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ABSTRACT

Ecuadorian labor legislation presents significant limitations regarding the protection of the rights of workers who assume family care responsibilities, particularly when it comes to caring for elderly parents in complex medical situations. The absence of a legal provision granting specific leave for these cases places employees in a conflict between fulfilling their work obligations and exercising their moral and emotional duty of caregiving. This regulatory gap reproduces structural inequalities in the workplace and family settings, affects the mental health of caregivers, and violates the right to a dignified life of dependent older adults. Incorporating family care leave into the legal framework would allow progress toward a more just model of social co-responsibility, in which care work is neither made invisible nor penalized.

Keywords:

Family care, seniors, labor law, sick leave, social protection.

RESUMEN

La legislación laboral ecuatoriana presenta limitaciones importantes en cuanto a la protección de los derechos de los trabajadores que asumen responsabilidades de cuidado familiar, particularmente cuando se trata de la atención de padres adultos mayores en situaciones médicas complejas. La ausencia de una figura legal que otorgue licencias específicas para estos casos coloca a los empleados en un conflicto entre el cumplimiento de sus obligaciones laborales y el ejercicio del deber moral y afectivo del cuidado. Este vacío normativo reproduce desigualdades estructurales en el ámbito laboral y familiar, afecta la salud mental de los cuidadores, y vulnera el derecho a una vida digna de las personas mayores dependientes. La incorporación de licencias por cuidado familiar en el marco jurídico permitiría avanzar hacia un modelo de corresponsabilidad social más justo, en el que el trabajo de cuidado no sea invisibilizado ni penalizado.

Palabras clave:

Cuidados familiares, adultos mayores, derecho laboral, licencias laborales, protección social.

INTRODUCTION

The aging of the population is a phenomenon worldwide as well as in Ecuador, this has been a challenge for health and social systems that must adapt to meet the needs of this specific population, the importance of carrying out prevention should be done by promoting strategies that ensure a better quality of life for older adults, the active participation of the community will be extremely necessary to understand and attend to the care of older adults, which provides benefits for both their families and themselves (Universidad Técnica Particular de Loja, 2022).

The World Health Organization (Organización Mundial de la Salud, 2024) highlights that aging is a biological process that is associated with health problems, issues are addressed on the importance of creating an environment that facilitates healthy aging that aims to reduce inequalities, improve the quality of life of older people and therefore is influenced by the physical and social environment, an adequate environment is essential to reduce the risk of diseases and maintain independence, it also promotes a program called the decade of healthy aging in this project various social actors participate with the purpose of promoting long, healthy lives and reducing health inequality.

As we have observed, care is essential and focuses on promoting and restoring health. It is divided into two types: professional care in the health area and informal care provided by family members. When it comes to caring for older adults, the responsibility becomes a little more complex as it can involve physical, psychological, and social conditions, which requires patient attention and commitment from family members, which entails greater responsibility. As older people age, self-care can be affected by health problems, so it is important to foster an environment that meets their needs, ensuring a decent quality of life at this complex stage (Pinilla Cárdenas et al., 2022).

Furthermore, the lack of regulations regarding sick leave for parenting care has been significantly noted. This is a fact that directly affects older adults as well as their children, who in most cases are in charge of their care and are affected by the lack of recognition of the needs of older adults for their care in medical cases or hospitalization and, consequently, the lack of job stability for those in charge of their care, since not having a specific sick leave for the care of older parents can have consequences such as not giving priority attention to the older adult, violating a constitutional right.

In Ecuador, the issue of a license for the care of parents in cases of medical treatment or hospitalization and need care from a person who is a member of their family has not been addressed, in this specific case the care of a child towards a parent, which would be the obligation of the children to care for their parents in their old age, they should be the ones to provide support by giving back some of the care received in childhood, this responsibility

is based on an analogy with the religious commandment to honor parents since it is a value present in various cultures that have historically shown respect for the elderly, as the years go by parents age or suffer health problems and need care to prevent major problems, children should be those who are aware of the needs of their parents in order to provide them with care and support (Medina Sánchez, 2014).

On the other hand, in Ecuador, labor law is based on the principles of equality and justice. The inclusion of sick leave is essential to protect workers' rights to maintain harmony between their personal and work lives. In some circumstances, these rights may be affected by personal problems that impact productivity and worker performance, and may make it difficult for them to adequately attend work. Furthermore, sick leave contributes to workers' financial well-being, allowing them to cover their needs, and, since the leave is paid, it motivates them to carry out their activities more effectively, guaranteeing job stability for workers (Narváez Montenegro et al., 2023).

