on in society and in academia.⁷² The pandemic not only deeply impacted the lives and careers of caregivers in academia and beyond, but also “illustrated the need for more adequate and equal access to child care, technology, economic relief, and participation spaces.”⁷³ Moreover, in addition to the long-feared attrition and reductions in scholarship and negative career impacts of the pandemic, this crisis also has led to increased burnout among academics.⁷⁴

At this critical moment for caregivers in academia, how might we move forward and re-envision institutional structures in academia that can support and value caregivers? How can we reverse the negative spirals and cruel logic of the pandemic's impacts on caregivers and care work while creating new practices that will enable caregivers to thrive and flourish in academia? This section, applying principles from vulnerability theory, argues that we can and must flip our existing script by re-orienting academic support, systems, and dynamics around new logics and systems

71. See The Associated Press, *Biden Ends COVID National Emergency After Congress Acts*, NPR (Apr. 11, 2023, 4:34 AM), <https://www.npr.org/2023/04/11/1169191865/biden-ends-covid-national-emergency> (President Biden signed a bipartisan congressional resolution marking the end of the U.S. national emergency response to the COVID-19 pandemic on April 10, 2023, while the public health emergency expired on May 11, 2023); Betsy McKay & Brianna Abbott, *WHO Declares COVID-19 Pandemic Emergency Over*, WALL ST. J. (May 5, 2023, 4:15 PM), <https://www.wsj.com/articles/who-declares-covid-19-pandemic-emergency-over-23977772> (The World Health Organization (WHO) declared the end of the COVID-19 pandemic emergency in May, 2023).

72. See Roxanna Nasserri Pebdani et al., *Pandemic Productivity in Academia: Using Ecological Momentary Assessment to Explore the Impact of COVID-19 on Research Productivity*, 42 HIGHER EDUC. RSCH. & DEV. 937 (2022) (discussing data showing mothers in academia during the pandemic were more likely than fathers to reduce research time and work hours as well as more likely to be caring for children and pointing to long-term implications for career progression in academia); see also Beth Godbee, *Intervening Into Burnout*, INSIDE HIGHER ED (July 7, 2023), <https://www.insidehighered.com/opinion/career-advice/2023/07/07/structural-and-individual-ways-avoid-burnout-opinion> (more than three years after the pandemic began, “grieving (again) just how little has shifted and how much more exhausted, overstretched and worn thin we are today” in academia).

73. Celorio, *supra* note 13, at 135.

74. See Godbee, *supra* note 72 (commenting that “[i]t’s rare that a day goes by in which burnout among academics doesn’t come up in personal conversations or news reports in some way” and that “while burnout became a more familiar topic in the news media and otherwise during the height of COVID, and was exacerbated by it, these conditions didn’t begin with the pandemic and far exceed it.”).

that build and support resilience, innovation, and human potential rather than strain and exploit individuals and devalue caregiving work.

Vulnerability theory calls for institutions that recognize, rather than ignore, human dependency and vulnerability instead of merely emphasizing or valorizing individual choice and responses.⁷⁵ The recognition that “we are all inevitably dependent on various social institutions and relationships over the life course” enables and supports resilience in the face of crises or obstacles.⁷⁶ Resilience “results from public and private institutions that provide the resources and protections that enable individuals and communities to achieve long-term goals and to recover from setbacks.”⁷⁷ It follows that “institutions and relationships that a society forms must not only transcend the specific interests of particular individuals and groups but also have concern for the intergenerational needs of society,”⁷⁸ and that caregivers are “reliant or dependent on access to sufficient material, institutional, and physical resources to accomplish that care successfully.”⁷⁹ That is, resilience and the foundations that allow people to flourish are not just a “naturally occurring and variable characteristic of an individual, nor [are they] achieved only by individual accomplishment and effort” as opposed to institutional, structural, or collective responses and support.⁸⁰

Using these frames, we can better conceptualize academic institutions as embedded within webs of care work, and begin to redesign institutional support and recognition for caregivers in academia. Caregivers may be more likely to flourish if we recognize and substantively “redesign[]” relationships and support for caregivers in academia and build capacity, “rather than carving out special, narrowly targeted, substantive exceptions to presumptively neutral principles and processes.”⁸¹ Care could be “seen as an *expectation*—not an interruption.”⁸²

75. Martha Albertson Fineman, *Vulnerability and Social Justice*, 53 VAL. U. L. REV. 341, 342 (2019).

76. *Id.* at 354.

77. Martha McCluskey, *Transforming the Political Economy: Countering Neoliberal Logic with the Vulnerable Human Subject*, L. & POL. ECON. PROJECT BLOG (Sep. 8, 2021), <https://lpeproject.org/blog/countering-neoliberal-logic-with-the-vulnerable-human-subject/>.

78. Fineman, *supra* note 75, at 359.

79. *Id.* at 361.

80. *Id.* at 362; *see also id.* at 363 (“Resilience is found in the material, cultural, social and existential resources that allow individuals to respond to their vulnerability (and dependencies). Resilience is measured by an individual’s ability to survive or recover from harm or setbacks that inevitably occur over the life course In other words, resilience allows us to respond to life—not only to survive but also to thrive within the circumstances in which we find ourselves.”).

