Transnational 'granny-nannies' – promoting visibility and rights for aging caregivers in transnational families

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INTRODUCTION

Given the confluence of overlapping demographic trends, on a global scale, we are living in the age of the grandparent (Stern, 2021; *The Economist*, 2023). A combination of increased life expectancy and decreasing birthrates means the ratio of grandparents to grandchildren is on the rise (Eibich and Zai, 2022; Settles et al., 2009) and grandparents are a significant source of childcare in many societies (Dolbin-MacNab and Yancura, 2018). The support of grandparents, especially grandmothers, has become essential in providing unpaid childcare and facilitating paid female labour market participation among the 'middle generation' (Neuman, Eli and Nowicka, 2019; Gray, 2005). Due to trends in global migration and the transnationalisation of families, grandparents increasingly find themselves providing long- or short-term care in transnational settings, whether they migrate or stay in the country of origin. The support of kin networks is essential to both child-raising and the integration of immigrant families (Baldassar, Nguyen and Stevens, 2022). Yet these networks are hard to maintain against the backdrop of restrictive migration regimes limiting affordable and flexible visits, circular migration, as well as family reunification.

Within the fields of transnational family and migration studies, some studies have focused on how social policy and labour market arrangements form grandparental involvement in childcare (Igel and Szydlik, 2011; Price et al., 2018). Aging within the transnational family context has received some attention in the past two decades (Berkovitch and Manor, 2023; Nedelcu, 2017). Existing research provides snapshots of some of the structural factors that shape transnational grandparenting, but a systematic, distributive analysis of relevant laws and policies is missing (with the notable recent exception of Kilkey and Baldassar, 2024).

This chapter contributes to existing literature by highlighting some of the laws and policies shaping transnational grandparenting practices in home and host countries and discussing key challenges to human rights advocacy in the field. The first section will introduce the concept and key

challenges of transnational grandparenthood in the age of global migration. The second section examines the challenges of 'situated transnationalism' of grandparents who provide care for left-behind grandchildren in the home country. The impacts of neoliberal assumptions about care work and the consequent lack of recognition within family policy will be discussed. The third section focuses on migrating grandparents and the various challenges related to visits and settlement in host countries. Finally, the limitations and opportunities of human rights advocacy are discussed, especially in the context of combating 'ageism' and promoting older persons' rights within international and regional human rights frameworks.

1. THE TRANSNATIONALISATION OF GRANDPARENTHOOD

As a recent international study on transnational grandparents emphasises, 'the active exercise of grandparenthood is one of the most significant forms of intergenerational family solidarity' (Nedelcu and Wyss, 2020, p. 294). The term transnational grandparent has only recently gained recognition and substantial scholarly attention and covers various forms of grandparental care provision across borders (Baldassar, Nguyen and Stevens, 2022; Nedelcu and Wyss, 2020). A plethora of roles fulfilled by transnational grandparents have been identified in scholarship. For the purposes of this chapter, the focus is on their role as child caregivers, home maintainers and facilitators of labour market participation of women. It will cover grandparents providing care both in home and host countries. This 'moral economy' of grandparental care, with or without reciprocation, has become a significant form of 'social capital' for families and societies at large (Arthur, Snape and Dench, 2003).

There are various micro- and macro-structural factors driving this phenomenon. These range from increased life expectancy, decreased fertility, changing demographic dynamics, economic crises, increasing family dependency and increased internal and international migration (Settles et al., 2009; Song, Ma and Ruan, 2021).

On the micro (individual and community) levels, culturally embedded norms around familial solidarity between the generations drive increasing reliance on grandparents. The care roles taken on by transnational grandparents are also strongly influenced by significant events throughout the life course, such as birth, illness, divorce, or the age of children as well as elderly caregivers (Han and Moen, 1999; Hayslip, Fruhauf and Dolbin-MacNab, 2017; Kulu and Milewski, 2007). Additional individual factors include the health, gender and availability of grandparents (Nedelcu and Wyss, 2020, pp. 300–301). Forms of care involve hands-on childcare, from short-term care to becoming primary caregivers (de facto or *de jure* custodial care), especially in crisis situations. It may also include financial support or mentoring and intergenerational value transmission.

On the macro level, welfare and immigration regimes function as powerful background forces shaping intergenerational caregiving. Due to the gendered nature of caregiving, women find it comparatively harder to negotiate 'work-time' and 'family-time' obligations, as many caring tasks are continuous, non-negotiable and not adequately recognised in labour and social policy (Maher,

Lindsay and Franzway, 2008). Grandparental care supplements gaps in formal care systems, depending on the type of public policies around childcare provisions and parental leave. The availability of grandparents as carers has implications for childcare policy and increases the labour market participation of mothers (Dolbin-MacNab and Yancura, 2018; Gray, 2005; Perry-Jenkins and Gerstel, 2020). This is particularly true in regions with limited formal childcare provision (Di Gessa et al., 2016; Wheelock and Jones, 2002). Proximity to an available grandparent is a key variable in the intensity and practice of intergenerational solidarity (Gray, 2005; Zamarro, 2011). It is this variable of proximity that gives way in the transnational context. Yet, as this chapter demonstrates, families and grandparents continue to adapt to the pressures of distance and migration. The phenomenon is sometimes referred to as 'international flying grannies' (Goulbourne and Chamberlain, 2001; Plaza, 2000) as given the gendered nature of childcare and household work, it is predominantly grandmothers who split their time between home and host countries to provide supplemental or substitute care (Da, 2003; Treas and Mazumdar, 2004). Some transnational grandparents end up settling in the country of destination along with their children and grandchildren. However, contemporary settlement migration of older people is an increasingly rare occurrence due to hostile and severely restrictive immigration laws and policies towards the elderly (Askola, 2016; Szigeti 2023).

This form of transnationalism is often a matter of personal resources, mobility privileges based on citizenship and immigration status, as well as a form of forced adaptation due to coercive structural forces reshaping family life and intergenerational solidarity.

Transnational grandparents encounter numerous structural challenges as they navigate caregiving responsibilities across borders (Repetti and Calasanti, 2020; Zickgraf, 2017). These challenges encompass issues of recognition, access to services, and the complexities of care circulation across borders with restrictive visa and settlement regimes. They have significant impacts on their emotional, physical and financial well-being. Immigration restrictions, language barriers, access to healthcare and social integration have been recognised as some of the main hurdles for migrating transnational grandparents (Ducu, 2020; Meyer and Kandic, 2017). For those staying behind, the lack of legal recognition and rights for de facto surrogate or 'custodial' grandparents hinders their ability to access necessary services and support (Van Etten and Gautam, 2012).