MATERIALS AND METHODS

The research was conducted using a mixed-method approach, combining qualitative and quantitative elements to comprehensively address the social problem under study. The qualitative approach used legal, historical, and religious analysis to understand the structural, normative, and cultural elements that have influenced the perception and treatment of elder care over time. This analysis allowed us to identify how different traditions, legal norms, and historical contexts have shaped the concept of filial responsibility and its connection to labor rights.

On the other hand, a quantitative approach was used to collect and systematize relevant data on the need for elder care leave. This component provided empirical information that contributes to sizing the scope of the problem within the economically active population and understanding citizens' perceptions of this need. The integration of both approaches facilitates a more complete view of the phenomenon by combining conceptual analysis with data that support the proposal on an objective basis.

The research method was descriptive and explanatory. From a descriptive perspective, the forms of relationship and respect traditionally accorded older adults were detailed, both in family and social contexts, considering different historical moments and cultural expressions. At the explanatory level, the factors that have led to the decline of these practices of care and respect were addressed, highlighting how changes in family structures, economic models, and the transformation of values have generated a legal and social void regarding the support and protection of this population. The research identifies the care of older adults by their children as not only a moral but also a social and legal responsibility, which poses a significant challenge that demands innovative solutions.

This bibliographical documentary research was based on a systematic and critical review of various written sources. Specialized books, scientific articles, academic journals, legal documents, official websites, and relevant publications from national and international organizations were consulted. This methodological strategy allowed us to gather and analyze solid and reliable information that supports the need to implement a public policy that includes specific leave for older adult care, considering both legal precedents and comparative global practices.

The design adopted was a mixed approach, integrating historical research approaches, religious analysis, theoretical and doctrinal reflections, as well as comparative law tools. This methodological structure allowed for the examination of the topic from different perspectives, enriching the understanding of the problem with a broad and in-depth perspective. The historical-religious analysis contributed to the understanding of the cultural role assigned to older adults, while the doctrinal and comparative approach allowed for the establishment of benchmarks with legislation from other countries that have already implemented similar protection mechanisms through labor law. Overall, this design contributes to the formulation of solid proposals that respond to the current reality and urgent needs of this population.

RESULTS AND DISCUSSION

The results of this research are consistent with its objective, which was to establish the need for leave from work to care for elderly parents in cases of medical treatment or hospitalization, to guarantee the right to health and job security. To this end, a survey was conducted with 142 respondents. The information collected in Table 1 reflects a clear favorable trend toward the implementation of leave for the care of elderly parents in situations of hospitalization or medical treatment.

Of those surveyed, 91.5% (130 people) expressed support for this initiative, while only 8.5% (12 people) expressed disagreement. These results demonstrate a majority consensus that highlights the growing social awareness toward the care and support of older adults, as well as recognition of the important role of the family in this process. In practical terms, this high level of acceptance suggests that, if this measure were implemented in the labor code, it could enjoy significant social support, contributing not only to the well-being of older adults but also to the quality of life and emotional stability of workers.

Table 1. Inclusion of sick leave for care of elderly parents.

CATEGORY	FREQUENCY	PERCENTAGE
YEAH	130	91.5 %
NO	12	8.5 %
TOTAL	142	100 %

Figure 1 shows the results of the question about whether including a leave of absence from work for the care of elderly parents during medical treatment or hospitalization would contribute to guaranteeing both workers' right to health and job security. The data show that 90.1% of respondents (128 people) answered affirmatively, while only 9.9% (14 people) considered the opposite.

This high level of acceptance demonstrates that the majority perceive this measure not only as a social benefit, but also as a comprehensive protection strategy that articulates the fundamental rights to health, family, and work. The trend recorded in the figure demonstrates a broad consensus around the importance of implementing labor policies that make it possible to balance family responsibilities with professional performance, thereby reducing potential conflicts between both spheres and strengthening workers' commitment to their employers.

