



G L O B A L H A W C

Helping to Advance Women and Children

Preliminary study of the HRC Advisory Committee on promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind

Global Helping to Advance Women and Children (Global HAWC) offers this submission to assist the Human Rights Council Advisory Committee in better understanding the contribution of universal traditional values in furthering human rights and fundamental freedoms. Global HAWC is an ECOSOC-accredited non-profit organization that promotes sound family policy based on social science data.

Ensuring that the Final Study Meets the Objectives of HRC Resolution 21/3

Human Rights Council Resolution 16/3 did not define traditional values, but indicates that values common to all humanity exist and are not in conflict with human rights. Human Rights Council Resolution 21/3 recognizes that “all cultures and civilizations in their traditions, customs, religions and beliefs share a *common set of values* that belong to humankind in its entirety, and that those values have made an important contribution to the development of human rights norms and standards” (emphasis added). HRC Resolution 21/3 also notes “that traditional values, *especially those shared by all humanity*, can be practically applied in the promotion and protection of human rights and upholding human dignity, in particular in the process of human rights education.” (emphasis added).

The preliminary study distributed by the Human Rights Council Advisory Committee in June 2012, however, spent far too much effort identifying and discussing conflicts between certain traditional (but not universal) practices and human rights. The HRC Advisory Committee should exercise more effort in identifying those traditional values common to all cultures and civilizations, and their role in developing and promoting human rights. The United Nations already has a number of mechanisms that address human rights abuses, and using Resolution 21/3 as another mechanism for doing so would not only be duplicative but also undermine its original intent.

Global HAWC wishes to draw the attention of HRC members, and in particular the Advisory Committee, to two universal traditional values that have *not* been sufficiently raised in the preliminary study. These traditional values cross all cultures and civilizations and are enshrined in the Universal Declaration of Human Rights (UDHR) and subsequent human rights instruments, yet do not receive sufficient attention by the United Nations for their critical role in promoting other human rights. These interdependent, universal values are: (i) the family as the natural and fundamental group unit of society, and (ii) the prior right of parents to choose the kind of education that shall be given to their children.

Protecting the Family as the Natural and Fundamental Group Unit of Society

As one of the principal drafters of the Universal Declaration of Human Rights noted, “[t]he family [is] the cradle of all human rights and liberties” because it is “in the family that everyone learned to know his *rights and duties*.”ⁱ The founding documents of the UN system acknowledge that the family is the cradle – not only of human rights – but also of society and civilization itself. Article 16 of the UDHR proclaims that “[t]he family is the natural and fundamental group unit of society”ⁱⁱ and is entitled to “protection by

society and the State.”ⁱⁱⁱ Regarding marriage and family life, the Declaration proclaims that “[t]he right of men and women of marriageable age to marry and to found a family shall be recognized”^{iv} and “motherhood and childhood are entitled to special care and assistance.”^v The Declaration also recognizes the primacy of the family unit on questions related to the education and moral upbringing of children; specifically, Article 26 establishes that parents have “a prior right to choose the kind of education that shall be given to their children.”^{vi}

These universal traditional values incorporated as human rights into the UDHR have been further elaborated upon and reinforced by subsequent UN Conventions. For example, the International Covenant on Civil and Political Rights declares the family to be “the natural and fundamental group unit of society and is entitled to protection by society and the State.”^{vii} Chapter II, Principle 9 of the International Conference on Population and Development notes that “husband and wife should be equal partners.”^{viii} The Convention on the Rights of the Child, for its part, recognizes that the “child, by reason of his physical and mental immaturity, needs special safeguards and care before as well as after birth.”^{ix} Various UN conferences, including the World Summit for Children, affirm that “[t]he family has the primary responsibility for the nurturing and protection of children from infancy to adolescence.”^x And consensus language adopted at the UN Conference on Human Settlements and UN Conference on Environment and Development commits the international community “to the recognition of family, in its supporting, educating and nurturing roles,”^{xi} “with respect for cultural, religious and social aspects, in keeping with freedom, dignity and personally held values.”^{xii}