Whether they migrate or stay behind, grandparents (especially grandmothers) commit significant resources and time to provide essential care against the dearth of state-sponsored social services. They forgo their own earning potentials by either exiting or opting out of paid work to provide unpaid childcare, leaving them more vulnerable and reliant on family support, remittances and often inadequate pension systems. This investment of time, energy and money is insufficiently recognised or accounted for in domestic welfare and social policy, or in terms of any special visa or settlement support, or points in immigration systems. The latter issue is particularly problematic knowing that the availability of grandparental support plays a significant role in the integration of the migrant middle- and second-generation in the host country (Schuler, Schuler and Dias, 2022). Their transnational status means 'flying grandparents' might risk losing access to some of their residence-based entitlements in their home countries.

Finally, due to ageist assumptions, the ascendant generation is more commonly conceptualised as care-receivers, a challenge, rather than a resource for the welfare state (UN, 2022). This attitude is reflected in domestic welfare and family policy as well as immigration law and policy.

Mapping these structural factors helps us understand the significance and impact of grandparents' care roles, and their implications for children, their parents, and the elderly caregivers. Contextualisation matters not only in accurately mapping the phenomenon of grandparenting, but it can also inform law and policy. Recognition or non-recognition of 'grandparental care' has implications for all stakeholders, family households and the welfare state.

2. SITUATED TRANSNATIONALISM – GRANDPARENTS PROVIDING CARE IN THE HOME COUNTRY

Estimates suggest that grandparents and other kin are responsible for most alternative long-term childcare arrangements around the world (Leinaweaver, 2014; Shuttleworth, 2023). Studies have shown that even accounting for differences in demographic, economic and legal/policy frameworks, grandparents occupy a critical position in meeting the childcare needs within the family unit (Settles et al., 2009).

This is increasingly true in the context of transnational families with children 'left behind' by migrating parents, often in the care of grandparents. This is frequently done to facilitate the onerous legal and socio-economic demands of future family reunification (Ducu, Nedelcu and Telegdi-Csetri, 2018). The grandparents in such cases exercise and experience 'situated transnationalism', a concept which emphasises that transnational families are made up of both mobile and immobile members of the transnational household. It demonstrates that the way in which care is performed in these cases is deeply embedded in institutional regimes for care, work, migration, and welfare, in both host and home countries (Kilkey and Merla, 2014). This transnational focus should influence the mapping of rights and State obligations related to care provision, as embedded in more than one nation-state's welfare regime (Eekelaar and George, 2014; Frenyo, 2019; Shamir, 2010).

Grandparental care in these cases is instrumental, yet the relevant scholarship tends to adopt a child-welfare/children's rights focus on the phenomenon (Child Protection Hub, 2023; Dreby, 2007; Turcan, 2023). Grandparents are routinely mentioned in the margins of these studies, but how transnational migration impacts their status, rights and welfare is not systematically observed and analysed. Particularly missing are contextual studies including the distributive impact of law and policy on left-behind transnational grandparents.

Finally, legal scholarship, aside from brief allusions to 'grandparenthood' in research on the rights of older migrants, completely ignores the phenomenon, because 'transnational family law' focuses on the 'middle-generation', partners and parents navigating *de jure* separation and maintenance, contact and residence, in cross-border situations (Fresnoza-Flot and de Hart, 2022). While the

importance of a child's relationship with grandparents has received some recognition in family law, the relevance of their role is diminished in the context of cross-border family law cases.

This leaves non-migrating transnational grandparents in a state of relative invisibility in terms of their status, rights and well-being. Yet, through a combination of nationally focused studies on grandparents raising children, transnational studies on 'left-behind' children, and the newly emerging scholarship on transnational grandparents, we can discern a set of family, welfare and immigration law and policy considerations that may form the basis of future structural/distributive analysis.

2.1 Gender and Welfare Policies in the Lives of Transnational Grandparents

Though some transnational grandparents provide only occasional support for left-behind grandchildren, others end up becoming primary caregivers, providing daily co-residential or 'intensive childcare' defined by daily care (Price et al., 2018, p. 47). Intensive childcare is demonstrated in some of the most transnational migration-prone sending countries, i.e. Romania, or among Javanese grandparents in migrant-sending communities (Pantea, 2012; Somaiah and Yeoh, 2023). In this context, grandmothers find themselves at the intersection of age and gender discrimination, placing them at a risk of oppression and disadvantage (Bozalek and Hooyman, 2013), exacerbated by the increased burden of caring for children in a transnational setting with minimal state and parental involvement. These dynamics are reinforced by neoliberal policies that encourage female labour market participation, without a strong gender-mainstreaming/gender equality component reorganising caregiving in the household.

Gendered division of work tends to remain entrenched in transnational families. Childcare is negotiated within the family, most often between mothers and grandmothers, considering the availability of formal care and work opportunities (Price et al., 2018). When mothers migrate, fathers usually rely on the help of female relatives, usually grandmothers, to provide supplemental and substitute childcare (Lutz, 2018; Parreñas, 2008; Piperno, 2012). There are strong indicators that men are not filling the 'care deficit' gap resulting from women's paid work in domestic or transnational settings.

One of the key structural factors at play is the availability of formal and informal support for grandparents raising grandchildren in the host country. Investigating the various contextual drivers (childcare provisions and labour markets) of intensive grandparental care across Europe, Price et al. found that: '… the more people are dissatisfied with institutional support for families, the higher the proportions of grandmothers providing intensive childcare' (Price et al., 2018, p. 57). This reaffirms that structural factors such as 'policies, labour market structures, formal childcare provisions and cultural norms' are more impactful than individual preferences and demographic trends (Price et al., 2018, p. 58). When policies are designed to incentivise paid work, for instance, childcare is arranged either by the private sphere (household and market) or within state settings, either through cash transfers or direct institutional solutions.

Some of the most common migrant-emitting states in Central and Eastern Europe (CEE), for instance, have traditionally had robust state-run childcare systems as part of a de-familialised

approach to care provision and an incentive for greater labour market participation. Though welfare state typologies in the CEE region are not neatly divided – in fact, they might be considered as forming a distinct group of their own (Fenger, 2007) – some general trends have been observed. A neoliberal turn in political and economic transition within the post-Soviet era dismantled much of the formerly powerful care structures of the welfare state (Kováts, 2016). Within the CEE region, this became a significant problem for many women, as they were the primary users of the various welfare services of the socialist era and the ones working in the care sector as an occupation. The subsequent retreat of the welfare state and familialistic policies means that resources are increasingly extracted from household-based care work, public education and healthcare. It is then again women – often mothers and grandmothers – who step into more and more welfare/care roles (Glaser et al., 2018; Piperno, 2012). On the flip side, as Settles et al. demonstrate, 'generous parental leave' in northern European countries may 'lessen the need' for grandparental care for young children. However, it also tends to result in a lack of available state services. This means that when parental care becomes unavailable, reliance on the older generation increases (Settles et al., 2009, p. 833).

