INCLUSIVE FAMILIES:

REALISING GENDER EQUALITY, SRHR AND HUMAN RIGHTS

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Inclusive Families:
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ACKNOWLEDGEMENTS

LIST OF ACRONYMS

AIDS	Acquired Immune Deficiency Syndrome
ARROW	Asian-Pacific Resource & Research Centre for Women
BPfA	Beijing Platform for Action
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CEFM	Child, Early and Forced Marriages
CESCR	Committee on Economic, Social and Cultural Rights
CRC	Convention on the Rights of the Child
CSE	Comprehensive Sexuality Education
FGM	Female Genital Mutilation
HIV	Human Immunodeficiency Virus
HRC	Human Rights Council
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICPD	International Conference on Population and Development
LGBT	Lesbian, Gay, Bisexual and Transgender
LGBTI	Lesbian, Gay, Bisexual, Transgender and/or Intersex
Norad	Norwegian Agency for Development Cooperation
PoA	Programme of Action
RH	Reproductive Health
RR	Reproductive Rights
SH	Sexual Health
SOGI	Sexual Orientation and Gender Identity
SOGIE	Sexual Orientation, Gender Identity and Gender Expression
SR	Sexual Rights
SRHR	Sexual and Reproductive Health and Rights
SRI	Sexual Rights Initiative
STIs	Sexually Transmitted Infections
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNESCO	United Nations Education, Scientific and Cultural Organization
WHO	World Health Organization

INCLUSIVE FAMILIES: REALISING GENDER EQUALITY, SRHR AND HUMAN RIGHTS

Azra Abdul Cader

Framing a Focus on the Family

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The family is a grouping of individuals traditionally defined to include a legally married heterosexual man and woman, and their children i.e. the nuclear family. As a unit, it is considered to be the most basic unit of contemporary society. Although a basic system in many societies, the family is by no means simple in nature. The complexity of the family is impacted by its members, the social system it functions within, community, religious and cultural influencers, and patriarchy as well as the systems and processes present in varied contexts. As a primary group in human society, the protection of the family has been raised in recent years in international forums, as an issue which requires addressing as it is perceived to be coming under attack. Its protection has been raised on the grounds that such efforts ensure the wellbeing of individuals, especially dependents, and to maintain its cultural dominance in society – by cultures, religions, societies as well as by governments, through United Nations (UN) treaties, conventions and by civil society. These intentions are not as simple as they seem and more recently these efforts have intensified in the face of growing conservatism and religious extremism.

The terms "family" and "families" are used here to refer to all forms of family, recognising that multiple forms exist.[1] These are based on choices and/or circumstances of individuals and some forms ensure a full realisation of human rights, including their Sexual and Reproductive Health and Rights (SRHR), while others limit rights. This approach acknowledges and respects the diversity of the family and the varied forms of family that exist in our societies, perhaps more so in the present. On the other hand, the term "traditional family" refers to the traditional nuclear and gender conforming unit comprising a heterosexual man and woman, who are legally married and living with their biological children with/without extended family such as elderly parents.

While at the onset, the protection of the family might appear to be a noble unquestionable cause, closer examination of such calls for protection shows that it can be detrimental to human rights, especially that of the most vulnerable, including women and girls and their SRHR. The broad call for the protection of the family i.e. the traditional family, has been raised in spaces such as the UN Human Rights Council in Geneva, amongst others, by State Parties who have tabled and passed a series of Resolutions over the past years.[2]

These efforts denounce the existence of multiple forms of family and the recognition and fulfilment of individual rights. It ignores the existence of oppression and harmful practices and their impact on women and girls that takes place within the family sphere. It ignores that a family is not always a safe space. It does not recognise human rights violations that are caused and justified within the family, and the existence of legal processes, laws and policies that encourage such violations. These result in under reporting or lack of reporting by victims, often due to the fear of further violations such as domestic violence, limited service provision and unaccountability of perpetrators. It removes culpability and accountability from States towards all its citizens, especially the most vulnerable. Women and girls, throughout their lifecycle, are denied control

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[1] See page 7 onwards.
[2] See page 16 onwards.

and decision-making power over their bodies and lives. They are coerced and controlled into abiding by "rules" that are devised and put into effect by others, usually male members – usually regarded as the unquestionable heads of the family unit – who are handed such power as a result of patriarchy and patriarchal forms of oppression within the family.

Elevating the traditional family and recognising it to be the only form of family in society in need of protection makes explicit that other forms of families do not exist, are unaccepted, and have no place in social systems. This goes against the reality and the existence of multiple forms of family across the globe as well as individual choice. For individuals, this stance also hides human rights abuses within the family, diminishes their ability to make choices and exercise their decision-making power, while inhibiting a range of rights that are enshrined in human rights law and agreements. Additionally, non-recognition prevents realisation of SRHR, particularly rights on sexuality, sexual diversity and orientation, partner selection, reproduction amongst others, and implies granting of authority of control over these individual rights to specific actors within the unit.