The family is the natural and fundamental group unit of society because it is where each member learns his rights and duties, or in other words, enjoys certain intrinsic and absolute values that are passed on from generation to generation. In 1995, a treatise compiled by the United Nations University, concluded that – even in situations of direst poverty – the single most important factor influencing social outcomes for individuals is whether they are members of a strong, stable family. As the authors found, “Children thriving in poor communities were statistically most likely to live in families characterized by traditional fireside family values; devoted mothers and fathers, happy marriages, and warm cooperative bonds with siblings, grandparents, other relatives and the broader community.”^{xiii}

The social science data overwhelmingly show that stable marriages provide profound physical, mental, emotional, economic, educational, social, and other benefits for the men, women and children in those families.^{xiv} In contrast, the breakdown of marriage and the family imposes significant social and other costs upon individuals and society at large, impacting the human dignity and associated rights of those affected.^{xv}

Protecting Parental Rights is Critical to Strengthening the Family

As referenced earlier, and in harmony with universal traditional values, the UDHR expressly notes that “Parents have a *prior* right to choose the kind of education that shall be given to their children.”^{xvi} These parental rights also have been enshrined in subsequent UN conventions. For example, the Children’s Summit stressed: “Parents, families, legal guardians and other caregivers have the *primary* role and responsibility for the well-being of children, and must be supported in the performance of their child-rearing responsibilities.”^{xvii} Parental rights form an integral part of the family as the fundamental group unit of society, and when properly exercised, are essential in safeguarding the dignity, rights and welfare of children.

In accordance with Part 1, paragraph 5 of the 1993 Vienna Declaration and Program of Action, HRC Resolution 21/3 recognizes that “all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing, and that all human rights must be treated in a fair and equal manner, on the same footing and with the same emphasis.” As one law professor aptly explained, parents have “internationally recognized rights . . . to educate their children in the ways they see fit accordance with

the parent's moral and religious convictions. One particular conviction is the parental promotion of abstinence from sexual relations until the child enters adulthood and marriage. The challenges to these rights question the history, the traditions, the culture, and the matters of greatest importance to families, communities, and nations that are protected under international legal instruments. The significance of these rights increases when one takes account of the fact that these traditional influences of family life are where children learn the importance of virtue, civility, respect and love for others, compassion, selflessness, and cooperation, to mention but a few of the important lessons essential to a flourishing human existence. When parental and family rights recognized by multi-national and regional treaties, as well as the UDHR, are interfered with, other rights concerning traditions, religion, customs, and culture cherished by many throughout the world are also open to challenge and even eradication.^{xxviii}

Currently, treaty monitoring bodies are undermining parental rights and thus the family by attempting to create new and independent rights for adolescents and children that do not reflect universal traditional values or international human rights instruments. Specifically, the CRC Committee has repeatedly tried to undermine the *primary* role that parents have to raise their children by requesting that States (1) vest in children the right to medical assistance; (2) provide “child sensitive” counseling; and (3) allow access to sexual information, family planning services, and contraception –all without parent knowledge and/or consent.^{xix} The CRC Committee and the CEDAW Committee have argued that children should have a right of privacy that can insulate them from the benefits that parents and elders wish to pass on to them about a civil, responsible, and loving married life.^{xx} These committees erroneously assume that the child is an equal partner in the family and needs no parental instruction on life and how it is to be lived. Indeed, the CRC Committee has asked States to prevent *any* form of corporal punishment^{xxi} and the CEDAW Committee has advocated the need for the State to provide “sex education and practical family planning” to children regardless of the type and content of education parents wish for their offspring.^{xxii}

In its study, the Advisory Committee should highlight the positive linkages between protecting the family, protecting parental rights and the dignity, welfare and rights of children. The core international legal instruments recognize that “[t]he family [is] the cradle of *all* human rights and liberties” because it is “in the family that everyone learned to know his *rights* and *duties*.”^{xxiii} As pointed out earlier, however, certain treaty bodies and the work of “experts” associated with the UN are eroding these universal and mutually reinforcing rights with approaches they have urged on governments that would break the natural linkages between mothers and fathers, and parents and children.