Increases in female labour market participation of mothers, and the pressures this puts on the state to meet care needs, have been at the heart of family policy analysis. Focus has largely been on child- and elder-care needs negotiated between the family (mostly women), market and the state. Various familialising and de-familialising welfare policies (Leitner, 2003), have mostly focused on the so-called 'middle generations', the parents (especially mothers), and ignored the role of grandparents in the care cycle (Price et al., 2018, p. 45). As observed in the case of European welfare policy, for instance, service provisions are either 'state-centric' or 'parent-centric' (Settles et al., 2009, p. 833). This is true even though the nature and intensity of grandparental childcare has been shown to have a mutually reinforcing relationship with public expenditure for childcare and leave in Europe (Igel and Szydlik, 2011). It also has the potential to impact older women's workforce participation, especially in the 55–64 age range, when they are most intensively involved in providing supplemental childcare (Gray, 2005, p. 567). This was also demonstrated in various Chinese case studies on left-behind children, where weak government support, and the lack of universal retirement pensions or accounts for the raising of grandchildren have resulted in a 'double labour burden', especially for grandmothers (Dolbin-MacNab and Yancura, 2018, p. 12). In these situations, family solidarity and informality in care provisions have become the norm, as Craciun observed in Romania (Craciun, 2014). Such care is reorganised in the transnational sphere, arranged through visits, virtual co-presence and significant financial support.

As a result, many grandparents are left overly reliant on remittances and their own resources when navigating childcare duties. While remittances, especially those sent by migrating mothers, remain steady where children are left in the home country, they have been found inadequate as primary sources of support, furthering the state's dependency on private welfare provisions while neglecting reforms around public provisions for children and the elderly (see case studies from Romania and Moldova: Heintz, 2007; Pantea, 2012). Furthermore, as demonstrated by various studies of transnational and reunited families (from Eastern Europe, Latin America and Africa), remittance sending changes dramatically when family reunification of children and parents takes place in the host country (Ambrosini, 2014). When this form of foreign 'direct investment' in the transnational household is diminished, transnational grandparents in home societies end up 'left

behind' with severely weakened private and state provisions available to them. While family reunification (between children and parents) alleviates some of the childcare burden on grandparents, how fast this might happen is predicated on the opportunities of formalised employment in the destination country and inclusion into the formal social security system, and related health and educational benefits for children (Melander and Green, 2018, p. 149).

From an analytical perspective, this privatised and familialised system of transnational care requires us to move beyond 'nationalist' assumptions about relevant laws and policies that impact grandparents' rights and welfare (Kilkey and Baldassar, 2024). For instance, labour and immigration laws and policies in host countries determine whether a migrant worker parent is eligible for formal job contracts or residence permits. These in turn determine if they can apply for any local family or child support (Melander and Green, 2018). This leaves those in the more precarious labour sectors without opportunities to bring their children along. In addition, remittances might be constrained at first, with migrant workers facing limited access to adequate housing and work-time arrangements for virtual presence or actual visits. Migrant workers in the domestic care sector are largely excluded from the benefits of most work-life reconciliation policies even when the sector is legalized and formalized (Piperno, 2012). Even if they are European Union citizens, many are not able to qualify for 'worker' status under Article 7(3) of the Citizens' Rights Directive 2004/38 on freedom of movement, and are thus ineligible for certain benefits that attach to being a migrant worker under EU law. (Frenyo, 2019, p. 307). These pitfalls of informal and precarious work negatively impact transitional parents' ability to supervise and support their children, but also the situation and support available to grandparents caring for them.

Socially marginalised migrant workers with close family ties in their home country are the 'best producers of remittances' (Ambrosini, 2014, p. 10; see also: Cebotari, Siegel and Mazzucato, 2018). Home countries thus benefit greatly from restrictive labour migration regimes, limiting the prospects for family reunification in the host country. Meanwhile, it is the transnational grandparents, as proximate caregivers, who act as key facilitators and distributors of these remittance flows, while also supplanting state care services for left-behind children. Yet, the contributions of grandparents in childcare, immigrant integration and transnational labour market participation are largely unrecognised by relevant laws and policies in either home or host countries.

2.2 Recognition as Primary Caregivers

Some transnational grandparents who remain in the host country to care for children are de facto custodial, or 'surrogate', parents, taking on primary caretaking responsibilities under the remote coordination of migrant parents. They practice various facets of parental responsibility, ensuring the rights and well-being of children related to their upbringing and development. Part of the barriers to support for transnationally situated grandparents is the lack of legal recognition as primary or custodial caregivers. Recognition of this so-called 'kinship care' has crucial implications for how such care is supported, regulated and financed (Shuttleworth, 2023). Providing childcare reorganises grandparents' living arrangements, health, psychological well-being and relationships with support services (Pantea, 2012). Childcare benefits tend to follow children and parents and are seldom targeted at the ascendant generation. When the responsibility of legal representation is

not formally delegated to de facto carers, it leaves not only the children but the caregivers without access to social and legal protection.

Grandparents' roles and relationships with grandchildren have gained implicit recognition in family law by allowing them (among other relevant persons) to make access or visitation claims, or apply for guardianship, in line with the best interests of the child (UN Convention on the Rights of the Child, 1989, Article 3). This is the case, for example, in Canada under federal and some provincial laws (the Divorce Act R.S.C., 1985, c. 3 (2nd Supp.) s. 16.5 (1) or the Children's Law Reform Act R.S.O. 1990, c. C.12, s. 21 in Ontario); or, in more limited circumstances and only with leave of court, in New Zealand under the Care of Children Act 2004 (Fisher and Hutton-Baas, 2017), or under s. 8 of the Children Act 1989 in the UK. In rare cases broader parental rights beyond contact might be claimed by persons who 'claim interest in a child' (The Children (Scotland) Act 1995, s. 11). In New Zealand, placing children found to be 'in need of care' within the extended family, often grandparents, was enshrined in the Children, Young Persons and their Families Act (1989) and has normalised 'kinship care' as a protected form of 'family life', resting on indigenous Maori family values (Worrall, 2006; 2009).

