



ADF INTERNATIONAL

Input to Human Rights Council Resolution A/HRC/RES/29/22
on the Protection of the Family

ADF International refers to the Human Rights Council Resolution A/HRC/RES/29/22 on Protection of the Family: Contribution of the Family to the Realization of the Right to an Adequate Standard of Living for its Members, Particularly through its Role in Poverty Eradication and Achieving Sustainable Development ('the Resolution') by way of providing input to the upcoming High Commissioner's report on States' implementation of their obligations with regard to the protection of the family unit.

ADF International recognises that the family unit is the kernel of society. ADF International shares the need of an *'increasing cooperation at all levels on family issues and for undertaking concerted actions to strengthen family-centred policies and programmes as part of an integrated comprehensive approach to the advancement of human rights and development'* as emphasised in the body of the Resolution. ADF International further supports the concerns expressed at para. 7 of the Resolution that: *'families are sensitive to strain caused by social and economic changes.'*

The Resolution is a good attempt to introduce further protections of the family unit. However, various issues were left without consideration, giving space to interpretation that may harm the family unit instead of protecting it.

The Traditional Family Unit

1. While at para. 6 of the Resolution, it was noted that: *'the family plays a crucial role in the preservation of cultural identity, traditions, morals, heritage and the values system of society'*, additional consideration is needed to reflect policies guaranteeing the preservation of such traditions and morals. The *'cultural identity, morals, heritage and the values system of society'* are under constant attack by a number of actors seeking to redefine the nature of marriage and the family itself. This places additional pressures on the family unit that are not addressed accordingly. It has to be emphasised that it is the traditional family unit that prospers society by providing the most beneficial conditions for raising children. *'[R]esearch clearly demonstrates that family structure matters for children, and the family structure that helps children the most is a family headed by two biological parents in a low-conflict marriage(...). There is thus value for children in promoting strong, stable marriages between biological parents(...). [I]t is not simply the presence of two parents,... but the presence of two biological parents that seems to support children's development.'*¹

¹ Kristin A. Moore et al., *Marriage from a Child's Perspective: How Does Family Structure Affect Children, and What Can We Do About It?*, CHILD TRENDS RESEARCH BRIEF, June 2002, at 1–2, 6, available at <http://www.childtrends.org/files/MarriageRB602.pdf>. (see also: Fernando Pliego Carrasco, *Familias y bienestar en*

2. The traditional family unit in accordance with cultural identity, morals, heritage and values is clearly protected under international law.² Article 16(1) of the Universal Declaration of Human Rights ('UDHR') provides that *'men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family'* and Article 16(3) confirms that *'the family is the natural and fundamental group unit of society and is entitled to protection by society and the State.'* The traditional model of the family unit has to be reaffirmed to guarantee protection of all members of the family unit and to allow them to flourish within the family unit.

The Rights of all Members within the Family Unit

3. As correctly identified at para. 9 of the Resolution, there is a need to *'strengthen and support all families, recognizing that equality between women and men and respect for all the human rights and fundamental freedoms of all family members'*. However, this recommendation is predominantly focused on women and their fundamental freedoms, and neglects further crucial considerations: the rights and duties of men within the family unit.
4. Promoting the rights of women is crucial for the wellbeing of the society as a whole. However, the rights of the unborn and the rights of the father must also be adequately promoted.³ As emphasised at the Children's Summit +10, States have to *'make every effort to ensure that fathers have opportunities to participate in their children's lives.'* This crucial participation starts at the moment of conception; it is the beginning of the child's life.
5. By virtue of Article 16(1) of the Convention to Eliminate All Forms of Discrimination Against Women ('CEDAW') States are required to accommodate a woman's right to *'decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights.'* This, however, does not put any specific obligation on States in relation to its implementation and does not mean that States are forced to create a so called

sociedades democraticas: el debate cultural del siglo XXI, Universidad Nacional Autonoma de Mexico, Instituto de Investigaciones Sociales, 2012 394)

² ICESCR (1976), Article 13-3: *'Respect for the liberty of parents . . . to ensure the religious and moral education of their children in conformity with their own convictions'*; ICCPR (1976), Article 18-4: *'The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions'*; Social Summit (1995), Declaration, 3: *'Our societies must respond more effectively to the material and spiritual needs of individuals, their families and the communities in which they live throughout our diverse countries and regions'*; ICPD (1994), 10.9: *'It is also important to protect documented migrants and their families from racism, ethnocentrism and xenophobia, and to respect their physical integrity, dignity, religious beliefs and cultural values.'*

³ Beijing +5 (2000), 60: *'The social significance of maternity and paternity continue to be inadequately addressed. Motherhood and fatherhood . . . must not be a basis for discrimination'*; ICPD (1994), 4.27: *'Special efforts should be made to emphasize men's shared responsibility and promote their active involvement in responsible parenthood'*; ICPD (1994), 4.28: *'Governments should consider changes in law and policy to ensure men's responsibility to and financial support for their children and families. Such laws and policies should also encourage maintenance or reconstitution of the family unit.'*

'right to abortion'. The right to information and methods of 'family planning' should not run contrary to national law.⁴

6. Abortion as a means of 'family planning' does not contribute to poverty eradication and is one of the biggest threats to the family unit. The numerous abortion-related side effects (including maternal mortality, infections and intrauterine perforations requiring hospitalisation), cause the family unit to suffer psychologically, physically and often financially. Furthermore, as emphasized at para. 7.24 of Chapter VII of the International Conference on Population and Development ('ICPD'): *'governments should take appropriate steps to help women avoid abortion, which in no case should be promoted as a method of family planning.'*

The Protection of Children

7. The principle of shared parental responsibility '*for the upbringing and development of the child*⁵, should be read in conjunction with Article 1 of the Convention on the Rights of the Child ('the CRC') introducing the definition of a child, establishing the upper limit of 18 years of age ("every human being below the age of eighteen years") and not providing any lower age limit (thus providing for the protection of the unborn). As emphasised in para. 10 of the Resolution, all States need to *'render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities in the best interests of the child, bearing in mind that a child should grow up in a safe and supportive family environment, and giving high priority to the rights of the children, including to survival, protection and development.'* This provision is futile if the fundamental right to life of the unborn is not protected in line with the CRC.
8. Also, the widely used practice of sex selection or disability eradication are severely harmful to the family unit as a whole, and especially to the family unit members who have mental or physical disability or are of the supposedly 'less preferable' sex. As per para. 15 of the Resolution, *'States should ensure that children with disabilities have equal rights with respect to family life with a view to realizing these rights, and prevent concealment, abandonment, neglect and segregation of children with disabilities.'* However, this aim is unachievable if States allow abortion in case the unborn may be physically or mentally disabled. This discriminates against human life on grounds of disability, sends a message that the lives of disabled people (and especially children) are unworthy of living.
9. The Resolution is a good attempt to promote protection and well-being of a family unit. However, the above mentioned issues require further consideration not only to allow the family unit to flourish but to guarantee its existence in the first place. Without addressing the issues, the family unit will remain under serious threats that will ultimately lead to its annihilation.

⁴ Para. 7.2, Chapter VII, the ICPD

⁵ Para 9 of the Resolution