Conclusion

The natural family plays a pivotal role in transmitting universal core values that underlie the human rights in the UDHR and subsequent conventions. HRC Resolution 21/3 stresses “*the important role of family, community, society and educational institutions in upholding and transmitting these values, which contributes to promoting respect for human rights and increasing their acceptance at the grass roots, and calls upon all States to strengthen this role through appropriate positive measures*” (emphasis added). The Advisory Committee’s study should identify those “appropriate positive measures” to help States strengthen the role of the family in promoting respect for human rights. Such measures must be based in large part on an accurate understanding of the constructive role universal traditional values play in society.

ⁱ Morsink, 1999, at 255 (emphasis added).

ⁱⁱ Universal Declaration of Human Rights, Art. 16-3. *See also* International Covenant on Economic, Social and Cultural Rights, Art. 10-1; International Covenant on Civil and Political Rights, Art. 23-1

ⁱⁱⁱ Universal Declaration of Human Rights, Art. 16-3; *compare* International Covenant on Economic, Social and Cultural Rights, Art. 10-1 (the family is entitled to “the widest possible protection and assistance”).

^{iv} Universal Declaration of Human Rights, Art. 16-1; International Covenant on Civil and Political Rights, Art. 23-2.

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- ^v Universal Declaration of Human Rights, Art. 25-2.
- ^{vi} Universal Declaration of Human rights, Art. 26(3).
- ^{vii} The International Covenant on Civil and Political Rights, Article 23.
- ^{viii} International Conference on Population and Development, Chapter II, Principle 9; United Nations Conference on Environment and Development, Chapter II, ¶ 31.
- ^{ix} Convention on the Rights of the Child, Preamble.
- ^x World Summit for Children, ¶ 18.
- ^{xi} Second United Nations Conference on Human Settlements, Chapter III, ¶ 40-k.
- ^{xii} United Nations Conference on Environment and Development, Health ¶ 6.12.
- ^{xiii} Marian F. Zeitlin, Ratna Megawangi, Ellen M. Kramer, Nancy D. Colletta, E.D. Babatunde, and David Garman, *Strengthening the Family: Implications for International Development* (United Nations University Press 1995) at 1.
- ^{xiv} *See, e.g.*, “Why Marriage Matters: 26 Conclusions from the Social Sciences” (2nd Edition, Institute for American Values, 2005); L. Verbrugge, “Marital Status and Health,” 41 *Journal of Marriage and the Family* 267-86 (1979); R.H. Coombs, “Marital Status and Personal Well-Being: A Literature Review,” 40 *Family Relations* 97-102 (1991).
- ^{xv} *See, e.g.*, Patrick Fagan, “How Broken Families Robe Children of Their Chances for Future Prosperity,” *The Heritage Foundation Backgrounder*, No. 1283 (June 11, 1999); Craig H. Hart, Ph.D., “Combating the Myth that Parents Don’t Matter,” at 3; available on-line at www.worldcongress.org.
- ^{xvi} Universal Declaration (1948), Article 26 (3).
- ^{xvii} Children Summit+10 (2002), 32-2.
- ^{xviii} Robert Araujo, “Sovereignty, Human Rights, and Self-Determination: The Meaning of International Law,” 24 *Fordham Int’l L.J.* 1477, 1501-02 (June 2001) (citing UDHR Art. 26.3, ICCPR Art. 13.3 and ICESR Art. 13.3).
- ^{xix} *See* Concluding observations of the Committee on the Rights of the Child: Uganda (2005), RC/C/UGA/CO/2; Concluding observations: Georgia (2008), CRC/C/GEO/CO/3; General Comment No. 3 (2003) – HIV/AIDS and the rights of the child, CRC/GC/2003/3.
- ^{xx} *See, e.g.*, individual State reports of the CRC including CRC/C/15/Add.90, (Japan) PP15-36.
- ^{xxi} General Comment No. 8 (2006) – The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, CRC/C/GC/8.
- ^{xxii} *See, e.g.*, Eighteenth Session Report of CEDAW, A/53/38 (Part I), PP148, 160-161 (Zimbabwe); 349 (Dominican Republic); Sixteenth and Seventeenth Sessional Report of CEDAW, A/52/38/Rev. 1, Aug. 12, 1997, P236 (Venezuela); Fifteenth Session Report of CEDAW, A/51/38, May 9, 1996, P260 (Hungary).
- ^{xxiii} Morsink, 1999, at 255 (emphasis added).