
Advance Unedited Version

Distr.: General
15 January 2016

Original: English

Human Rights Council

Thirty-first session

Agenda items 2 & 3

**Annual report of the United Nations High
Commissioner for Human Rights and
Reports of the Office of the United Nations
High Commissioner for Human Rights
and the Secretary-General**

**Promotion and protection of all human rights,
civil, political, economic, social and cultural rights,
including the right to development**

**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**

Summary

The present report is submitted pursuant to Human Rights Council resolution 29/22. The report is divided into five sections. After a brief introduction in section I, section II describes the evolution of the existing international consensus regarding the role of the family in sustainable development, including poverty reduction policies. Section III gives an overview of international human rights standards as they pertain to family life, outlining the elements of a human rights-based approach to family policies. Section IV provides concrete examples of measures taken by State in implementing their international obligations regarding the protection of the family. The last section puts forwards conclusions and recommendations.

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I. Introduction

1. By resolution 29/22, adopted on 3 July 2015, the Human Rights Council requested the United Nations High Commissioner for Human Rights to prepare a report on the impact of the implementation by States of their obligations under relevant provisions of international human rights law with regard to the protection of the family, and on the contribution of families in realizing the right to an adequate standard of living for their members, particularly through their role in poverty eradication and in achieving sustainable development, while giving due consideration to the status of the family in the developments related to the on-going work on the future sustainable development goals and the post-2015 development agenda, and to present it to the Human Rights Council at its thirty-first session.

2. The resolution built on a previous resolution by the Council, resolution 26/11 of 26 June 2014, which signalled the observance of twentieth anniversary of the International Year of the Family in 2014 as a useful opportunity for increasing cooperation at all levels on family issues and for undertaking concerted actions to strengthen family-centred policies and programmes. The resolution decided that a panel discussion on the issue be held in September 2014 (A/HRC/28/40).

3. Subsequently, in December 2014, during its sixty-ninth session, the General Assembly held a plenary meeting on the observance of the twentieth anniversary of the International Year of the Family, in order to discuss the role of family-oriented policies in the post-2015 development agenda.¹

4. The adoption on 25 September 2015 of the 2030 Agenda for Sustainable Development brought identified the potential of families to contribute to the achievement of the Sustainable Development Goals, including the eradication of poverty and the creation of just, inclusive and secure societies.

5. The recognition of families' role in development is not new, as international instruments have long recognized the positive functions that families may potentially perform towards their members and the wider community. Article 16(3) of the Universal Declaration on Human Rights and article 23(1) of the International Covenant on Civil and Political Rights state that "[t]he family is the natural and fundamental group unit of society and is entitled to protection by the society and the State." Other human rights instruments reaffirm this recognition in similar terms, including article 10(1) of the International Covenant in Economic, Social and Cultural Rights, which provides that

The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children (...).

6. A similar recognition of the family as the fundamental unit of society is found in more recent instruments, such as the Convention on the Rights of the Child (preamble, para. 5) the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (art. 44(1)), and the Convention on the Rights of Persons with Disabilities (preamble, para. x). These instruments further highlight families' role in protecting the

¹ See GA/11594 and General Assembly resolution A/RES/69/144.

human rights of its members and in providing them with an enabling environment for the enjoyment of those rights.²

7. The international recognition of families as relevant actors in sustainable development and poverty eradication is directly connected to the acknowledgment of families' potential contribution to realization of the right to an adequate standard of living of their members, including adequate food, clothing, housing, water and sanitation. Indeed, the very definition of this right under international law is inextricably connected to a family dimension.³

8. Pursuant to Human Rights Council resolution 29/22, this report provides an overview of the recognition of families' role in the development process, as shown in the evolution of the international policy framework over the last decades, and the parallel, but interrelated, protection of the family and of the rights of family members under international human rights law. This overview will bring to an analysis of States' international obligations in relation to the protection of the family. Following the review of comparative State practice in in this area, the report lays down with a number of conclusions and recommendations.

9. For the preparation of the present report, a note verbale requesting inputs was sent all Member States and written contributions were received from 24 States. Inputs were also received from civil society organizations, United Nations agencies and other inter-governmental organizations, as well as from national human rights institutions.⁴ The report has also benefited from inputs of the Special Procedures of the Human Rights Council.⁵

II. The role of families in poverty eradication and sustainable development: International policy framework

10. The 2030 Agenda for Sustainable Development is the most recent expression of an international policy framework regarding the relevance of family in the development process. However, this consensus has a much longer history and has been forged in recent decades as part of wider development and social protection debates, and advocates for strong family-focused policies as part of national and international efforts to ensure the realization of the right to an adequate standard of living, sustainable development, and poverty reduction.

² See e.g. Convention on the Rights of the Child, art. 18(2)); Convention on the Rights of Persons with Disabilities, art. 23(3).

³ Article 11(1) of the International Covenant on Economic, Social and Cultural Rights enshrines “the right of everyone to an adequate standard of living for himself and his family.” According to the Committee on Economic, Social and Cultural Rights, the wording “himself and his family” should not be read as “implying any limitations upon the applicability of the right to individuals or to female-headed households or to other such groups.” General comment No. 4, para 6.

⁴ Copies of all submissions are available at:
<http://www.ohchr.org/EN/HRBodies/HRC/Pages/ProtectionFamily.aspx>.