This Thematic Paper attempts to add to the discourse on the family with a focus on achieving SRHR.

- Firstly, it presents an overview of the issues that are related to discourses surrounding the family, particularly focusing on women and girls – in terms of their individual rights, the diverse forms of family, and how some individuals within the family can have their rights violated, withheld and/or limited throughout their lifecycle. In doing so, the paper examines SRHR, illustrating how these rights can be the most violated within the family, and are justified by religion, culture and patriarchy.
- Secondly, it discusses attempts to use notions of the traditional family in order to limit human rights in spaces, particularly within the Human Rights Council, in the recent past.
- Thirdly, it provides recommendations for greater consciousness of efforts to limit human rights and the work of human rights defenders by citing the protection of the (traditional) family. This includes identifying opportunities for greater collaboration and engagement on the related issues as a means of greater assurances of SRHR.

The Thematic Paper draws on secondary sources that analyse family systems and structures, and rights violations including SRHR. It provides examples of efforts to ensure the traditional family is protected through narrow policy processes and State support. It also uses national research that was undertaken by the Asian-Pacific Resource and Research Centre for Women (ARROW) and national partners to illustrate and provide examples in relation to the broader topic.[3]

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[3] Thematic research was done on the interlinkages between religion (including religious fundamentalism and extremism) in India, Sri Lanka, Pakistan, Bangladesh, the Maldives, Indonesia, the Philippines, Malaysia, Morocco and Egypt. This work is sourced individually when used in this document and included in the reference list.

The Family: Changing Shapes and Sizes

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Family is an important social institution. It is the primary grouping in society and plays a vital role in socializing individuals. In its narrowest definition, the family is defined as a nuclear family and a unit that comprises a man at the head of the family, a woman, and their child/children. The head of the traditional family is usually considered to be male.

It is undeniable that the family as an institution is heterogeneous in form and function across the globe. In reality though, there are many forms of the family, including those that are legally bound through the institution of marriage and those not legally bound by marriage. Families may include immediate and extended members, single parents, divorced parent/s, people of diverse sexuality, and polygamous people. Families may be childless, headed by women or children, or supported by the elderly (including grandparents) and guardians, and others (see Box 1 for a detailed list).

As Edwards (undated) notes, children, may experience a number of structures as they grow and these structures may constantly change, including within the family. She classifies all forms as being "normal" for those who are living in the said family. The varied family structures have different needs, strengths and values. It is up to each family to define what their family is called and use terminology to refer to the unit, while recognizing that they continue to be the social unit that is part of the broader grouping in society.

Any form of family evolves over time and those within it experience this change. In the United States of America, the family has been through the most change in the past 50 years with the sharp decline in marriage. This change has also been shaped by class, race, age and changing economic trends, as well as lower incomes and greater inequality in society. Marriage is no longer considered a precondition to family formation (Pew Research Center 2010).

Globally, changes have been linked to demographic transitions as a result of increasing numbers of young people and the elderly, greater migration, pandemics such as HIV and AIDS and the effects of war, conflict and globalization (Quah 2003). More recently, the effects of climate change could also contribute to the changing composition, dynamics and function of the family.

A study on the family focusing on countries in East Asia and Southeast Asia found structural changes in the family have taken place with postponement of marriage and increasing divorce rates. The nature and intensity of changes varied across countries where data was available. Socio-economic development is a strong influencing factor to remaining unmarried (ibid.). Inter-generational families remain a strong feature in Asian families due to housing constraints, cost of living and care needs of dependents – both children and the elderly, with the elderly sometimes involved in caring for grandchildren (Esteve and Liu 2009).

Despite the existence of multiple forms of the family globally, there is resistance to change. In the United States of America, research by the Pew Research Centre (2010) indicates that people who disapprove of some new types of family are less willing to describe unmarried co-habiting couples or parents as a family. There is a greater tendency for them to consider married couples with or without children and single parents with children to be a family. They are less open to giving the same consideration to same-sex couples either with or without children. They reason that a child needs a mother and father in order to be happy and they have rigid opinions about traditional gender roles in marriage. This analysis is limited to Asia and its sub-regions but one could hypothesize that various factors including religion and culture could influence and present similar trends in attitudes.

A number of things become evident from the range and heterogeneity of the family for consideration. The family is constantly evolving and to note only one form exists presents a narrow and misleading interpretation of human relationships. All these family forms contribute to human relationships and how these relationships form over the course of time. The connectivity between these units, their placement within wider communities, nations and across countries and continents form the wide tangled web of humanity. It is complex and should be acknowledged and treated as such. This complexity is not negative.

The family, regardless of form, includes an organisation of roles and responsibilities and this enables and requires interactions that determine positions of power.