81. McCluskey, *supra* note 77.

82. Kenway, *supra* note 43.

Smaller-scale interventions could include accepting and requiring shorter articles for publication, promotion, and tenure that would be more feasible to produce during sabbaticals, summers, or other intensive time periods.⁸³ For people facing professional interruptions due to caregiving needs or pandemic-related research and publication pauses, institutions could support trajectory-building programs that would support rebuilding and growth rather than simply promotion delays or pauses.⁸⁴ This would require that disciplines and universities acknowledge that “research trajectories are cumulative,” such that delays have “the potential to affect a scholar’s long-term trajectory” and “delay promotional salary increases” among other benefits, so that the cost of interruptions would be measured not by time alone but also by long-term promotion, scholarship, and financial impact.⁸⁵

Institutions could question “norms, scaling back and disrupting ‘the way things are done’” by reconsidering commitments and how to scale back burdensome requirements that do not support core principles or goals.⁸⁶ Emphasis and focus could be shifted from administrative tasks to relationship-building and collaboration.⁸⁷ Interventions and support could be tailored to recognize that caregiving efforts or career interruptions differentially impact people who are at different stages or security levels in their careers.⁸⁸ This also means that comparisons of scholarly production or portfolios should take into account relative trajectories and portfolios of those who have dealt with similar impacts.⁸⁹ Mentoring and other caregiving support, critical for advancement and the ability to thrive in academia,⁹⁰ must be formally supported, paid, and recognized. Such changes would also facilitate greater flexibility and adaptability in academic institutions as new or future challenges emerge.

Finally, we must recognize that small-scale, temporary, or narrowly tailored actions will not by themselves address the deeper, pre-existing issues and challenges that already creates uneven power dynamics and hierarchies in academia. We must move toward structural and more

83. See Choudhury et al., *supra* note 17.

84. See e.g., *Melbourne Research Fellowships (Career Interruptions): 2024 Scheme Guidelines*, U. MELB. (May 5, 2023), https://sites.research.unimelb.edu.au/data/assets/pdf_file/0009/4626396/UoM_MRF-CI_2024_Funding-Guidelines-Final.pdf (outlining career interruptions for research fellowships including “[c]aring responsibilities,” illness or injury).

85. Shillington et al., *supra* note 4, at 501.

86. Godbee, *supra* note 72.

87. *Id.*

88. See Shillington et al., *supra* note 4, at 50304.

89. *Id.* at 505.

90. *Id.* at 503.

comprehensive measures and solutions to address not only individual trajectories, but the collective fall many experienced during the COVID-19 pandemic.⁹¹ At the same time that new “policies and programs must be created and launched to address some of the structural and systemic barriers experienced by women, sexual minorities, and BIPOC faculty,” among others disproportionately impacted by the pandemic, we must also orient support services and progress towards the distinctive demands and pressures faced by those most impacted by the COVID-19 pandemic and related measures.⁹² In short, we must build capacity and resilience through institutional recognition of and support for caregivers in academia, implementing not only programmatic changes but also structural, systemic changes over time to address both the pre-existing and pandemic-related divides across academia.⁹³ In these ways, we can begin to create positive rather than negative spirals of care.

IV. CONCLUSION

While caregiving has long gone unrecognized and unsupported in academia as well as society more broadly, the COVID Care Crisis stemming from the impacts of the COVID-19 pandemic and related mitigation measures has shed new light on, and provided additional urgency to, the need for short-term and broader structural changes to support caregivers in academia. The “transformation of daily life that the crisis caused by the COVID-19 pandemic brought about has given greater visibility to the lack of infrastructure and resources, such as time, that are needed to make care viable,”⁹⁴ and this is true throughout the academic landscape as well.

The COVID Care Crisis articulated and described in this Article has led not only to disrupted careers, scholarship, and the silencing of important voices throughout academia, but has also had disproportionate, compounded, and magnified impacts on academic caregivers. Many who were already impeded by hierarchies and uneven support and recognition found themselves increasingly caught between demands at the same time that resources and support nearly vanished, with no way to create additional time, resources, or support. The way back from these challenges must

91. Godbee, *supra* note 72.

92. Shillington et al., *supra* note 4, at 505.

93. *Id.* at 50305.

94. See U.N. Econ. Comm’n Latin Am. & Caribbean, *supra* note 35, at 217 (noting also that “[w]hile the care crisis predates the pandemic, all its dimensions worsened during 2020 and 2021.”).

involve institutional recognition not only of care work and its value, but also the recognition that advancement, resilience, and the foundations that allow academics to flourish require institutional and structural resources and support.

This article aimed to provide a snapshot of the COVID Care Crisis and the COVID-19 pandemic's disproportionate, uneven, and often harsh impacts on academic caregivers, and to start a dialogue on how we may begin to address these challenges as well as their underlying roots. Inflection points such as those resulting from the COVID-19 pandemic provide many opportunities for change, crucibles through which innovation can arise. But these moments are temporary and fleeting, and time is short. We can use the urgency behind this moment to re-envision what it would mean to support caregivers, integrate support and dignity for care work into the academy, to rewrite what advancement, trajectories, roles, and scholarship mean, and to re-imagine the range of what they can look like in more supportive institutions and across the entire web of academia.