⁵ See Joint Letter of Special Procedures mandate holder to the President of the Human Rights Council (3 July 2015), available at:
<http://www.ohchr.org/Documents/Issues/Women/WRGS/JointLetterPresidentHRCProtectionFamily.pdf>; Statement by the Chairperson of the Coordination Committee of Special Procedures, A/HRC/28/41, Annex X. Letter of the President of the Working Group on the issue of discrimination against women in law and in practice (1 September 2015), available at:
<http://www.ohchr.org/Documents/Issues/Women/WG/ProtectionOfFamily.pdf>.

A. Evolution of the international policy framework

11. One of the first policy documents to signal the role of families in development was the Declaration on Social Progress and Development, proclaimed by the General Assembly in 1969. In terms similar previous international instruments, article 4 of the Declaration affirms that the family, as the “basic unit of society and the natural environment for the well-being of all its members,” should be “assisted and protected so it may fully assume its responsibilities with the community.” In addition, the Declaration incorporates a specific provision on family policies (art. 22) that describes them as one of the “means and methods” in achieving the objectives of social progress and development.

12. Several initiatives within the United Nations development system subsequently built on these basic tenets. In 1983, the Economic and Social Council (ECOSOC) adopted its first resolution on this issue, with the title “Role of the family in the development process” (resolution 1983/23). The resolution recommended that States formulate and implement measures “addressed to the welfare of the family as a whole” as part of development policies (para. 2).

13. ECOSOC initiatives were followed by several General Assembly resolutions regarding the need to enhance international cooperation in the field of the protection of and assistance to the families,⁶ eventually leading to the unanimous proclamation of the International Year of the Family in 1994.⁷ The observation of the International Year represented recognition of the role of families as “major agents of sustainable development at all levels of society.”⁸

14. The awareness-raising activities of the International Year proved essential in ensuring that family considerations were referred by the various international summits and conferences held under United Nations auspices during the 1990s, including the World Conference on Human Rights (Vienna, 1993), the International Conference on Population and Development (Cairo, 1994), the fourth World Conference on Women (Beijing, 1995), and the World Summit for Social Development (Copenhagen, 1995).⁹ Other meetings and follow-up processes have also addressed the role of the family in development, social protection, and poverty reduction policies.¹⁰

15. The internationally agreed texts adopted at these summits and conferences contributed to the crystallization of an international consensus on the role of families in development, which is still considered valid today.¹¹ This consensus encompasses (a) the need for family-centered measures and family-approaches as part of development policies;¹² (b) the recognition of varied forms of family depending on the different cultural, political and social systems, as well as the changes undergone by the family as a social

⁶ General Assembly resolutions 42/134 and 43/135.

⁷ General Assembly resolutions 44/82, 45/133, 46/92 and 47/237.

⁸ *Ibid.*, para. 6.

⁹ Program of Action of the International Conference on Population and Development, A/CONF.171/13, Annex I (ICCPD); Beijing Declaration and Platform for Action, A/CONF.177/20, Annex I (BPA); Copenhagen Declaration and Programme of Action, A/CONF.166/9, Annex I (WSSD).

¹⁰ See World Program of Action for Youth to the Year 2000 and Beyond, General Assembly resolution 50/81, Annex (WPAY); Istanbul Declaration on Human Settlements and the Habitat Agenda, A/CONF.165/14, Annex I (Habitat II); Political Declaration and Madrid International Plan of Action (MIPAA), art. 15, paras. 101-105.

¹¹ A/RES/68/136, preambular para. 4 (noting that the conferences and summits of the 1990s and their follow-up processes continue to “provide policy guidance” in relation to family policies).

¹² BPA, para. 29; Habitat II, paras. 31, 40(k); ICCPD, principle 9, para. 5.8.; WSSD, para. 80.

institution;¹³ (c) the recognition of the principle of gender equality and that family policies should be based on the respect for and promote equality between men and women;¹⁴ (d) the need for special protection for family members who may be in a situation of vulnerability, including children, youth, the elderly or people with disabilities;¹⁵ and (e) the integration of universal access to reproductive health services, including family planning and sexual health, as part of development efforts.¹⁶

16. Despite this consensus, family issues gradually lost saliency in subsequent development platforms. For instance, neither the Millennium Development Declaration nor its follow-up process contained any reference to the family. Nevertheless, the implementation of the Millennium Development Goals (MDGs) could not be divorced from family policies, particularly those related to poverty reduction, child and maternal mortality, and children's education.¹⁷

17. The year 2014 marked the commemoration of the twentieth anniversary of the International Year on the Family, coincidental with international debates regarding the post-2015 development agenda, focused on the three related themes of poverty eradication, work-family balance, and inter-generational solidarity.¹⁸ This commemoration returned family policies to the center of the social protection agenda, while recalling of the need for family-centered interventions as part of an “integrated comprehensive approach to development.”¹⁹

B. Status of the family in relation to the 2030 Agenda for Sustainable Development

18. Adopted in September 2015, the new 2030 Agenda for Sustainable Development signals the role of families as development actors, and expressly commits States to “provide children and youth with a nurturing environment for the full realization of their rights and capabilities,” including through “cohesive communities and families.”²⁰ The Sustainable Development Goals and targets reflect a broad range of objectives important for the protection of the family and its members, and for the realization of the right to an adequate standard of living for all families. In addition, families are also key actors in the transmission of values within society that are vital for making the sustainable development agenda a reality, such as gender equality, respect for the environment, and inter-generational solidarity.

