

Submission by the Sexual Rights Initiativeⁱ for the Human Rights Council report on the protection of the family and the contribution of families in realizing the right to an adequate standard of living

1. The Human Rights Council initiative on ‘protection of the family’ is flawed in that it takes an unrepresentative view that elevates ‘the family’, while neglecting that families can be the site for human rights violations. For example, resolution 29/22 asserts that the family “is a strong force for social cohesion and integration, intergenerational solidarity and social development” (OP6). At the same time, there is no recognition that many families uphold power structures that oppress women, the elderly, children, persons with disabilities, queer and transgender youth, among others.
2. Resolution 29/22 also States that “the family plays a crucial role in the preservation of cultural identity, traditions, morals, heritage and the values system of society” (OP6). However, it is well documented that the family is not always a positive force, and can perpetuate harmful traditions and practices such as early marriage, female genital mutilation, breast ironing, force feeding, witch hunting, dowry, and virginity testing, among others. The same provision also makes it clear that this Council initiative is only concerned with families that uphold traditions, while disadvantaging and neglecting non-traditional families.
3. The Council initiative on ‘protection of the family’ clearly prioritizes the family unit over the human rights and welfare of individual family members. This is apparent from the assertion that “violations and abuses of the human rights and fundamental freedoms of family members adversely affect families and have a negative impact on efforts aimed at protecting the family” (OP17). This undermines well established human rights standards that obligate States to take immediate steps to prevent and redress human rights violations. These include the obligation of States to exercise due diligence to prevent, protect against and redress human rights violations and abuses committed by non-State actors, including within the family unit by its members that carry more power than others.
4. Most families do not function in a democratic and participatory fashion, but rather in an autocratic and hierarchical manner, with one ‘head of the family’, which is usually the eldest male member of the family, who has the authority to make decisions on the family’s behalf. This kind of patriarchal set up with a paternalistic head who makes decisions for each family member is a situation that is neither unique to any one State, nor is it new. Below are some examples of human rights concerns that arise from such structures.
5. Domestic violence against women occurs in the supposedly safe space of the family – and most times involves women being assaulted by male family members. When States prioritise ‘protection of the family’ over women’s rights, the family system, which *in all societies* already leans towards the male perpetrator of violence, will tilt even more to ensure complete silence on the issue and protect the perpetrator from any culpability for his actions.
6. Children are most often sexually abused by a family member. However, silence prevails around the issue stemming from a familial understanding of this abuse being a “*private matter*” which is to be resolved internally within the family. When States prioritise ‘protection of the family’ over children’s rights, they fail children by ignoring complaints and symptoms of sexual violence or by not taking action against the abuse.

7. States are obligated to provide comprehensive curriculum-based sexuality education to all children and young people, in and out of schools. Such education serves to empower adolescents, transform oppressive gender norms, and improve sexual and reproductive health. However, in some contexts it is opposed by parents and families for reasons stemming from taboos related to sexuality, and as a result children and young people are denied their right to comprehensive sexuality education. When States prioritise ‘protection of the family’, e.g. by allowing parents to decide to opt their children out of life-saving comprehensive sexuality education, they fail children, particularly adolescent girls, who lose the most when deprived of such education.
8. Individuals as rights-holders should be able to make decisions about their own bodies and lives. This includes the ability of women and adolescents to make autonomous fully informed decisions about their sexual and reproductive health, and to access the services they need to support those decisions. This autonomy might be abrogated by State policies in deference to the wishes of more powerful family members. For example, policies requiring the consent of a parent or a spouse in order for a woman or an adolescent to access a range of sexual and reproductive health services, including abortion, contraception and HIV services, are very common, and hinder women’s and adolescents’ right to the highest attainable standard of health. This is yet another example of individuals’ human rights being violated when States prioritise the ‘protection of the family’.
9. Individual family members face grave abuses and violations within the family, including marital rape and murder, reproductive coercion, corporal punishment, neglect of girls, child sexual abuse and other forms of domestic violence. Some States have laws or policies explicitly excluding prosecution for marital rape. Others prescribe lower or no punishment for crimes committed in the name of “family honour”. In addition, many States maintain laws upholding gender inequality in family contexts, e.g. in relation to divorce, child custody, transfer of nationality, inheritance or property rights.
10. Upholding laws and policies that favour the family unit over the rights of its members can perpetuate entrenched inequalities, discrimination and violence, and thus undermine commitments and efforts to achieve gender equality, an adequate standard of living for all, and sustainable development. Rather, it would be more useful for States to develop an analysis of human rights-based approaches to family-related policies as part of their policymaking processes. This includes prohibiting, criminalizing, preventing and punishing violence in the family, including marital rape, child sexual abuse, and corporal punishment of children, etc.
11. Various forms of the family exist in all contexts. This includes single-parent families, blended families, joint families, extended families, same-sex-parented families, among others. It is crucial that the Council initiative on ‘protection of the family’ recognize this because of the profound implications it has for social policy: different family forms have different needs within society, specifically with respect to access to social support systems, public services, care-giving and employment opportunities. The plurality of family forms must be taken into account for any discussion on the family to be comprehensive, as well as for laws and policies to effectively respect, protect and fulfill the human rights of members of families.

ⁱ The Sexual Rights Initiative is a coalition of organizations comprising of Action Canada for Sexual Health and Rights, Akahata (Latin America), Coalition of African Lesbians, CREA (India), Egyptian Initiative for Personal Rights, and Federation for Women and Family Planning (Poland). www.sexualrightsinitiative.com