

Discussion of “protection of the family” at Human Rights Council must reflect diversity and focus on human rights

Our organizations, representing a wide range of civil society from all regions of the world, urge the UN Human Rights Council to ensure the Panel discussion entitled “protection of the family” scheduled to take place in September reflects the diversity of family forms and includes a focus on the promotion and protection of human rights of individuals within the family unit.

The decision to hold the Panel came in a resolution passed on 26 June 2014, as a result of the deeply flawed “protection of the family” initiative led by Egypt and other States¹ at the UN Human Rights Council.

The manner in which the initiative has been pursued gives rise to concern that some States will seek to exploit it as a vehicle for promoting a narrow, exclusionary and patriarchal concept of “the family” that denies equal protection to the human rights of individuals who belong to the various and diverse forms of family that exist across the globe.

It also contravenes individuals’, including children’s, unequivocal right to non-discrimination on the basis of family status. These include, for instance: unmarried couples, with or without children; single-parent families; families headed by children or grandparents; joint families; extended families; kinship; families of divorced individuals; intergenerational families; families that include same-sex relationships. These also include community-based arrangements and, where children are concerned, any other care-giving environment that can provide for their care, nurturance and development consistent with their best interests.

Previous UN resolutions on the family include language, agreed by all States, that recognized that “various forms of the family exist”. The authors of the resolution deliberately omitted this language, despite this issue being consistently raised by other States throughout the negotiations.

Attempts by a number of States to reintroduce the language agreed by consensus on “various forms of the family” in the resolution were rejected by the States in the core group in informal negotiations, without ever providing a substantive reason for the refusal, despite numerous attempts to elicit a response from the core group. The unprincipled refusal to accept this agreed language suggests highly politicized intentions of some of the States behind the resolution to remove from recognition families that do not conform to a narrow conception of the family.

When the previously agreed language “various forms of the family” was brought as a formal amendment during the voting process on the resolution,² the Russian Federation and other co-sponsor States used a procedural tactic (the “no action motion”), widely condemned by other States and civil society (and which has only ever been successfully used on one other occasion since the formation of the Council in 2006), to prevent the Council from even considering the amendment.³

Our organisations condemn the use of this wholly inappropriate procedural tactic to block discussion in a manner fundamentally incompatible with the purposes of principles of the Human Rights Council. The no action motion has been designed and intended as a procedure available for States to stop the Council taking up a question not appropriately within its purview - a circumstance that was patently inapplicable in respect of this amendment. In voting for this motion, Algeria, Benin, Botswana, Burkina Faso, China, Congo, Cote D'Ivoire, Ethiopia, India, Indonesia, Kazakhstan, Kenya, Kuwait, Morocco, Namibia, Pakistan, Russian Federation, Saudi Arabia, Sierra Leone, South Africa, UAE, and Venezuela betrayed their responsibilities as members of the Council to uphold the highest standards in the promotion and protection of human rights. At the same time, many of these same States insisted that the Panel would be open to a discussion by all of all forms of the family. They must now respect that commitment going forward.

Some States, supported by civil society, had attempted during the informal negotiations to ensure that the resolution clearly acknowledged and addressed the fact that the family is also a setting in which human rights abuses sometimes take place. According to the UN Secretary General, the most common form of violence experienced by women globally is intimate partner violence,⁴ commonly referred to as domestic violence, which includes marital rape. These States affirmed that protection of the human rights of individuals within every family should be of paramount concern to the Human Rights Council.

Their efforts were partially successful: Egypt eventually agreed that the Panel topic would be “on the protection of the family and its members to address the implementation of States’ obligations under relevant provisions of international human rights law and to discuss challenges and best practices in this regard” (emphasis added). A preambular paragraph was also added that reaffirms “that States have the primary responsibility to promote and protect the human rights and fundamental freedoms of all human beings, including women, children and older persons”. Unfortunately, the text of the resolution still does not give enough emphasis to this important aspect.

Following the defeat of the “diversity” amendment, the resolution remained so deeply flawed that many States were effectively compelled to vote against or abstained on the resolution. Those States are to be highly commended. Austria, Chile, Czech Republic, Estonia, France, Germany, Ireland, Italy, Japan, Montenegro, Republic of Korea, Romania, UK, USA voted against the resolution. Argentina, Brazil, Costa Rica, Mexico, Peru and Macedonia abstained. (Cuba was absent for both votes).

It is also noteworthy that Saudi Arabia and Pakistan had tabled an amendment that attempted by implication to limit the concept of family to forms based on “the union of a man and a woman”,⁵ though this was eventually withdrawn.

It is important that the UN High Commissioner for Human Rights, who is responsible for organizing the panel discussion, ensures that the Panel

contributes to the promotion and protection of rights of individuals within families in all their diversity.

Our organizations will continue to insist on recognition that various forms of the family exist, and that individuals should not be discriminated against as a result of the form of family to which they happen to belong. States should not fail to promote and protect the rights of persons because they belong to particular forms of family. We will continue to insist that the promotion and protection of the human rights of individuals within all families must be of the paramount importance to the UN Human Rights Council.

Action Canada for Population and Development

Amnesty International

ARC International

Article 19

Coalition of African Lesbians

COC Netherlands

Colectivo Ovejas Negras

CREA

Defence for Children International - DCI Costa Rica

Eurochild

Federation of Women and Family Planning

Franciscans International

International Commission of Jurists

International Lesbian, Gay, Bisexual, Trans and Intersex Association

International Service for Human Rights

Make Mothers Matter

Sexual Rights Initiative

Truth and Reconciliation for the Adoption Community of Korea

Women's International League for Peace and Freedom

World Young Women's Christian Association

¹ The draft resolution was submitted by Angola, Bahrain, Bangladesh, Benin, Bosnia and Herzegovina, Botswana, Burkina Faso, China, Côte d'Ivoire, Egypt, El Salvador, Ethiopia (on behalf of the Group of African States), Indonesia, Jordan, Lebanon, Mauritania, Morocco, Namibia, Nigeria, Philippines, Qatar, Russian Federation, Sierra Leone, Sri Lanka, Sudan, Tunisia, Uganda, and Zimbabwe.

² The amendment was proposed by Argentina, Austria, Chile, Colombia, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Guatemala, Hungary, Ireland, Italy, Lithuania, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay.

³ The voting for the **no action motion** was as follows: **In favour:** Algeria, Benin, Botswana, Burkina Faso, China, Congo, Cote D'Ivoire, Ethiopia, India, Indonesia, Kazakhstan, Kenya, Kuwait, Morocco, Namibia, Pakistan, Russian Federation, Saudi Arabia, Sierra Leone, South Africa, UAE, Venezuela. **Against:** Argentina, Austria, Brazil, Chile, Costa Rica, Czech Republic, Estonia, France, Germany, Ireland, Italy, Japan, Mexico, Montenegro, Peru, Republic of Korea, Romania, Macedonia, UK, USA. **Abstained:** Gabon, Maldives, Philippines, Viet Nam. Cuba were out of the room at the time of the vote.

⁴ A/61/122/Add.1, 6 July 2006, In-depth study on all forms of violence against women: Report of the Secretary-General, para. 112.

⁵ The proposed amendment read: "Recognising that men and women of full age, without any limitation due to race, nationality or religion, have the rights to marry and to found a family, bearing in mind that marriage is a union between a man and a woman."