19. Of the 17 Sustainable Development Goals, Goal 5 (“Achieve gender equality and empower women and girls”) contains a number of particularly relevant commitments to help achieve gender equality within the family. Target 5.4 commits States “to recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family”. Also relevant are specific targets dealing with equal rights to economic resources (Target 5.a), as well as specific targets aiming at the elimination of discrimination and violence against women and girls (Targets 5.1-5.3) and at

¹³ Habitat II, para. 31; ICCPD, principle 9, paras. 5.1-5.6; WSSD, para. 80.

¹⁴ BPA, paras. 29, 113-125; ICCPD, principle 9, paras. 4.1-4.14; WSSD, para. 81(a).

¹⁵ BPA, para. 29; Habitat II, paras. 31, 40(l); ICCPD, principle 11, para. 5.8-5.13; WSSD, para. 81(c).

¹⁶ BPA, paras. 94-97, 281(e); Habitat II, paras. 127(c), 136(f); ICCPD, paras. 3.18, 7.1-7.28.

¹⁷ A/66/62-E/2011/4, para. 7.

¹⁸ ECOSOC resolution 2011/29, para. 4.

¹⁹ General Assembly resolution 66/126, para. 4.

²⁰ General Assembly resolution 70/1, Annex, para. 25.

ensuring access to sexual and reproductive health and reproductive rights, which is expressly linked with previous world conferences (Target 5.6).

20. Under the heading of “Promote just, peaceful, and inclusive societies,” Goal 16 also contains a number of commitments that are relevant for the protection of family members, such as Target 16.1 on ending all forms of violence; Target 16.2 on ending abuse, exploitation, trafficking and violence against children; Target 16.9 on providing legal identity and birth registration for all; and Target 16b on non-discrimination.

21. A recent report by the Secretary General underscored that adding families to the sustainable development agenda would represent a “step in the direction of empowerment and reduction of inequality and contribute to the achievement of the sustainable development goals” (A/69/61-E/2014/4). In reflection of the role of families in the implementation of the 2030 Agenda for Sustainable Development, consideration needs to be given to human rights principles and standards as foundational bases of this agenda, including those that pertain directly to family life.

III. Relevant provisions of international human rights law with regard to the family

22. International human rights instruments have long recognized that the family is a fundamental unit of society, which performs valuable functions for its members and for the community as whole. For these reasons, it is widely recognized that States bear the primary obligation to provide protection and assistance to the family so it can fully assume these functions. At the same time, international standards do not prescribe a specific concept of family, which varies depending on the concrete historical, social, cultural and economic make-up of the community and of the life circumstances of family members.

23. Moreover, as the following review of international law and practice clearly shows, the protection of the families in international law is indissolubly linked to the principle of equality, including gender equality, and to the protection of their individual members against all kinds of discrimination, violence or abuse within the family setting.

A. Definition of the family

24. There is no definition of the family under international human rights law. According to the Human Rights Committee, “the concept of family may differ in some respects from State to State, and even from region to region within a State, and that is therefore “not possible to give the concept a standard definition.”²¹ Similarly, the Committee on Economic, Social and Cultural Rights has stated that the concept must be understood “in a wide sense” and “in accordance with appropriate local usage.”²² Other international human rights mechanisms have expressed similar views.²³

25. The concept of family may also differ according to the specific rights and responsibilities at stake. For instance, in relation to rights of the child, the concept of the family may include a variety of arrangements that can provide for young children's care,

²¹ General comment No. 19, para. 2.

²² Committee on Economic, Social and Cultural, General comment No. 4, para. 6; General comment No. 5, para. 30.

²³ Committee on the Elimination of Discrimination against Women, General recommendation No. 21, paras. 13 and 18, and General recommendation No. 29, para 24; Committee on the Rights, General comment No. 7, para 15. See also A/HRC/29/40, paras. 23-24.

nurturance and development, including the nuclear family, the extended family, and other traditional and modern community-based arrangements, provided these are consistent with the rights and the best interest of children.²⁴ Likewise, the notion of “family environment” in the Convention on the Rights of the Child may encompass children’s social ties in a wider sense.²⁵ The Convention on the Protection of the Rights of all Migrant Workers and Members of their Families defines the family as encompassing all relationships that, under applicable law, “produces effects equivalent to marriage” (arts. 4, 44(2)).

26. States retain a margin of appreciation in defining the concept of family in national legislation, taking into consideration the various legal systems, religions, customs or traditions within the country, including indigenous and minority cultures.²⁶ However, international standards set forth at least two minimum conditions for the recognition and protection of families at the national level: first, the respect for the principle of equality and non-discrimination, including the equal treatment of women; and second, the effective guarantee of the best interest of the child.²⁷ Given these parameters, human rights mechanisms have found that some forms of relation, such as polygamy and child marriage are contrary to international human rights standards and should be prohibited.²⁸

27. In addition to the above principles, international mechanisms have called upon States to protect specific forms of family in view of the vulnerability of their members in relations to the enjoyment of human rights. For instance, the international mechanisms have drawn attention to the discrimination suffered by women and children in de facto unions, and have called for the regulation of those unions in domestic law.²⁹ In similar terms, the Committee on Economic, Social and Cultural Rights has called upon States to provide legal recognition of same-sex couples.³⁰

B. Right to marry and to found a family

28. Article 16 of the Universal Declaration on Human Rights and article 23(2) affirm the right of men and women of full (or in the latter case, marriageable) age to “marry and to found a family.” This right is expressly linked to the principle of non-discrimination, and applies to men and women “without any limitation due to race, nationality or religion.” The principle of non-discrimination in this context is restated in the Convention on the Elimination of All Forms of Discrimination against Women (art. 16(1)(a)) and in the Convention on the Rights of Persons with Disabilities (art. 23(1)(a)).