Policies and child protection laws that prioritise familial care arrangements for children shift the burden of care onto grandparents, but they also provide a pathway to formal recognition and legal protection for grandparent carers. This brings with it eligibility for social assistance programmes and child support grants, as illustrated by the entitlements of grandparents in South Africa and New Zealand (Dolbin-MacNab and Yancura, 2018). Grandparents may be eligible for various social programmes, housing support and childcare benefits targeting 'unsupported' or 'orphaned' children. These arrangements nevertheless have various distributive consequences for the grandparents involved, depending on the presence or absence of formal (state) and informal recognition and support (Worrall, 2009). Patrilineal family customs in Vietnam provide that custody of grandchildren is automatically allocated to the paternal family when parents cannot care for them. This, however, has meant significant burdens for aging grandparents, with no recourse to regular formal transfers such as pensions and state welfare (Hoang et al., 2015).

More importantly, these policies are predicated on the 'abandoned child' phenomenon, which is not a fitting conceptual frame for many transnational families. The phenomenon of kinship care, or 'grandfamilies', displays a high level of informality worldwide, even outside of the migration context, with the phenomenon impacting about 2.7 million children in the United States alone (National Institute on Aging, 2023) and informality being the norm for 95% of kinship care arrangements in the UK (Shuttleworth, 2023, p. 160) This is especially true for transnational grandparents, who are largely not recognised as 'custodial grandparents', as the parent–child relationship remains intact, legally speaking, as parental rights are not normally terminated (nor formally extended to grandparents) by the transnationalisation of the household. While informality allows for flexibility and avoids the stigma of family disintegration, it also has pitfalls from the perspective of grandparents' rights and welfare. Informality often means these care arrangements fall outside the support and attention of relevant welfare and other government agencies (Leinaweaver, 2014). As a recent report on kinship care in England revealed, 'the type of arrangement can affect what support is available' (Mackley and Foster, 2025, p. 7). Local authorities are under no obligation to provide financial support in such situations, except when a child is deemed to be 'in need' under s. 17 of the Children Act 1989 (Mackley and Foster, 2025, p. 9).

Informality is not merely the result of the lack of recognition of grandparental care by law and policy. Transnational families tend to opt for informal childcare solutions for fear of misrecognition of kinship care and long-distance parental care arrangements.

Most countries have robust regulations regarding the alternative care of children when a child is 'deprived' of their 'family environment' in line with state obligations related to Article 20 of the UN Convention on the Rights of the Child (1989). The emphasis of this provision has been on preventing child institutionalisation, but with little attention to supporting grandparents and other kin as caregivers when the child is not legally deprived of parental support. Furthermore, formal recognition and services for 'left-behind children' are normally limited to only very specific, difficult circumstances. As Ianachevici and Orlov point out, Moldova Law no. 140/2013 assigns the status 'child without parental care' on either a temporary or permanent basis to abandoned children found in clear situations of abuse and neglect, left without care or oversight (Ianachevici and Orlov, 2017, p. 119). Short of a finding of any threats to the child's safety, the competent authority might appoint the carer as a guardian with legal rights of representation. The authors point to numerous administrative and financial hurdles to filing guardianship applications, and the difficulty of obtaining the necessary parental consent has rendered these regulations ineffective in practice (Ianachevici and Orlov, 2017, pp. 119–120). These designations and the resultant legal rights and entitlements, therefore, do not match the lived realities of most transnational childcare arrangements involving grandparents.

Similarly, triggered by the concern over the situation of left-behind children, Romania's law No. 272/2004 on the Protection and Promotion of the Rights of the Child provided rules around reporting migration and rules around alternative care arrangements when parents are abroad (Pascoal and Schwartz, 2018; Birou and Hossu, 2023). Many parents working abroad did not report their absence and alternative care arrangements to authorities, considering it an abusive intrusion into family privacy and for fear that children might be deemed 'in need of care' and be institutionalised (Ducu, 2014; Pascoal and Schwartz, 2018, p. 53). In a study on Romanian grandmothers as main caregivers to left-behind children, Pantea references additional Ordinances in 2006 and 2009 related to rules around these alternative care arrangements. These regulations were found overly restrictive, requiring that parents be involved informal work abroad, and limited the category of people that could serve as suitable guardians, including restrictions related to age, health conditions and the maximum number of children to be cared for (Pantea, 2012, pp. 4–5; also referenced in Safta et al., 2014, p. 2553). Compliance with these regulations has been found ineffective and resulted in more informal grandparental care solutions, outside of the support and approval of the state. As Pantea emphasized, these policies and practices largely 'overlook the needs of elder surrogate parents' (Pantea, 2012, p. 5).

Lack of access to childcare benefits and various caregiver subsidies puts grandparents in a precarious position. In addition, they face overall challenges as older 'surrogate parents', facing increased expenses and costs to their health and socioe-conomic status, in already weakened pension systems. Government support is not always available for grandparents, even if they are formally recognised in primary care-roles (Dolbin-MacNab and Yancura, 2018, p. 25). This is particularly true in countries with familialistic welfare and family policies, resulting in a lack of sufficient state support. Retirement pensions do not account for the raising of children; reliance is on remittances and the informal familial social welfare system.

As the following section demonstrates, lack of recognition and misrecognition in the context of immigration law and policy is an equally severe challenge. The barriers to entry, residence and relevant social rights highlight the unique vulnerabilities of grandparenthood when the political economy of migration control collides with the moral economy of transnational care circulation.

3. MIGRATING TRANSNATIONAL GRANDPARENTS AND RESTRICTIVE IMMIGRATION CONTROLS

While the transnational practices of non-migrating grandparents should not be underestimated, scholarship on 'transnational grandparents' is more commonly focused on those who migrate for shorter or longer periods to provide proximate care for their grandchildren. Existing studies focus predominantly on grandparental care migration towards North America and to and within European countries, including internal mobility in the EU (Horn, 2019; Nedelcu, 2017; Plaza, 2000; Treas, 2008) with newly emerging scholarship focusing on Australia and the Asia-Pacific region (Da, 2003; Ho and Chiu, 2020). Ackers and Dwyer problematise the tendency of migration research to focus on elderly migrants as mere recipients of care and highlight that a main motivation of old-age migration is often to provide care to family members abroad (Ackers and Dwyer, 2004).

The impacts of the restrictive neoliberal shifts in immigration policy are evident in the context of limitations both on visitor visas and settlement options for transnational grandparents. The most prominent immigrant destination countries have increasingly favoured skilled migration, focused on integration and adaptability into the formal, paid labour market (Dolberg, Sigurðardóttir and Trummer, 2018). Family-class immigration and embedded care needs have consequently been deprioritised, facing severe cutbacks and hitting transnational grandparents and families hard (Vanderplaat, Ramos and Yoshida, 2012; Wang and Hari, 2024). Applying ageist assumptions, these policies also drastically underestimate the socio-economic contributions made by older migrants, benefiting not only families but host societies at large.