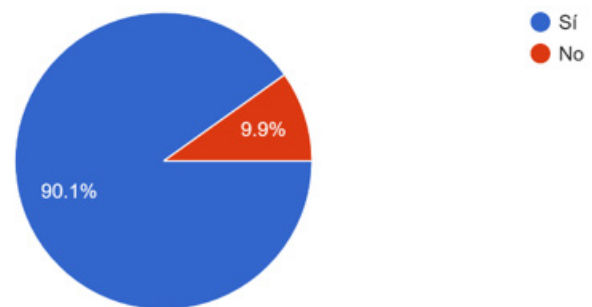


Figure 1. License as a right to health.

Figure 2 presents the distribution of responses regarding the number of days considered appropriate for leave from work to care for elderly parents in cases of hospitalization or medical treatment. The results reflect a diversity of criteria among respondents, with no clearly predominant option. 28.9% (41 people) opted for a maximum of 8 days per year, while 28.2% (40 people) favored a limit of 25 days, thus demonstrating two opposing positions: one more restrictive and the other more extensive in terms of leave duration. In intermediate positions, 20.4% (29 people) considered up to 15 days adequate, and 22.5% (32 people) favored a maximum of 20 days. This distribution demonstrates that, although there is consensus on the importance of leave, there is still debate about its optimal duration. The figure therefore reveals the need for a regulatory balance that guarantees the right to health and family protection without significantly affecting labor productivity. This poses the challenge of establishing a flexible legal framework adapted to different realities.

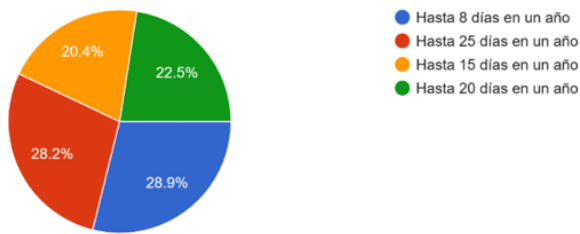


Figure 2. Days of leave.

The majority of respondents expressed support for including paid leave in the labor code. They also agreed that implementing this leave would not only benefit workers but also contribute to guaranteeing the right to health and job security. A preference was expressed for a leave of between 8 and 25 days per year, which indicates people's interest in establishing a paid leave that would allow workers to care for older adults in cases of medical treatment or hospitalization.

The College of Notaries of the Province of Buenos Aires (Colegio de Escribanos de la Provincia de Buenos Aires, 2020) establishes a special license regime for the care of a sick relative that is aimed at employees whose immediate family member has an illness that prevents them from caring for themselves, which may be due to hospitalization or surgery, a direct relative is considered to be minor children, older children who live with the employee, spouse, partner, father or mother. In order to access this license, which is granted with pay for a maximum of three days a year, certain requirements must be met, such as:

- Employees should report their absence due to a family member's illness to their supervisor or the human resources department, preferably before the start of the workday or up to two hours afterward.
- The address of the sick relative must be provided, as medical check-ups can be conducted there.
- The doctor who verifies the situation must be a public or private health professional. Medical examinations to verify the illness may include visits to the employee's home.
- A medical certificate must be requested, which must include the diagnosis, estimated rest time, and the information of the issuing physician.

Failure to comply with these requirements may result in the loss of pay for the period of absence. Misuse of this benefit is prohibited and is considered a serious offense. This regulation is temporary for one calendar year and will be applied at the end of that period to decide on its continuation. This benefit is intended to support employees in critical situations, allowing them to meet their family responsibilities without losing their income (Colegio de Escribanos de la Provincia de Buenos Aires, 2020).

On the other hand, if an employee in Madrid has a close relative up to the second degree of consanguinity or a

spouse who is suffering from an illness or accident requiring care, the employee may request a leave of absence of between 4 and 5 business days, depending on the situation. In the case of serious illnesses affecting a first-degree blood relative, an additional two days will be granted, which are paid and non-recoverable. Leave will be granted in the case of serious accidents or illnesses such as surgeries, hospitalization for more than 24 hours, or physical or psychological injuries with temporary or permanent consequences. To obtain this leave, a request must be submitted to the employee's work manager two business days in advance, except in emergencies. In these cases, the manager must be notified. Upon returning to work, the employee's absence must be justified with a medical certificate and proof of kinship with the affected family member. All of this must be submitted within a maximum of 5 days (Comunidad de Madrid, 2024).