1. Right to freely choose a spouse and prohibition of forced marriage

29. The Universal Declaration on Human Rights provides that “[m]arriage shall be entered into only with the free and full consent of the intending spouses” (art. 16(2)). The

²⁴ Committee on the Rights of the Child, General comment No. 7, para. 15.

²⁵ Committee on the Rights of the Child, General comment No. 14, para. 66.

²⁶ Human rights Committee, General comment No. 16, para. 5; CCPR/C/60/D/549/1993, Add.1, para. 10(3).

²⁷ International Covenant on Civil and Political Rights, art. 23(4); the International Convention on the Elimination of All Forms of Discrimination against Women, arts. 2, 5(b); the Convention on the Rights of the Child, art. 18(1).

²⁸ Committee on the Elimination of Discrimination Against Women, General recommendation No. 31-Committee of the Rights of the Child General Comment No. 18, para. 24-26.

²⁹ Committee on Discrimination against Women, General recommendation No. 29, paras. 30-31. See also A/HRC/29/40, para. 74(c).

³⁰ See E/C.12/BGR/CO/4-5, para. 17; E/C.12/SVK/CO/2, para. 10; E/C.12/GC/20, paras. 26, 31. Cfr. A/HRC/29/23, para. 79(h).

same principle is included the International Covenant on Civil and Political Rights (art. 23(3)); the International Covenant on Economic, Social, and Cultural Rights (art. 10.1); the Convention on the Elimination of All Forms of Discrimination against Women (art. 16(1)(b)) and the Convention on the Rights of Persons with Disabilities (art. 23(1)(b)).

30. A logical corollary of the right to freely choose a spouse is the prohibition of forced marriages. Especially affecting women and girls, forced marriages may take various forms, such as exchange or trade-off, servile, levirate, or contractual marriages, or marriages through payment or preferment, are considered a practice similar to slavery. Such marriages should not be recognized by the State as legally valid or subsequently rectifiable.³¹ Similarly, international norms proscribe the forced dissolution of the marriage bond, including subjecting the change of legal gender to the requirement of dissolution of a previous marriage or civil partnership.³²

2. Definition of marriageable age and prohibition of child marriage

31. International and regional instruments are unanimous in providing that a specified age must have been reached before the right to marry or to found a family may be exercised. The Convention on the Elimination of All Forms of Discrimination against Women (art. 16(2)), as well as the Convention on Consent to Marriage, Minimum Age and Registration of Marriages (art. 2), call upon states to establish a minimum age for marriage in their domestic legislation. The Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child have stated that the minimum age for marriage should be 18 years and that the legal age of marriage age for men and women should be the same.³³

32. Correspondingly, child marriages, as well as the betrothal of a child—practices that disproportionately affect girls—are prohibited under international human rights law, and, when performed as a source of economic benefit or labour, is considered a practice analogous to slavery.³⁴ Marriage below the age of 18 should be allowed only in exceptional circumstances, provided that the child is at least 16 years old and the process is subject to judicial review.³⁵

3. Right to decide on the number and spacing of children

33. The Convention on the Elimination of Discrimination against Women states that women have the “same rights” as men to “decide freely and responsibly on the number and spacing of their children” (art. 16(1)(e)). This right is reaffirmed in the Convention on the Rights of Persons with Disabilities (art. 23(1)(a)). In order to support the exercise of this right, international law requires States to provide access to family planning as part of health

³¹ Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956), art. 1(c); Committee on the Elimination of Discrimination against Women, General recommendation No. 21, para. 16 and General Recommendation No. 31-Committee of the Rights of the Child General Comment No. 18 on harmful practices, para. 24.

³² CCPR/C/IRL/CO/4, para. 7. Cfr. A/HRC/29/23, paras. 69-70, 79(i).

³³ Committee on the Elimination of Discrimination against Women, General Recommendation No. 21, para. 36; Committee on Economic, Social and Cultural Rights, General comment No. 16, para. 27.

³⁴ Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956), arts. 1(d)/2.

