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Sent via email

Dear Professor Phillip Alston,

The Universal Declaration of Human Rights establishes that all people have the right to work, to favorable work conditions, protection against unemployment, just and favorable remuneration, rest and leisure, reasonable limitations of working hours and the right to live in dignity. Yet in the U.S. too many low wage workers are not provided those rights. Not only is the federal minimum wage of \$7.25 completely insufficient to ensure an adequate standard of living, workplace policies, such as unpredictable scheduling and lack of paid leave, ensure low-wage workers are denied the rights provided to them under the Universal Declaration of Human Rights. Further, these government and workplace policies disproportionately affect women and people of color.

Low Wages

About 2.2 million workers in the U.S. earn the federal minimum wage or less¹ and they are disproportionately women and people of color. Women make up 55.9% of workers earning the minimum wage.² People of color make up 46.8% of minimum wage workers even though they make up only about a third of the overall labor force.³ Nationally, 22% of minimum wage workers are women of color, compared to less than 16% of workers overall.⁴

Since 1979, wages in the U.S. have either declined or stagnated⁵ keeping many Americans in poverty, even if they work full-time. A full-time, full-year worker paid the federal minimum wage will earn about \$15,080 a year before taxes.⁶ This is below the federal poverty line of \$16,240 for a single parent with one child⁷—and far below the income necessary for such a family to attain a secure living standard even in the least expensive area in the U.S.⁸ Many parents in low-wage jobs will not earn enough through work to meet basic family needs, such as housing, food, clothing, and medical care.⁹

Unpredictable Scheduling

In addition to low wages, in every industry low-wage workers are faced with unpredictable working schedules. Many businesses now use scheduling systems that match the number of workers on the job with predicted consumer demand, known as “just-in-time scheduling.” The just-in-time scheduling adjusts and readjusts workers schedule at any moment, leaving workers with little control over their time. Workers have limited or no advance notice of their work schedules, their scheduled work hours and work days may change substantially week-to-week, and employers may change, cancel, or add shifts at the last minute. One study found that 60% of retail workers receive less than two weeks notice of their work schedules.¹⁰ Recent estimates show that 87% of early-career retail workers reported instability in their work hours from week to week over the past month.¹¹ Of those retail workers who reported unstable work hours, the fluctuations were substantial, averaging almost 50% of their usual weekly hours.¹² Many of these jobs require full-time availability, to always be on call, yet they do not provide full-time hours or a living wage.

People of color disproportionately bear the brunt of these unpredictable working schedules. Despite sharing similar levels of education and age as their white counterparts, Black and Latino retail workers are sorted into the low-paid positions most likely to involve erratic scheduling and inadequate hours.¹³ Forty-nine percent of Blacks and 46% of Latino workers received their hours with a week or less of notice, compared to 41% of workers overall.¹⁴ Non-white workers also tend to face longer commute times compared to their white counterparts, which means greater costs in terms of time and money when they travel to work only to be turned away.¹⁵

One study of low-income minority workers found that many managers treat their workers’ inability to balance their work and home lives as a personal failing, rather than a structural issue.¹⁶ These managers believed that their employees used the “sick kid” excuse too often, and were instead disorganized and lazy. These charges of



“irresponsibility” have implicit racial overtones, mirroring stereotypes of Blacks and other minority groups as lazy. Two studies found that some managers implied that employees who wanted more schedule input were reckless for having children in the first place.¹⁷ This research contrasts with other studies of elite, primarily white workers who are lauded for putting their children first.¹⁸

Unpredictable scheduling causes financial insecurity and prevents upward mobility. The uncertainty in number of hours worked and income significantly increases the risk of having difficulty paying bills and covering expenses.¹⁹ Workers cannot maintain a second job, attend or save for school, maintain a long-term financial plan, or plan for retirement. The lack of advanced notice of schedules, in particular, increases the risk of income volatility. One study of service sector workers found that while 53% of workers with less than a week of advance notice and 50% of workers with 1-2 weeks of notice experience income volatility, that share drops to 44% and 42% for workers with 2-3 weeks or more than 3 weeks of notice, respectively.²⁰ These issues are more pronounced for Black workers as they are more likely than other racial and ethnic groups to be the sole contributor to household income.²¹

Unstable and unpredictable work schedules are also negatively associated with worker health and wellbeing. Just-in-time scheduling practices interfere with daily routines and causes serious psychological distress and uncertainty.²² In a Harvard study, 46% of those with a variable schedule were classified as having serious psychological distress as compared with 38% of those with a regular daytime schedule. Elevated levels of work stress are related to unhealthy behaviors such as smoking²³ and alcohol consumption.²⁴ These scheduling practices also negatively affect workers’ sleep and food intake.²⁵

