



OUTRIGHT
ACTION INTERNATIONAL

SUMMARY

Human rights Council resolution 29/23 requests the High Commissioner for Human Rights to prepare a report on the impact of the implementation of State obligations with regard to protection of the family, and on the contribution of families in realizing the right to an adequate standard of living for their members.

In implementing their obligations, States must recognize (as highlighted in agreed language of the General Assembly and ICPD Programme of Action) that diverse forms of the family exist, and ensure that individuals within families are able to exercise equal enjoyment of their human rights without discrimination on the basis of age, sex, race, religion, class, ability, sexual orientation, gender identity, intersex status or any other status. This includes recognizing that families are often sites of violence, particularly against women, children and the elderly. Violence and abuse within the family presents a serious obstacle to the realization of the right to an adequate standard of living and are contributing factors to people living in poverty.

Lesbian, gay, bisexual, transgender and intersex (LGBTI) people are among those most at risk of violence in the 'private sphere' from members of the extended, immediate family and the community. This violence can include home confinement, mental and psychological abuse, corrective rape, forced marriage, forced surgery, and killings.

Family members who are more vulnerable to discrimination or abuse are less likely to have equal access to basic rights such as food, shelter, sanitation, and health care, and are more likely to experience homelessness and further violence.

This may be compounded by discrimination in and exclusion from education and employment. Lack of capital and financial resources, accompanied by low levels of education and generally poor health status, exacerbate socio-economic vulnerabilities of those most at risk to discrimination and violence within family contexts.

The Human Rights Council and UN Member States have a duty to discuss eliminating the discrimination, violence and inequalities that exist within families in order to comprehensively consider the contribution of families in realizing the right to an adequate standard of living.

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Human Rights for LGBTIQ People Everywhere

Recognizing diverse forms of the family

Over the past 50 years, global trends such as the phenomenon of demographic ageing, delayed marriage, migration and single parenthood, have resulted in the change in family structure. The Human Rights Council must recognize agreed UN language reflecting the reality that “in different cultural, political and social systems various forms of the family exist”.¹

In avoiding discussion on the diversity of family forms, the Human Rights Council fails to support the ability of all families to realize their social and economic rights. Various family forms exist in all contexts and regions. This can include, but is not limited to, extended families, single-parent families, nuclear families, joint families, same-sex families etc. Having a narrow definition of the family could result in the denial of basic help and public services to families such as child-headed households. Any human rights based discussion on protecting families must have regard for and address the distinct needs of families in all their diversity.

Violations against family members as a hindrance to realizing the right to an adequate standard of living

Under international human rights law it is individuals, not families, that are rights holders. UN Special Procedures and Treaty Bodies have drawn attention to violations within the family, including the perpetuation of harmful traditions and practices which often stem from patriarchal beliefs, gender stereotyping, sexism and heteronormativity. Such attitudes foster an environment in which women and girls are subjected to gender-based discrimination and violence.

Prejudice, stereotypical attitudes and intersecting forms of discrimination within families, based on race, class, age, ability and other grounds compound gender-based discrimination, and are often accompanied by physical and psychological abuse. It has been estimated that one in three women across the world has been beaten, raped, or otherwise abused during the course of her lifetime. Survivors of domestic violence are often isolated from support networks and financial resources by their abusers. They may lack a steady income, employment, and landlord references which places them at risk of homelessness. As violence against women is rooted in multiple forms of discrimination and inequalities, and strongly linked to the social and economic situations of women, it is up to the State, not the family as a unit, to implement policies to ensure the economic and social rights of the individual are protected.

Negative family experiences, for example if a child is brought up in an abusive, dysfunctional, neglectful, or impoverished family environment, are contributing factors to economic disempowerment. Lesbian, gay, bisexual, transgender and intersex (LGBTI) people are among those most at risk of violence in the ‘private sphere’ from members of the extended, immediate family and the community. This violence can include home

¹ GA resolution 59/147, PP2; GA resolution 65/277, para. 43, GA resolution S-26/2, para. 31, GA resolution S-27/2 (“A world fit for children”), para. 15, ICPD Programme of Action Principle 9, ICPD Programme of Action paras. 5.1 and 5.2(a)

confinement, mental and psychological abuse, rape, forced marriage, forced surgery, and killings.

Family members who are more vulnerable to discrimination or abuse are less likely to have equal access to basic rights such as food, shelter, sanitation, and health care, and are more likely to experience homelessness and further violence.

This may be compounded by discrimination in and exclusion from education and employment. Lack of capital and financial resources, accompanied by low levels of education and generally poor health status, exacerbate socio-economic vulnerabilities of those most at risk to discrimination and violence within family contexts.

LGBTI persons face real and serious threats that undermine their ability to achieve an adequate standard of living. Due to the instabilities that individuals within families may face from these adversities, responsibility for upholding rights should be placed on the State, not on an elusive concept of a 'family unit'.

Addressing human rights violations in the family

Under GA resolution 60/251 the Human Rights Council has a mandate to address State obligations to address all human rights concerns, including abuses experienced by individuals within the family. The policies and measures that are offered in HRC resolution 29/23 do not explicitly require States to criminalize or punish violence or abuses in the family. The Human Rights Council and UN Member States have a duty to discuss eliminating the discrimination, violence and inequalities that exist within families in order to comprehensively consider the contribution of families in realizing the right to an adequate standard of living.

In doing so, the promotion and protection of the human rights of individuals within families should be the foremost consideration of initiatives on this theme at both the international and the domestic level. The State has a responsibility to protect individuals from serious abuses that are committed within families, and this can only be achieved if individuals, and not families, are treated as right-holders. Dealing with the concept of the family from an individual rights-holder perspective, while taking into account existing inequalities and forms of discrimination, offers the opportunity to promote and protect the economic and social rights of family members, and thereby contributes to the fulfillment of the right to an adequate standard of living for all persons within all families.