³⁵ Committee on the Elimination of Discrimination against Women, General Recommendation No. 21, para. 36.

care services.³⁶ All individuals, including adolescents, have equal rights to access sexual and reproductive health services and information. This requires particular attention to preventing coercion and removing third party consent requirements for women and adolescents to access these services.³⁷

C. Right to privacy and family life

34. Article 12 of the Universal Declaration on Human Rights provides that “[n]o one shall be subjected to arbitrary interference with his privacy, family, home or correspondence.” A similar provision is found in Article 17(1) of the International Covenant on Civil and Political Rights and in other United Nations instruments.³⁸ This right has been interpreted broadly, encompassing inter alia the protection against forced evictions, the demolition of homes or property, the destruction of traditional burial grounds, and the expulsion of foreigners.³⁹ The right to family life also applies in relation to persons deprived of liberty, who should be allowed to communicate with their families, subject only to reasonable restrictions established by law.⁴⁰

35. The right to family life is reflected in the general preference for preserving the family unit and non-separation of its members, particularly dependent members. The Convention on the Rights of the Child affirms the right of children not to be separated from their parents against their will, except where “necessary for the best interest of the child,” such as in cases of abuse or neglect (art. 9.1), following a judicial determination to this effect. Children deprived of their family environment should be provided alternative care (art. 20), and, whenever possible, to have contact with their parents (art. 9(3)). According to article 23(4) of the Convention on the Rights of Persons with Disabilities, in no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.

36. The Convention on the Rights of Migrant Workers and their Families requires States to ensure “the protection of the unity of the families,” including by facilitating the reunification of documented migrants with their spouses and dependent children (art. 44). The Convention on the Rights of the Child urges State Parties to deal with such requests in a “positive, humane and expeditious manner” (art. 10).

³⁶ International Convention on the Elimination of All Forms of Discrimination against Women, arts. 10(h), 16(1)(e), 12(1), 14(2)(b); the Convention on the rights of the Child, art. 24(2)(f); the Convention on the Rights of Persons with Disabilities, arts. 23(1)(b), 25(a).

³⁷ Committee on the Discrimination against Women, General recommendation No. 21, para. 22, and General recommendation No. 24 paras. 17-18, 23-28; Committee on the Rights of the Child, General comment No. 4, para. 24, and General Comment No. 15, para. 69.

³⁸ Convention on the Rights of the Child, art. 16; International Convention on the Protection of Migrant Workers and Members of their Families, art. 14; Convention on the Rights of Persons with Disabilities, art. 22(1).

³⁹ Committee on the Elimination of Racial Discrimination, General recommendation XXX, para. 28; and General recommendation XXXI, para. 37; Human Rights Committee, CCPR/C/BGR/CO/3, para. 24; CCPR/C/KEN/CO/3, para. 24; CCPR/CO/78/ISR, para. 16; CCPR/C/60/D/549/1993, Add.1, para. 10(3); Committee on Migrant Workers, General comment No. 2, para. 50.

⁴⁰ Convention on the Rights of the Child, art. 37(c); International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, art. 17(5); International Convention for the Protection of All Persons from Enforced Disappearance, art. 17(1)(d).

D. Right to equality in the family

1. Equality between men and women

37. Equality between men and women is an essential component of the international protection of the family. This principle has been codified in the Universal Declaration on Human Rights (art. 16(1)) and the International Covenant on Civil and Political Rights (art. 23(4)), which affirm the equal right of both men and women “as to marriage, during marriage and at its dissolution,” and is also mentioned in the International Covenant on Economic, Social and Cultural Rights.⁴¹

38. Achieving equality between men and women in the family is one of the objectives of the Convention on the Elimination of All Forms of Discrimination against Women. The Convention calls for modifying practices based on stereotyped roles of men and woman, including those based in social and cultural patterns, and to recognize the common responsibility in the upbringing and development of their children (art. 5). Moreover, article 16 of the Convention recognizes the equality of men and women in “all matters relating to marriage and family relations,” in entering marriage, during marriage, and at its dissolution, including as parents, on the number and spacing of children, guardianship of children, choice of name, profession and occupation, and ownership, administration, enjoyment and disposition of property. These aspects have been the object of detailed elaboration in international jurisprudence.⁴²

39. Recent reports by the Working Group on the issue of discrimination against women in law and in practice describe the many legal, economic, social and cultural barriers that still prevent women from achieving full equality in the family context. These include existing obstacles to women’s economic opportunities resulting from reproduction and care functions, as well as State, religious or customary norms strengthening patriarchal family structures.⁴³

40. The principle of equality between men and women connects with the State obligation to promote the reconciliation between work and family responsibilities.⁴⁴ The main international instruments in this area are the International Labour Organisation Workers with Family Responsibilities Convention (No. 156) and Recommendation (No. 165), adopted in 1981. Convention No. 156 requires State Parties to adopt policies aiming at ensuring that persons with family responsibilities can exercise the right to work without discrimination, and to help them reconcile their employment and family responsibilities (art. 3).

2. Equality of children

41. International human rights law protects children from being discriminated against within the family on the basis of gender, disability, family status or any grounds. Children should be recognized as rights holders.⁴⁵ In addition, family responsibilities should be

⁴¹ Committee on Economic, Social, and Cultural Rights, General comment No. 16, para. 27.

⁴² Human Rights Committee, General comment No. 28; Committee on Economic, Social, and Cultural Rights, General comment No. 16; Committee on the Discrimination against Women, General recommendations No. 21 and No. 29.

⁴³ A/HRC/26/39, paras.82-98, A/HRC/29/40, paras. 34-61.

⁴⁴ Convention on the Elimination of All Forms of Discrimination against Women, art. 11(2).

