**HRC Resolution 29/22 – Submission to the OHCHR**

1. **Introduction: State obligations under human rights law with regard to families**

International human rights law clearly sets out the entitlements and freedoms of individuals in family contexts, whereas *the ‘family unit’ is not in and of itself a subject of human rights protection*. Gender equality and respect for all human rights and fundamental freedoms of all family members is essential to family well-being and to society at large, as resolution 29/22 affirms[[1]](#footnote-1).

States are thus obliged to realize individuals’ rights to a family life, including the rights of individuals of full age to found a family *on a basis of equality* and in keeping with the principle of non-discrimination.[[2]](#footnote-2) The state must ensure that these individuals are entitled to equal rights as to entry into marriage, during marriage and at its dissolution.[[3]](#footnote-3) *Families must also be free of coercion*, thus all women and girls have the right not to be coerced into a family unit through forced marriage and all children and youth have the right to protection from child and early marriage. *States must ensure that no marriage shall be entered into without the free and full consent of the intending spouses, and on a basis of equality*.[[4]](#footnote-4)

The *international human rights system has affirmed that around the world, in different cultural, social and political systems, various forms of the family exist*.[[5]](#footnote-5) Given the diversity of family structures and relationships, in order to address the needs of all families, state policies must take into account diverse forms and make provision for the different needs and particular circumstances of each.[[6]](#footnote-6)

Further, as all members of a family have an equal right to safety and the *right to participate in family life on a basis of equality without fear of violence*, *states must exercise due diligence to prevent, investigate, and punish acts of violence against women and girls*, including where these acts are perpetrated by private persons, such as domestic or other family violence.[[7]](#footnote-7)

*All individuals have the right to be protected from harmful and discriminatory practices***.** Thus states must fulfill their obligations to prevent, respond to and eliminate all harmful practices (such as FGM and dowry-related abuses), wherever and in whichever form they occur, including within the family, and end impunity. [[8]](#footnote-8)

1. **Impact of religious fundamentalisms on the rights of women and girls in families**

As resolution 29/22 notes, violations and abuses of the human rights of family members have a negative impact on efforts aimed at protecting the family.[[9]](#footnote-9) In this context, *it is essential for states to take concrete measures to prevent the impact of religious fundamentalisms on women’s rights*.

A global survey of over 1600 women’s rights activists found that the strength of religious fundamentalisms (RFs) has increased globally over the past 10 years.[[10]](#footnote-10) *RFs have had a negative impact on women’s rights across contexts, particularly with respect to family laws, economic rights and reproductive and sexual rights, and through increased violence against women*.[[11]](#footnote-11) Activists in every region have found that *strategic discourses around narrow gender roles and ‘the family’ are a key tool to secure and increase RF power*.

Religious fundamentalisms involve the authoritarian manipulation of religion and the use of extreme interpretations of religion to achieve power and extend social control, and *RFs commonly use women’s bodies as a staging ground in their struggle to appropriate institutional power*. Women and girls often are used to symbolize the collectivity, embody symbols of ‘culture and tradition’ and its future reproduction.

*As women are considered the custodians of family norms and ‘honor’, their bodies and sexualities become important sites of religious control*. Dowry-related violence; limited access to reproductive and sexual health services; child, early and forced marriage; restrictions on education for girls; marital rape and domestic violence (and social acceptance and impunity for the same); and unequal family law systems are some of the widespread human rights violations that arise from conceptions of ‘the family’ that are patriarchal, male-dominated and hetero-normative.

In order for states to fulfill their human rights obligations towards individuals in family contexts, they *must take all appropriate measures to modify the social and cultural patterns of conduct of men and* women to eliminate such prejudices and discriminatory practices based on the idea of the inferiority or superiority of either of the sexes or on stereotyped roles*.*[[12]](#footnote-12) And states must *meet their due diligence obligations to prevent gender-based violence by private actors* by challenging all such norms and practices that discriminate against women, and ensuring protection and punishment in cases of violence in the family.

1. **Gender equality and legal reform**

*Full gender equality is a requirement of international human rights law*, and as resolution 29/22 highlights, gender equality is essential to family well-being[[13]](#footnote-13) and an essential aspect of policies relating to families.[[14]](#footnote-14) States must ensure that families are not abused to harbor gender discrimination, violence and patriarchy. The reform of discriminatory laws and policies is essential to establishing women’s equal status in the family structure.

Thus states must ensure gender equality in all matters relating to marriage and family relations, including *rights and responsibilities as parents, and decisions on the number and spacing of children*.[[15]](#footnote-15) States must also specify a legal minimum age for marriage and register marriages.[[16]](#footnote-16) As such, *in order to protect families, states have an obligation to ensure equality between women and men*.

Several states continue to maintain laws and policies institutionalizing gender inequality in family contexts, for instance in relation to *inheritance and custody rights*. Some countries continue to *immunize perpetrators of marital rape from prosecution* – only 52 countries worldwide explicitly criminalize marital rape - and states are also obliged to *reform legislative provisions that allow rapists to marry their victims in order to escape legal proceedings*.

States must reform legislation and practices which *restrict married women’s freedom of movement and capacity to work, give differential access to divorce and matrimonial assets, place women under the guardianship of male family* members and which undermine women’s citizenship rights by *restricting the transmission of nationality to male parents to their children*.

States are under the obligation to support families as a place of security for all members through laws and practices that *codify equal rights and responsibilities with respect to property*. In order to respect and fulfill their human rights obligations with respect to the family, states must also fully *recognize and examine the links between discriminatory family laws and violence against women*. When women suffer inequality in the family due to discriminatory laws, their likely exposure to domestic violence is greater and their ability to leave violent homes is constrained by diminished economic autonomy and mobility.

Finally, fulfillment of states’ human rights obligations with respect to families also *requires that states further reform of discriminatory laws and practices by supporting and protecting Women Human Rights Defenders* who engage in processes of reform and protection of women’s rights.

1. HRC Resolution 29/22, para 9. [↑](#footnote-ref-1)
2. International Covenant on Civil and Political Rights, articles 3, 23, and 26. [↑](#footnote-ref-2)
3. Universal Declaration of Human Rights, Article 16(2) and Convention on the Elimination of Discrimination against Women, article 16. [↑](#footnote-ref-3)
4. ICCPR Article 23; CEDAW Article 16. [↑](#footnote-ref-4)
5. GA Resolution 65/277, HRC Resolution 7/29. [↑](#footnote-ref-5)
6. UN Secretary-General Report A/59/176. [↑](#footnote-ref-6)
7. Declaration on the Elimination of Violence against Women, article 4(c); CEDAW General Recommendation No. 19. [↑](#footnote-ref-7)
8. Committee on the Rights of the Child and CEDAW Joint General Recommendation (31) and General Comment (18). [↑](#footnote-ref-8)
9. HRC Resolution 29/22, para 20. [↑](#footnote-ref-9)
10. Towards a Future Without Fundamentalisms, pg 15. [↑](#footnote-ref-10)
11. New Insights on Religious Fundamentalisms: Research Highlights, pg 6. [↑](#footnote-ref-11)
12. Convention on the Elimination of Discrimination against Women, article 5 (a). [↑](#footnote-ref-12)
13. HRC Resolution 29/22, para 9. [↑](#footnote-ref-13)
14. Ibid, para 14. [↑](#footnote-ref-14)
15. CEDAW Convention, article 16. [↑](#footnote-ref-15)
16. Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, articles 1-3. [↑](#footnote-ref-16)