These provisions are regulated in:

- Article 65 and 67 of the agreement of officials (Comunidad de Madrid. Consejería de Presidencia, Justicia y Administración Local, 2024a).
- Article 121 and 129 of the Collective Agreement for Labor Personnel in the Service of the Administration 2025-2028 (Comunidad de Madrid. Consejería de Presidencia, Justicia y Administración Local, 2024b).
- Instructions from the General Directorate of Human Resources of the Ministry of Education of May 19, 2010 on communication and justification of absences from work (Comunidad de Madrid. Consejería de Presidencia, Justicia y Administración Local, 2010).

In Peru, a public or private sector worker will enjoy a paid leave of up to 7 days when they have a direct family member (parents, children or spouse) who is going through a terminal illness or a serious health condition due to accidents that put their life at risk. In order to access this leave, the worker must inform their employer within 48 hours of the event by written communication or email, where the documentation that corroborates the family ties and the medical certificate that demonstrates the health status of the person must be attached. If required and necessary, the worker may request, on account of vacation time, a permit of up to 30 days. Likewise, it must be in writing and with the documentation that proves the need to extend the permit for this period of time (Perú. Ministerio de Trabajo y Promoción de Empleo, 2019).

Through research and analysis of comparative legislation, we have been able to observe that the aging of the population is a reality that needs to be taken into account in an important way. Therefore, by including this leave of absence in cases of medical treatment or hospitalization, priority care for the elderly would be given and the principle of legal certainty would be guaranteed. This inclusion would not only reflect an advance in social justice but also benefit the worker's environment, helping them balance job stability through the economic income of their

work and guaranteeing the right to health in order to help their parents, which benefits their family, contributing to a more equitable and healthy society. The results of the surveys carried out show a large percentage of support for the inclusion of leave of absence, which reflects the need among the population to establish a specific leave and time for the adequate care of older adults in cases of medical treatment or hospitalization.

CONCLUSIONS

The implementation of a sick leave provision within the Labor Code for the care of older adults in situations requiring medical treatment, hospitalization, or ongoing support is proposed as an urgent and necessary measure to address a social problem highlighted throughout this research. This proposal seeks to address a dual need: on the one hand, to guarantee the right of older adults to receive dignified care and attention in times of vulnerability; and on the other, to allow workers to fulfill their role as caregivers without this implying a risk to their job security or conflicting with their professional responsibilities.

Currently, many workers face the dilemma of having to choose between fulfilling their work obligations and attending to the health needs of their parents or other older relatives. This creates a significant emotional burden and can have serious consequences for both their mental health and their professional performance. This conflict also impacts the well-being of the family unit, affecting the quality of life of all its members. The lack of legal mechanisms that address these realities contributes to a situation of vulnerability for both parties: workers and their dependent older adults.

Including a specific leave provision in the Labor Code would contribute not only to the individual well-being of workers but also to strengthening the family environment. Facilitating the care of older adults within the legal framework would improve their quality of life, guarantee adequate and timely care, and promote more supportive and humane family relationships. This, in turn, would be aligned with the principle of priority care enshrined in the Ecuadorian Constitution, which establishes the State's duty to protect and guarantee the rights of priority care groups, including older adults.

Despite this constitutional mandate, the Ecuadorian labor regulatory framework still presents significant gaps regarding the protection of caregivers' rights. The Labor Code currently does not provide a specific provision allowing workers to take temporary leave from their jobs with legal justification to care for older adults under their care. This omission implies an indirect violation of both the rights of workers and the older adults themselves, who are limited in their ability to receive dignified support from their close family members.

Therefore, the creation and inclusion of a work license with these characteristics would represent a significant advance in terms of social justice, equity, and human rights. Furthermore, it would allow the State to more effectively fulfill its role as guarantor of rights, strengthening social cohesion and responding to a growing need in the context of an aging population. Legislation must evolve to respond to society's current challenges, and this is one of the areas where such evolution is not only relevant but essential.

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Conflictos de interés:

Los autores declaran no tener conflictos de interés.

Contribución de los autores:

Bolívar David Narváez-Montenegro, Pablo Miguel Vaca-Acosta, Styven Andrew Stack-Chicaiza, Joselyn Melissa Paspuesan-Mora: Concepción y diseño del estudio, adquisición de datos, análisis e interpretación, redacción del manuscrito, revisión crítica del contenido, análisis estadístico, supervisión general del estudio.