⁴⁵ Committee on the Rights of the Child, General comments No. 5, para. 21; No. 7, para. 3, and No. 14, para. 16.

discharged equally for boys and girls, especially in relation to access to education, feeding and health care.⁴⁶

42. Furthermore, States should ensure that children with disabilities enjoy equal rights in relation to family life, included preventing their “concealment, abandonment, neglect and segregation.”⁴⁷ Children born of de facto unions or out of wedlock should also enjoy equal rights in relation to those born from married couples, including the rights to be registered and to have a name.⁴⁸ The Committee on the Rights of the Child has called for States to protect children from discrimination based on their own or their parents- or legal guardian’s sexual orientation or gender identity.⁴⁹

E. Right not to be subject to violence or abuse within the family

1. Violence against women

43. Family or domestic violence “is one of the most insidious forms of violence against women,” and is prevalent in all societies.⁵⁰ Under the Declaration on the Elimination of Violence against Women, this form of violence includes “battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation” (art. 2(a)). In addition, the Declaration puts forward the notion of State due diligence, which requires the State to prevent, investigate and punish acts of violence against women committed by private actors, including in the family context (art. 4(c)). International mechanisms have also expressed concern about traditional harmful practices as forms of violence against women and girls in the family context.⁵¹

2. Violence and abuse against children, including corporal punishment

44. Article 19(1) of the Convention on the Rights of the Child requires States Parties to protect the child “from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation” in the family context. This prohibition includes all forms of abuse of children based on their gender, sexual orientation or disability.⁵² According to the Committee on the Rights of the Child, this prohibition encompasses the corporal punishment of children, as well as any other cruel or degrading forms of punishment within the family.⁵³

45. The protection of the child against violence or abuse under the Convention also encompasses sexual abuse. As indicated by the Special Rapporteur on the sale of children, child prostitution and child pornography, “the family represents a first layer of a child’s protective environment,” and the weakening of family structures put children at risk.⁵⁴ At

⁴⁶ Human Rights Committee, General comment No. 28, para. 28.

⁴⁷ Convention on the Rights of Persons with Disabilities, art. 23(3).

⁴⁸ Committee on Discrimination against Women, General recommendation No., para. 19.

⁴⁹ Committee on the Rights of the Child, General recommendation No. 15 para. 8. Cfr. A/HRC/29/23, para. 79(h).

⁵⁰ Committee on the Discrimination against Women, General recommendation No. 19, para. 6.

⁵¹ Committee on the Discrimination against Women General recommendation No. 31-Committee of the Rights of the Child General comment No. 18 s. See also E/CN.4/Sub.2/1991/6, E/CN.4/2002/83, A/HRC/4/34.

⁵² A/HRC/19/41, para. 24; A/HRC/29/23, paras. 22, 30, 45.

⁵³ Committee on the Rights of the Child, General comment No. 8, para.5.

⁵⁴ A/25/48, para. 32.

the same time, families confronting poverty or social disruption may promote themselves the exploitation of their children.⁵⁵

3. Violence and abuse against persons with disabilities

46. The Convention on the Rights of Persons with Disabilities protects persons with disabilities from “all forms of exploitation, violence, and abuse” including within the home (art. 16(1)). States Parties must put in place effective legislative and policy measures in order to ensure that these practices are identified, investigated and prosecuted (art. 16(e)).

4. Violence and abuse against older persons

47. Older persons are vulnerable to neglect or to physical, psychological, emotional, sexual or financial abuse within the family.⁵⁶ The Madrid International Plan of Action on Ageing recommends specific State measures to fight these practices (para. 110). At the regional level, the Inter-American Convention on Protecting the Human Rights of Older Persons aims to protect older persons from acts of violence taking place “within the family or household unit,” including abandonment or negligence; State parties commit to prevent intra family violence and ensure that older persons are treated with dignity (art. 9).

F. State obligations with regard to the protection of the family

48. An analysis of the evolving standards and practice within the United Nations human rights regime reveals the existence of a clear international normative consensus, built around the recognition of the family as a fundamental social unit and of the various educational, nurturing and caring functions they perform towards their members. This makes families relevant actors in relation to promoting the enjoyment of the basic human rights of their members, including the rights to an adequate standard of living, notwithstanding the primary obligations that pertain to States in this regard. From this perspective, the recognition of the family as a social institution in international human rights law concurs with and elaborates upon the recognition of the role of families in poverty eradication and sustainable development (supra, paras. 11-17)

49. Derived from this recognition, international norms, starting with the foundational article 16(3) of the Universal Declaration on Human Rights, affirm State obligations in relation to the family unit. Article 10 of the International Covenant on Economic, Social and Cultural Rights calls upon States to secure “the widest possible protection and assistance,” to families, thus signalling that the implementation of State obligations in this area is not limited to formal recognition or non-interference, but also require positive measures.

50. Whatever measures adopted by States in implementation of their international obligations, they should adopt a human rights-based approach, grounded in international standards as described above. In this regard, family policies should be guided by basic human rights principles, including equality and non-discrimination, and by the protection of the rights of individual family members, notably those that might find themselves in a situation of vulnerability. A rights based approach provides also substantive guidance on priority areas for States intervention in support of families as required by international human rights, such as ensuring universal access to sexual and reproductive health, including family planning, or promoting work-family balance.

⁵⁵ A/22/54, para. 38.

⁵⁶ A/HRC/18/37, paras. 50-51.