Erratic and nonstandard schedules hurt children and families. Prior research has found income volatility and economic uncertainty are associated with parenting stress²⁶, and harsh parenting.²⁷ Workers with children may have to pay for childcare even though they themselves did not get paid.²⁸ Several studies have documented a direct relationship between unstable work schedules and inconsistent and low-quality childcare arrangements²⁹ and between disrupted schedules at home for children and lower quality parental interactions.³⁰ Children of these workers also tend to have poorer health, do less well in school, report low self-esteem, and engage in risky or delinquent behavior.³¹ They also have worse skills such as memory, sensory perception, learning, problem solving, verbal communication, and expressive language.³² They also have higher rates of depression, anxiety, withdrawal, and aggression.³³ These problems are especially serious for Black children, since Black mothers are disproportionately represented in jobs with nonstandard work schedules.³⁴

Lack of Paid Family and Medical Leave

In addition to low wages and unpredictable schedules, low-wage workers in the U.S. generally lack paid family and medical leave. While the federal Family and Medical Leave Act (FMLA) provides for unpaid family and medical leave, it is available to only 60 percent of workers, and many can’t afford to take it.³⁵ Those covered by FMLA can take up to 12 weeks of unpaid leave in a year to care for the birth or adoption of a child, or to take care of seriously ill family members, or to recover from their own serious health conditions without risking job loss.³⁶ The inability to receive pay while taking time off work to care for themselves or a loved one puts low-wage workers not only at a financial risk but also risks their own and their families’ well-being.

Low-wage workers are least likely to get paid family and medical leave benefits and yet are most likely to need leave because they cannot afford paid help to care for loved ones. Only 5% of workers in the bottom quarter of earners have paid family and medical leave through their employer, compared with 21% in the top quarter.³⁷ According to a survey by the U.S. Department of Labor and Abt Associates, 46% of those who need leave but don’t take it cited an inability to afford the time off.³⁸ The loss of income—even for just a few months—can cause serious economic consequences for most families. Most families’ savings will cover barely a few months’ expenses.³⁹ This lack of leave can quickly lead to an exit from employment or a sharp reduction in family spending.⁴⁰

The lack of paid leave disproportionately affects women, especially those at the bottom of the economic ladder. The U.S. Census Bureau reports that 66% of new mothers with a bachelor’s degree or higher received some kind of paid maternity leave, compared with only 18% of those without a high school degree.⁴¹ Additionally, from 1979 to 2007, low-income women were responsible for all of the growth in their family income.⁴² Thus, low-income women workers are responsible for a disproportionate amount of their family’s income and thus are not able to be stay-at-home caregivers. Women with no access to paid family are more likely to lose income and be on public assistance. In the year after they had their child, women who took paid leave were 39% less likely to receive public assistance, like Temporary Assistance for Needy Families (TANF), compared with mothers who did not take leave but returned to work.⁴³ They were also 40%



less likely to receive benefits through the Supplemental Nutrition Assistance Program (SNAP) in the year following a child's birth.⁴⁴

Lack of paid family leave negatively affects children's development. Paid parental leave can increase a child's average human capital as parents use their leave to spend time with their new baby, which, as research indicates, increases a child's future skill level.⁴⁵ Parental leave also enhances children's health and development and is associated with increases in the duration of breastfeeding and reductions in infant deaths and later behavioral issues.⁴⁶ Similarly, returning to work later is associated with reductions in depressive symptoms among mothers.⁴⁷

Conclusion

Low-wage work keeps workers and their families in extreme poverty. Low and stagnant wages, unpredictable scheduling, and lack of paid family and medical leave make it almost impossible for workers to move up the economic ladder. The U.S. federal minimum wage is not a livable wage. Unpredictable scheduling and the lack of paid leave cause economic insecurity, poorer health outcomes, and hampers child development. Women and people of color bear the brunt of these work place policies. To address poverty, the U.S. needs to prioritize raising the federal minimum wage to a livable wage, passing legislation that curtails unpredictable scheduling and instituting a national paid leave program.

If you have any questions, please feel free to contact us at wendypollack@povertylaw.org or militzapagan@povertylaw.org or (312) 368-3303 or (312) 690-5907. We hope that you would come to Chicago during your visit to the U.S. We would welcome the opportunity to host a meeting with organizations in Chicago.

Thank you for your consideration.

Sincerely,



Wendy Pollack
Director, Women's Law & Policy Project



Militza M. Pagán
Staff Attorney/Skadden Fellow



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- ¹⁰ While unpredictable scheduling practices affect low-wage workers across industries the retail industry has been the most studied industry; Daniel Schneider & Kristen Harknett, *Schedule Instability and unpredictability and worker and family health and wellbeing*, Washington Center for Equitable Growth Working Paper Series (September 2016), <http://equitablegrowth.org/working-papers/schedule-instability-and-unpredictability/>.
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