The practices of grandparental transnationalism, whether staying behind or migrating, should be viewed as part of a continuum of cross-border family practices, rather than clear binary options. Besides the constraints of immigration regimes, the different types of migration practised are also based on emergent family needs. These can range from various forms of 'troubleshooting' (related to unexpected crises or illness), and assistance and visits during childbirth, to more intensive involvement also known as 'mother's substitute' in the home (Wyss and Nedelcu, 2018). Grandparental mobility requires financial resources, good health, freedom from other reproductive roles and the ability of the family in the host country to accommodate their visits and stays over longer or shorter periods (Nedelcu and Wyss, 2020, p. 297).

Grandparents give up a degree of welfare and autonomy to facilitate transnational family life. Their various coping mechanisms reinforce their status as temporary, unpaid and unrecognised care providers, subject to restrictive migration regimes and excluded from national welfare policy. Instead, they are deliberately regarded as transient older carers, without relevant claims to settlement or other benefits (Zhou, 2018). Access to social welfare provisions has traditionally been

based on nationally bounded and narrowly conceptualised forms of 'solidarity', mainly through forms of social security and other income tax contributions paid throughout the active working years (Keating, 2021). We've seen that gendered care contributions of the older generation lack recognition in home countries, rendering especially older women vulnerable as the main providers of unpaid, informal kin care. The care contributions of transnational grandparents in immigrant households, as well as their stimulus of the local economy as consumers during visits, are conversely missing from the calculus of host societies. Similarly, migration law and policy do not account for the value of remittances that would be spared if family reunification was more broadly allowed in the host country. Instead, ascendant older relatives are viewed as a potential 'dependent' burden on the potential host welfare state, whose presence should be time-limited and settlement avoided.

3.1 Visits and Care-circulation – the Limitations of Visa Regimes

As illustrated by the Migrant Integration Policy Index (2020) and relevant scholarship, even for well-established immigrant communities, with high visa costs and strict entry conditions, the immigration status of grandparents makes a substantial difference in their migration and family reunion options (MIPEX, 2020; Kilkely and Baldassar, 2024).

The case of the increasing number of Chinese transnational families in Canada, Australia, the UK and the United States exemplifies this phenomenon well (Zhou, 2018, p. 117). Beyond cultural influences and individual family needs, immigration status is a key structural factor in the organisation of cross-border intergenerational care. Zhou's study examined grandparents who came from the PRC to care for their grandchildren in Canada. The majority were grandmothers on visitor visas, while a smaller number of the sample were permanent residents or naturalised citizens. For the immigrant middle generation, unpaid care provided by grandparents means substantial savings and facilitation of their integration and labour market participation (Zhou, 2018, p. 118). This, in turn, accelerates settlement of middle-generation migrants in receiving states. Meanwhile, for those without permanent residency or citizenship, the financial and logistical costs of the visa regime and its time limitations have proven to be substantial obstacles. These restrictive application rules for regular or family-type visitor visas available to aged parents/grandparents are observed in numerous other immigrant destination regimes, such as Australia, New Zealand and the United States (Baldassar, Nguyen and Stevens, 2022; Szigeti, 2023). When transnational care is organised within the family (and not the paid domestic care worker market), immigration laws and policies in the host countries ignore these contributions, and families end up absorbing the related costs.

Some visitor visa regimes are rather explicit about not allowing the kind of long-term, flexible visa arrangements so coveted by transnational families. The UK Family Visit Visa now falls under the Standard Visitor Visa category, and regulations clarify that the '6 months in 12-month period' rule does not allow one to live in the UK for 'extended periods through frequent or successive visits', emphasized explicitly where a family member might come to look after a child (Home Office, 2024,p. 30). This seems to implicitly recognize, yet deliberately obstruct, the kind of flexible mobility arrangements needed in transnational care circulation. In terms of processing costs, relatives of EEA nationals living in the UK are in a slightly better position. They may be able to join them using an

EEA Family Permit, which is free, unlike the standard £127 fee for visitor visas. Again, the status of relevant relatives in the host country is a key variable in navigating grandparents' migration, showcasing age- and citizenship-based discrimination. Transnational grandparents as caregivers are not specifically represented in the various family visa categories either. The only classification targeted at older migrant dependents is the 'adult coming to be cared for by a relative' who is living permanently in the UK (Home Office, 2023).

Grandparents' rights to visit and stay in host countries are often tied to the legal status of their migrant children. Prevailing migration and labour policies incentivising the availability of low-skilled/guest workers ensure that they have no rights to facilitate the visits or settlement of dependent family members, whether descendant or ascendant (Hoang et al., 2015).

The differential treatment of immigrant aged family members is obvious in the discriminatory sponsorship schemes. Sponsorship rules for adults' parents and grandparents are far more onerous than those related to children and spouses. Sponsoring families must guarantee sufficient financial support for extended periods, ranging from basic social security payments to any other living expense arising, confirm no recourse to public funds and cover any repatriation and deportation costs (Baldassar, Nguyen and Stevens, 2022; Szigeti, 2023, pp. 18–19). This comes with having to meet higher income requirements than the norm required when family sponsorship involves spouses and children. In addition, processing times and backlogs are often unrealistically extensive (Szigeti, 2023, p. 19).

Narrowly tailored exclusion rules related to health mean that even those chronically ill or disabled immigrants with sufficient resources and private health insurance to offset any care costs would likely be rendered inadmissible for long-term stays or permanent immigration (Szigeti, 2023, pp. 22–23). These visas also limit access to social services and healthcare and prohibit productive economic activity, self-employed or otherwise. Transnational grandparents must therefore be able and willing to opt out of paid work to offer care work, leaving them functionally dependent on savings, pensions and family support. Elevated minimum income thresholds for sponsorship applicants, and extended sponsorship undertaking periods further serve to limit the accessibility of such visa schemes along class and socio-economic lines (Chen and Thorpe, 2015, p. 82).

Thus, visiting grandparents routinely find that visa applications are costly, complicated and opaque. They often involve travelling to consulates and embassies, physical checkups and extensive financial documentation, and rejections are common for arbitrary and discriminatory reasons.