IV. Implementation of State obligations: A review of comparative practices

51. Family policies may take a variety of forms. They are conventionally divided into two interrelated categories: explicit family policies, which are deliberately designed to achieve specific objectives relating to the family as a social institution, and implicit family policies, which, while not addressing the family unit as such, may bear impact on it.⁵⁷ The responses received to the questionnaire distributed in preparation of the present report⁵⁸ provide evidence of the variety of legal and policy measures means through which States aim at giving protection and assistance to the family. The submissions tackled several policy areas, ranging from specific measures for families living in poverty, social security and social protection measures, and measures aimed at the protection of specific family members.

A. Legal instruments

52. In some States, the family unit enjoys constitutional protection or protection by special laws. Hungary has a Fundamental Law and the Act on Protection of Families, which prioritizes support to families in the Central Budget Planning. In Colombia, the Law No. 1361 on the Integral Protection of the Family (2009) established the National Observatory on the Family and provides legal backing to the National Policy on Support and Strengthening of the Family.

53. Other States reported changes to their general legislation aimed at enhanced protection of the family institution. In 2015, Argentina introduced amendments to the Civil Code (Law No. 26994), which establishes a system whereby couples can opt for a system of marital property or separation of property, provides for the special protection of the family home; and recognizes equal status to children born out of assisted reproduction. Sweden recently introduced recent reforms in criminal and civil law which have strengthened the protection against forced marriage and child marriage including the abolition to the exception to the impediment to child marriage, the introduction of more stringent criteria for recognizing foreign marriages, and the criminalization of unlawful coercion or exploitation to marry.

54. Several States have introduced changes in their legislation allowing for the legal recognition of relationships between persons of the same sex. In Argentina, the Egalitarian Marriage Law (Law No. 26618) expressly allowed for same-sex marriages. In Sweden, the reform of the Marriage Code in 2009 made the definition of marriage gender neutral, thus granting people the right to marry regardless of the sex of the spouses. In other countries, same-sex couples have been recognized by judicial action.⁵⁹

55. Other countries described legislation that grants legal recognition to unmarried couples or de facto unions. The Swedish Cohabitees Act (2003) provides minimum protection to members of de facto unions in the event of separation. In Chile, Law No. 20.830 (2015) approved the Civil Union Agreement (AUC), which recognizes the legal effects of unmarried couples, including same-sex couples. As part of their domestic

⁵⁷ UNDESA, Report of the Expert Group Meeting: “Family policy in a changing world: Promoting social protection and intergenerational solidarity” (Doha, Qatar, 14/16 April 2009), pp.8-9, available at: <http://www.un.org/esa/socdev/family/meetings/egmreportdoha09.pdf>

⁵⁸ Copies of all submissions can be found at <http://www.ohchr.org/EN/HRBodies/HRC/Pages/ProtectionFamily.aspx>.

⁵⁹ See Submissions by Colombia, Mexico, and the United States.

legislation in relation to the family, many States reported the existence of special instruments aimed at the protection of family members against violence and abuse.

56. In Bosnia and Herzegovina, the Law on Gender Equality affords protection against gender-based violence, while the territorial entities in the country have adopted legislation regarding domestic violence and the protection of family members in this context. Oman similarly reported the existence of an overarching set of legislative measures protecting women from all forms of violence against women, including sexual and intra-family violence, as well as from trafficking and new forms of slavery (Decrees 74/2007 and 126/2008).

57. Trinidad and Tobago passed in 2012 the Children Act, which increased the legal protection of children against sexual abuse, prostitution and child pornography. The bill introduced reforms in several areas, including the definition of child; the introduction of new statutory sexual offences against children and higher penalties to persons convicted of crimes against children or a new minimum age for compulsory of basic education.

B. Specialized agencies and governmental bodies

58. In Azerbaijan, the State Committee on Family, Women and Children (SCFWA) serves as a coordination forum for national efforts in cooperation with civil society organizations. The National Family Council of Cape Verde and the National Technical Table on the Family of Colombia, follow a similar multi-stakeholder model.

59. In addition to the model of family councils, a number of countries reported the existence of coordinating agencies at the Executive level. For instance, in Mexico, the National System for Integral Family Development (Spanish: SNDIF) is the federal institution responsible for family welfare. In the United Arab Emirates, the official body responsible for family affairs is the Supreme Council for Motherhood and Childhood.

C. Family-based approaches to policy-making

60. In Mexico, the General Law on Social Development (2010) identifies the family as one of the subjects of development, along with individuals, social organizations and vulnerable groups. The law requires State authorities to provide families with development opportunities and to allow for their participation. The National Commission on Human Rights, the Mexican Ombudsman institution, has implemented since 1993 a Program on Childhood and Family Affairs, which encourages the implementation of a human-right based approach in national policy-making.

61. Iran adopted in 1996 the policy document “Main objectives and principles and policies to strengthen families,” which defines a common action plan for the country’s family policies. All relevant executive agencies and entities are to implement the policy and report annually on their activities in this area.

62. The United Kingdom government introduced in 2014 a “family test,” with the objective of ensuring that the policy-making process takes into consideration the potential impacts of new policies on family relationships. Among the various issues covered by the test, policy makers are requested to be aware of the potential direct and indirect impact that a new policy can have on families most at risk and address how to support these families.

D. Family-focused anti-poverty policies

63. Under the programme “Families in their Land” (FEST), Colombia supports poverty reduction through a myriad of measures, which include support for housing, food security, labour and community support. The programme is tailored specifically to meet the needs of families impacted by the armed conflict in the country, as well as of returned or relocated families.