In the UK, immigration officers will assess if the visitor meets the requirements of paragraphs V4.2 to V4.6 of Appendix V: Immigration Rules for Visitors (Home Office, 2016, pp. 21-23) . Officers, for instance, will consider applicants' own personal and financial circumstances, independent of the visa sponsor's support for the visit. The rules lack a transparent and feasible approach to facilitating visits and fail to value family support. Entry may be refused if, 'on the balance of probabilities', authorities find that 'ties to the home country are insufficient' and that the 'visitor would not leave if granted entry to the UK'. In practice, this may be concluded based on something as innocuous as slight inconsistencies in income statements and subjective scrutiny of sufficient family ties to the home country. These decisions cannot be appealed, and the only recourse is a costly and onerous reapplication. This has been found to hamper the visits of transnational grandparents perceived as potentially 'needy', or from high-informal migration emitting countries

(e.g. Cameroon and Albania), in the context of the UK's 'hostile environment' immigration system (Home Office, 2011). The case of Professor Lea Ypi (LSE) provides a telling example of her mother from Albania being rejected for a visitor visa to come for a short-term visit to help with a newborn grandchild, despite extensive documentation of adequate support and sufficient ties to the home country. A subsequent application, making no mention of the grandchild as a reason for the visit, was approved. Professor Amber Murrey (University of Oxford) also described the visa rejection of her mother-in-law, from Cameroon, who was not allowed to visit and assist after childbirth, with immigration officers claiming that she is a widow and therefore unlikely to return home after the visit (Williams, 2022).

Even the measures aimed at supporting flexible, circular, multi-entry mobility tend to be exclusionary and limiting in practice. Such is the case with the Canadian ten-year multiple-entry Super Visa that allows eligible applicants to come to Canada as visitors, as part of the revamping of the parent and grandparent (PGP) sponsorship programme (Chen and Thorpe, 2015). These visas are designed to enshrine precarity and non-permanent presence by pushing applicants towards 'visitor' versus 'settled immigrant' status and by producing insecurity even within this status. The application and fees are costly. Parent/grandparent 'visitors' must purchase substantial private health insurance valid for at least one year, can only stay for a continuous two-year period before needing to renew the visa, and must pass a medical examination (IRCC, 2024). Thus, transnational family life becomes the precarious privilege of those who can afford the financial and logistical costs. As noted by Chen and Thorpe, these temporary forms of 'family reunification' produce a constant 'insecurity of presence', a 'fear of future inadmissibility' and a lack of full resident or citizenship rights. Chen and Thorpe (2015, p. 90). Szigeti (2023, p. 25-26) also points out the paradox of 'similar costs, fewer rights' as Super Visas are subject to the same arbitrary rejection criteria as regular visitor visas.

In addition to the detrimental ageist assumptions, Western countries routinely impose strict immigration restrictions on nationals from the Global South (Horn, 2019; Zickgraf, 2017). From a gendered perspective, policies have been noted for disproportionately impacting "racialised, elderly women who comprise the majority of Family Class immigrants" (Chen and Thorpe, 2015, p. 92).

In sum, visas are time-limited, rejections are routine and often arbitrary, and renewals (or reapplication) are difficult and costly. The mobility they afford is not well suited to the rhythm and demands of transnational care arrangements (Zhou, 2018, p. 120). Beyond the impact this has on the health, finances and overall well-being of grandparents and the middle generation, it also has the potential to disrupt childcare dynamics.

3.2 Settlement through Family Reunification – the Flawed Concept of 'Dependency'

For many grandparents, separated from their immediate family support network, permanent immigration becomes a necessity to secure their own well-being and avoid the 'orphan pensioner' phenomenon of aging alone in the home country (King and Vullnetari, 2006). Unlike visitor status, permanent settlement would also give them access to healthcare in countries with universal healthcare systems.

Aside from the narrow and expensive ‘contributory’ (Ho and Chiu, 2020, p. 4) or ‘investor’ (Consterdine and Hampshire, 2023) settlement routes, the only available avenue for aged parents (grandparents) remains family reunification and sponsorship. In addition to the financial and health burdens, mentioned in the context of family sponsorship earlier, the artificial construct of ‘extreme dependency’ also serves to shut avenues for permanent reunification with (grand)parents in the host country. This is an extreme and pervasively ageist construct which misrecognizes the value of transnational family life and the reciprocal flows of intergenerational support across borders.

There is a hierarchy to the types of relationships that lead to family reunification rights and protections in the immigration context (Mrazik and Schoenholtz, 2009, p. 645). Recognition of family life, for purposes of reunification, requires a case of ‘complete dependency’ and the necessity of care which cannot otherwise be arranged. This development in immigration regulation and related jurisprudence is most at odds with the characteristics of transnational grandparents, who display a high level of agency despite their structural vulnerability.

The UK is a stark example, scoring second to last among some of the lowest in the MIPEX 2020 on ‘family reunion’. Following the changes to the immigration system in 2012, the UK’s ‘hostile environment’ migration policies have drastically changed rules on sponsorship and eligibility for adult dependants. Previously, they could settle in the UK if they were 'aged 65 or over, financially dependent on a relative in the UK, and had no close relative in their home country who could support them financially' (Home Office, 2011, p. 10). Subsequently, the rules on adult dependent relatives (ADR) were reformed in such a way that only those who, due to 'age, illness or disability', need to be physically close to and cared for by a close relative in the UK can settle in the country (Home Office, 2023). Dependency must be so severe that the parent or grandparent is unable, ‘even with the practical and financial help of the sponsor, to obtain the required level of care in the country where they are living, either because no person there could reasonably provide it or, it is not affordable’ (Home Office, 2023, p. 5). British citizen or permanent resident sponsors must provide for the applicant’s maintenance, accommodation and care for a period of five years from entry, and guarantee that the applicant will not have recourse to public funds (Home Office, 2023, pp. 5-6).

As demonstrated in a recent Report by the House of Lords Justice and Home Affairs Committee, these requirements have proven unreasonable and cruel in practice, as attested to by numerous expert stakeholders, requiring an all but ‘vegetative state’ for approval in some cases (House of Lords, 2023, paras 67–68). The requirement to demonstrate that care is unavailable in the country of origin is particularly problematic, especially considering the remittance flows between host and destination countries and the stringent income requirements that sponsors would be ready to meet. In addition, proof of sufficient funds by the sponsors might inhibit an ADR application, as it may be used to demonstrate that the relatives could afford to pay for care for the applicant’s home country (House of Lords, 2023, para. 68). Applications must also be made from the country of the dependent relative, which means navigating complex bureaucracies and travel arrangements (House of Lords, 2023, para. 69). These regulations also fail to consider evidence of the value that adult dependent relatives bring to families, especially the positive impact of the presence of grandparents on children and the value of childcare provisions (FAM0026 and FAM0079).

The public funds argument has also been debunked as the House of Lords inquiry found that family migration policies have ‘almost no impact on the public purse’ (House of Lords, 2023, p. 4). As seen

in section 1 of this chapter, framing transnational grandparents as a burden on the taxpayer fundamentally misses the contributions they make, especially in savings by offering unpaid childcare services. Far from burdensome dependents, most sponsored grandparents have been found to contribute to the overall economic well-being of the family and host society 'by providing childcare and/or labour in family owned businesses' (Vanderplaat, Ramos and Yoshida, 2012, p. 83).

Betraying its discriminatory underpinnings, the ADR rule, and its similar counterparts found in some of the EU countries (FAM0020, para. 11), was originally designed to treat EEA and non-EEA nationals differently, privileging the free movement and settlement rights of the former group. However, the UK's exit from the European Union has meant that the adult dependent route is virtually impossible to pursue, regardless of the immigration status of the potential sponsor (FAM0020, para. 12; see also Yeo, 2018, p. 8).

Transnational grandparents involved in care-related migration are not represented in the discourse and advocacy related to migrant domestic care work, although the pervasive intentional precarity of migrant care workers (especially those employed in households) represents a significant background force in how labour and immigration law and policy conceptualise and (de)value 'care' as work and a social resource (Liang, 2021; Murphy, 2013).

Many of the most prominent host countries mentioned in this chapter have elaborate work visa programmes for migrant care workers, including domestic care workers (Howe, Charlesworth and Brennan, 2020; Romero, 2018). Though often limiting and exploitative, these labour and mobility regimes betray a keen political interest in facilitating care migration and care solutions in the household. There are even instances where live-in caregivers have been offered pathways to permanent residence, as in the case of Canada (IRCC, 2020). This initiative explicitly acknowledged the 'invaluable role' foreign caregivers have played 'in supporting families in Canada', noting 'their immense sacrifices' (IRCC, 2023). Yet, the very same immigration regimes fail to provide affordable, flexible long-term visas, as well as feasible settlement routes for ascendant family members involved in equally sacrificial and beneficial domestic care work.

As the following section highlights, these structurally discriminatory regimes raise numerous concerns regarding the health, well-being and rights of transnational grandparents, with little effective recourse yet much-needed advocacy in the human rights framework.

4. TRANSNATIONAL GRANDPARENTS AND HUMAN RIGHTS ADVOCACY – PITFALLS AND PROMISES

As demonstrated in previous sections, grandparents engaged in informal, familialised care work are at an increasing risk of isolation and rights deprivation. They fall outside of childcare-related social protections, which are mainly aimed at parents (the 'middle generation') or the children themselves. They provide essential childcare services, yet do not benefit from the various legal and policy frameworks available to migrant care workers at large. In addition, their ability to migrate

freely and attain, retain or transfer any relevant social entitlements is highly contingent upon their citizenship and consequent immigration options.

As a result, elderly parents have experienced increased anxiety and depression amidst the uncertainty of the family reunification process (Bélanger and Candiz, 2020; Yadav et al., 2021). Ideally, intergenerational care fosters solidarity, which grandchildren, the 'middle generation', as well as grandparents might rely on at different stages of the life course (Becker et al., 2003). Yet, grandparents, especially grandmothers who are primarily involved in informal, familial care work, are particularly vulnerable to intersectional discrimination based on gender, age and immigration status, both within the household and within law and policy (Wyss and Nedelcu, 2018; Horn, 2019). As feminist gerontological studies on the ethics of care point out, the consequences for older women often include a lack of formal and informal support, limited opportunities for paid work, and 'self-care' (Berkovitch and Manor, 2023; Bozalek and Hooyman, 2013; Roberto, Allen and Blieszner, 1999). Their care contributions usually go unacknowledged and unsupported by family policy or childcare benefits.

Human rights advocacy seems like a natural platform to support transnational grandparents against intersectional discrimination; however, as this section demonstrates, there are several obstacles in the field, including challenges embedded in 'transnationalism', limitations due to the contextual nature of relevant human rights, and the lack of a comprehensive treaty framework protecting older people's human rights.

4.1 Challenges to the Right to 'Transnational Family Life'

Among the manifold weaknesses in human rights protections related to immigration, the very status of 'transnational' grandparent means that effective protections for the right to respect for family life under Article 8 of the European Convention on Human Rights (ECHR) are hard to attain, due to the presumption of 'double embeddedness' in more than one country. Though mainly examined in the context of expulsion cases, Farahat explains that the European Court of Human Rights' jurisprudence 'privileges exclusive and static affiliations to one country' instead of transnational affiliations', and leaves such migrants largely unprotected from removals (Farahat, 2009, p. 254).

Numerous universal and regional human rights instruments contain provisions protecting the 'family' and 'family life' (UN Women, 2017). Most notably for family law cases, Article 8 of the European Convention on Human Rights and the related case law of the European Court of Human Rights (ECtHR) create standards for protecting the right to respect for private and family life, with a broad definition of relevant family relationships and variable degrees of margin of appreciation given to states to curtail such rights. As for scope and definition, especially related to the child's important relationships, the United Nations Committee on the Rights of the Child has urged againts narrow definitions of the t"family", arguing that'references to "family" (or to "parents") must be understood within the local context and may mean not only the "nuclear" family, but also the extended family or even broader communal definitions including grandparents, siblings, other relatives, guardians or care providers, neighbours, etc.' (UN CRC Committee, 2001, para. 701).

The European Court of Human Rights (ECtHR) also maintains a flexible, albeit highly contextual, approach to the interpretation of family. More to the point, the Court has reaffirmed several other relationships that fall within the meaning of family, such as that between children and their grandparents. In *Marckx v Belgium*, 1979, in the context of the question of 'illegitimacy' and the relationship between mother and child, the Court found (at para. 45) that the relationship between children and grandparents is a significant part of 'family life' and protected within the meaning of Article 8. The Court also reiterated the implicit positive obligation of the state to facilitate the normal development of these ties (at para. 31).

However, 'family life' related rights and jurisprudence are highly contextual and enjoy far weaker, narrowly tailored protections in the context of immigration law. These relationships fall under intense additional scrutiny and individual interests in family reunification are often outweighed by the state's interest in securitisation, public order and border control (Abrams, 2017). Dependence is a recurrent theme in the practice of the ECtHR. Extended family relationships need to be qualified by a significant role in the child's life, for instance, or show significant emotional bonds and a degree of dependence, especially in immigration-related cases. From the perspective of adult children attempting family reunification with older parents, immigration law and policy operate under the basic assumption that 'there is no presumption of family life' to be protected under Article 8 of the ECHR, unless there exists something more than 'normal emotional ties' (*Kugathas* [2003] EWCA (Civ) 31, at paras 24–25). The Court in *Kugathas* considered potential mutual dependence as a relevant tie, but even then, did not deem it essential that family members be living in the same country, although in *AA v United Kingdom*, 2011 (at para 49), the Court emphasised that exceptional dependence may not be the only determinant to find whether family life may exist between adult children and their parents.