64. In Mexico, the Programme on Social Inclusion (PROSPERA) specifically targets families living in poverty. The programme aims to breaking the inter-generational poverty circle through capacity building, monthly monetary allowances; scholarships, and preventive health, including vaccination and sexual education).

65. The Russian Federation has undertaken special employment programmes to support families affected by the world’s financial crisis, through targeted part-time employment, employment quotas and training and re-training opportunities. A Presidential decree of 2012 provides for the training of women during extended maternity leave periods as well as special employment programmes for women taking care of dependent children.

E. Social security

66. In Argentina, family allowances cover various family situations, such as marriage, birth, or adoption, as well as an annual child allowance is provided to families with children of school age. In addition, a Universal Child Allowance (AUH) is provided to families in certain circumstances, including those in which parents are unemployed, earn a salary equal or minor to the national minimum salary, work in the informal sector, or are domestic or seasonal workers.

67. In Bosnia and Herzegovina, the main social security instruments of the countries’ territorial entities, the Federation of Bosnia and Herzegovina’s Law on Social Protection, Protection of Civilian War Victims and Families with Children (1999), and the Republika Srpska’s Law on Social Protection (1993), provide maternity allowance during the period of pregnancy and childbirth.

68. In the Russian Federation, under the provisions of the Federal Law on State Subsidies to Individuals with Children (1995), the State provides one-time allowance for child birth as well as monthly child allowances to single-parent families.

69. In Sweden, the Parental Leave Act affords both mothers and fathers the right to be on parental leave from work, as well as extended family leave and reduced working hours. Swedish social security grants parents economic compensation for income loss when staying at home with the child. In addition, the Government grants automatic financial support for all children who have residence in the country.

F. Other social protection measures

70. In Argentina, the Bicentenary Credit Plan Single Family Housing (PROCREAR) includes the concession of mortgages for the construction of repair of family homes. Hungary provides a social housing subsidy to families wishing to buy, build or expand a house. In the Russian Federation, housing programmes target families with special needs, such as young families and large families. Modalities include access to credit, affordable mortgages, and land allotments. In Sweden, housing allowances are granted to families with children living at home, as well as to low-income families.

71. As part of the National Plan on Food Security, in Argentina the “Pro-Orchard” (Pro-Huerta) programme contributes to improving and diversifying family nutrition. In Colombia, the Network of Food Security (ReSA) supports families with access to food and education on healthy consumption patterns. In addition, the IRACA program supports food security with an ethnically differentiated approach. Mexico implements a variety of programmes in support of disadvantaged families under the Integral Strategy of Social Food Assistance. Likewise, Saudi Arabia implements emergency cash and food programmes as part of wider government efforts to support low income families and families in crisis situations.

G. Special programmes for vulnerable children

72. State submissions reported a myriad of institutional measures aimed at the protection of children, especially children in situation of vulnerability or risking marginalization, as a central component of family policies. As indicated by one submission, “[t]he family is the first shield against any form of violation of children’s rights.”⁶⁰

73. For instance, in Bahrain a Child Protection Centre was established in 2007 to provide social, psychological and legal assessment, treatment and follow-up services for child victims of ill-treatment, physical and sexual abuse, and psychological neglect. In Cape Verde, a network of Youth Centre, Emergency Centres and Tele-centres provides care, counselling and psychological support for children at risk. Chile has adopted a similar preventive approach to its child protection policy with 175 Focused Prevention Programmes (PPF), aimed at precluding violations of children rights. In Oman, Child Protection Committees focus on preventing violence, exploitation and abuse.

75. The National Action Plan for orphans and vulnerable children of Zimbabwe supports the implementation of community based child protection programmes, and includes a central HIV and AIDS mitigation component. Child protection committees are responsible for the implementation of the action plan.

V. Conclusions and recommendations

76. **The review on international human rights law and practice is illustrative of a broad consensus regarding the potential contribution of families to the well-being and development of their members, and of society as a whole. It further reveals the convergence of international human rights standards, on the one hand, and of the universally accepted outcomes of international conferences and summits, on the other, regarding the recognition of families’ role in the ensuring the right to an adequate standard of living of their members, including by promoting sustainable development and poverty reduction. The 2030 Agenda for the Sustainable Development is the latest expression of the existing international consensus, committing States to promote cohesive families as part of an integrated and comprehensive approach to sustainable development.**

77. **This consensus regarding the role of families in sustainable development is grounded in a number of common elements. These include the need to recognize the diverse and changing forms of the family institution, in accordance with the different social, cultural and economic characteristics of every society; the promotion of equality between men and women; and the effective protection and promotion of the**

⁶⁰ Submission by Association Pope John 23rd (APG23), p. 2.

rights of women, children, persons with disabilities, older persons and any other family member, without distinctions. Moreover, ensuring universal access to sexual and reproductive health services, including family planning, should be an integral part of development efforts.

78. The submissions received from and other stakeholders reveal that the implementation by States of their obligation to protect and support families may take many forms, ranging from legal measures to a wide range of social protection policies and programmes. They include family-focused policies, as well as family-based approaches to general policy-making.

79. The design and implementation of policies in the context of the 2030 Agenda should be guided by human-rights based approaches that support families in performing their valuable societal functions while respecting and ensuring the effective realization of the rights of family members.