Even when dependence is present, grandparents may find little recourse in human rights venues. A glaring example is the case of *Senchishak v Finland*, 2014, where the ECtHR upheld the deportation of a seventy-year-old Russian widow from Finland, for overstaying her visa, living with her daughter and grandchild. The case involved extreme dependence related to poor health, the need for daily care and financial insecurity in her home country. The Court nevertheless reaffirmed that family reunification is not an unqualified right under Article 8, which does not grant the right to reunification in a particular country, and that care should be arranged in Russia (see paras 56–57). The Court also highlighted the applicant's lack of securing permanent legal status as evidence that her relationship with her daughter over the past years of living together in Finland could not amount to relevant 'family life' (see para. 56). This highlights the particularly problematic distributive consequence of restrictive immigration and visa rules in the lives of transnational parents and grandparents. Although the dissenting opinions by Judges Bianku and Kalaydjieva offer a promising note by pushing back against tying family life to pernament legal status and by implicitly acknowledging a 'life course' perspective on the relevance of familial ties and a moral duty of care which should include consideration of older relatives, especially in critical times (*Senchishak*, 2014, p. 15). Nevertheless, human rights challenges based on 'family life' have thus far proven unsuccessful in the case of ascendant relatives' immigration.

4.2 Advocating for Visibility within the UN's 'Rights for Older Persons' Framework

Though transnational grandparents vary in age and other demographic metrics, most of them would fall under the UN's growing focus and advocacy on the rights of 'older persons', meaning people aged 60 and over (UN OCHR, 2024). Although international human rights conventions are based on the idea of universal equality and dignity for all (UDHR, 1948, Article 1), the rights of older persons are not explicitly recognised under international human rights law. Only Article 7 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW, 1990) explicitly protects against age discrimination. Nevertheless, there has been a consistent effort to promote a human-rights-based approach to aging and combatting 'ageism' within the UN human rights system, albeit mainly in the form of 'soft law' (e.g. MIPAA, 2002; UN A/RES/41/91). Though a full review of these efforts and instruments is beyond the scope of this chapter, some may point to potential platforms for those wishing to increase the visibility and promote the rights of transnational grandparents.

Aging is addressed mostly in the context of national welfare and social policy. This entrenches the view of older persons as vulnerable dependents, as opposed to equal rights holders and active social agents. To combat this normative gap, the UN General Assembly adopted the first World Assembly on Aging in 1982 (UN A/RES/37/51) and the work of the Office of the High Commissioner for Human Rights as well as the Human Rights Council have consistently advocated for an integrative and comprehensive international legal instrument to combat structural ageism and promote and protect the rights and dignity of older persons (IFA et al., n.d.; UN OHCHR, 2024). The detrimental impacts of 'ageism' on human rights have been a growing concern (WHO, 2021), defined by the 'Independent Expert on the Enjoyment of all Euman Rights by Older Persons' as 'stereotypes, prejudice and/or discriminatory actions or practices against older persons that are based on their chronological age or on a perception that the person is "old" (or "elderly")' (UN A/HRC/48/53, at para. 21). Some of the key challenges facing older persons, highlighted by the OHCHR, resonate well with the themes discussed in this chapter, including: stereotyping, marginalisation and assumptions about the lack of ability, frailty and protection needs leading to discrimination and social exclusion . As the Independent Expert's report pointed out, the UN's own earlier language and guidance have 'mirrored ageist assumptions' casting aging as a 'problem' with 'detrimental effects', and older persons as 'passive recipients of care' (UN A/HRC/48/53, at paras 43–44). Meanwhile, the UN Human Rights Council has recently set up an intergovernmental working group to advance the drafting of a convention on the human rights of older persons. (UN A/HRC/58/L.24/Rev.1)

Regional human rights instruments might help inform this broader process of convention making and promote more explicit advocacy for transnational grandparents' rights.

The Inter-American Convention on the Protection of the Human Rights of Older Persons (2015) is the first regional treaty that fully recognise older people's human rights, although it requires broader ratification to advance its full potential. The Convention promotes 'active and healthy ageing', highlighting states' positive obligations in facilitating socio-economic inclusion and protection and allowing older persons to remain active contributors to their families and communities (Article 2). In its non-discrimination clause, Article 5 expressly calls on states to ensure that their policies, plans and legislation on aging and old age develop specific approaches for older persons

'vulnerable to multiple discrimination' and include migrants and women in the various protected categories. It promotes access without discrimination to comprehensive care (Article 6), including in institutional and home settings. However, in its 55 mentions of the term 'care', it references older people only as recipients of care, not as care providers. While this is completely understandable, it betrays a one-sided understanding of where the 'elderly' (that is age 60 and over) are situated on the care work spectrum. On a more promising and inclusive note, Article 32 promotes a rights-based approach to combat stereotypes and promote respect, rights and empowerment of older people. It includes older people in programme development around the Convention rights in recognition of their 'experience, wisdom, productivity, and contribution to development' and to society as a whole.

In contrast, the African Commission's Resolution on the Rights of Older Persons in Africa (ACHPR/Res.106(XXXXI) 07, 2007) as part of the implementation of the African Union Policy Framework and Plan of Action on Ageing of 2002 (AU Policy Framework), fostered the adaptation of a Protocol to the African Charter on the Rights of Older Persons in Africa (2016) which includes a more explicit acknowledgement of the status and rights of older persons as caregivers. In Article 12, the Protocol explicitly mentions states' duty to provide support to old persons caring for 'orphans and vulnerable children' and to remit any social or other child benefits to the relevant caregiver.

While this chapter noted the pitfalls of typecasting transnational families and children as 'orphaned' or 'vulnerable', the recognition and support of older persons, presumably grandparents, caring for children is a welcome step forward and should inform broader human rights advocacy in this area of law and policy.

CONCLUSION

The chapter has sought to demonstrate the need for more contextual and rights-based approaches to mapping the situation and needs of transnational grandparents, focusing on some key areas of regulations and building on leading scholarship in the field. The transnational dimension is largely missing from the state-bound regulations related to family law, policy and welfare provisions. This does not match the realities of how care and work are balanced and managed in transnational households. Additionally, immigration law and policy operate with restrictive and prejudicial approaches to the mobility of the older generation.

Hence, transnational grandparents, both migrating and those left behind, are either misrecognised or largely ignored within the legal and policy discourse. The socio-legal constructs of 'migrancy' and 'dependency', as well as gendered notions of childcare and 'work', have significant negative distributive consequences for the ability of older people to exercise rights and enjoy full civic participation in the transnational social space.

Transnational grandparenthood thus needs and deserves more attention from legal scholarship and human rights advocates, to develop a progressive taxonomy of relevant rights and support strategies for this unique cohort.

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