BOX 1: TYPES OF FAMILY, A GROWING LIST

NUCLEAR FAMILY
A family consisting of a married man and woman and their biological children.

SINGLE PARENT FAMILY
This can be either a father or a mother who is individually responsible for the raising of a child. The child can be by birth or adopted. They may be a single parent by choice or by life circumstances. The other parent may have been part of the family at one time or not at all, or may continue to be involved.

ADOPTIVE FAMILY
A family where one or more of the children has been adopted. Any structure of family may also be an adoptive family.

TRANS-RACIAL ADOPTIVE FAMILY
A family where the adopted child is of a different racial identity group than the parents.

BI-RACIAL OR MULTI-RACIAL FAMILY
A family where the parents are members of different racial identity groups.

BLENDED FAMILY
A family that consists of members from two (or more) previous families. Families may use a variety of terms for the various family members (such as Step-dad etc.) and have varying connections with extended family members.

BROKEN HOME
A derogatory term used to describe the homes of children from divorced families.

CO-CUSTODY FAMILY
An arrangement where divorced parents both have legal responsibility for their children. Children may alternatively live with both parents or live with one and have regular visitation with the other.

CONDITIONALLY SEPARATED FAMILIES
A family member is separated from the rest of the family. This may be due to employment far away; military service;

incarceration; hospitalization. They remain significant members of the family.

EXTENDED MULTI-GENERATIONAL FAMILY
A family which includes elderly grandparents or aunts and uncles and they may or may not be involved in the children's upbringing and pass on learning to children by being involved in their upbringing. This may or may not include those relatives living with the children. These family members may be in addition to the child's parents or instead of the child's parents.

FOSTER FAMILY
A family where one or more of the children is legally a temporary (of varied period) member of the household.

FAMILIES OF PEOPLE OF DIVERSE SEXUAL ORIENTATION AND GENDER IDENTITIES, INCLUDING TRANSGENDER PEOPLE
A family where one or both of the parents' sexual orientation is gay or lesbian or transgender male or female. This may be a two-parent family, an adoptive family, a single-parent family or an extended family. These families may or may not have full legal rights similar to that of marriage (civil union).

IMMIGRANT FAMILY
A family where the parents have moved away from their native country to live in another country. Their children may or may not be immigrants. Some family members may continue to live in the country of origin, but have a significant role in the life of the child.

MIGRANT FAMILY
A family that moves regularly to places where they have employment. This can be from rural to rural areas such as with farming populations and military families who go through periodic relocation. Migrant families also live across countries, travelling alone leaving one partner and children behind, or both partners working as migrants while the children are taken care of by older parents or other relatives or friends.

REFUGEE AND INTERNALLY DISPLACED FAMILIES
This includes families who are unable to continue living in their homes due to a crisis brought on by conflict or adverse

climate conditions and relocation is often under emergency conditions or due to lack of security.

POLYGAMOUS FAMILY
A state of being married to more than one spouse. For a man to have many wives it is polygyny and vice versa it is polyandry.

SINGLE PERSON HOUSEHOLD
People who live alone by choice or by circumstance, including those who are not married or in civil union.

SINGLE COUPLE HOUSEHOLDS
People who live as a couple, including same sex couples, may or may not be legally married, have no children, or children have left the home, and are elderly.

FEMALE-HEADED HOUSEHOLDS
Households that are headed by women (who may be young or elderly), which may or may not include adult males, with or without children, and with or without single mothers and other children who are unemployed.

HOUSEHOLDS HEADED BY CHILDREN AND ADOLESCENTS
Usually they have been orphaned, are affected by HIV and AIDS, are young mothers forced to leave their homes due to pregnancy, or left to care for younger siblings.

CARE FAMILIES
Families caring for relatives who are living with illness, including HIV and AIDS, members with disabilities, children with special needs or elderly in need of care.

THOSE WITHOUT FAMILIES AND SAFE HOUSEHOLDS
Including persons who are homeless, mentally disabled, affected by domestic and sexual abuse, or adolescents who have left dysfunctional family settings, or have been abandoned by parents.

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Source: Adapted from Edwards (undated) and developed further by the author.

This is different to how gender roles and responsibilities are considered within those in the unit. As such they can be oppressive or deliver equality and empowerment. How positions of power are decided and enforced is related to a notions influenced by religion, culture, tradition and other factors. All these forms can be support systems or systems of oppression. Neither is exclusive nor time bound. If all forms are not recognized, then protection mechanism that have to be in place for individuals will not cover violations and abuses that can take place within all these forms of the family. This implies that rights for certain family members will be eroded and lead to increased marginalisation when it comes to remedy and redress.

There is certainty today that the traditional family is not the standard. The evolutionary and changing nature of the family raises questions as to whether there should be only the recognition of multiple forms or if there should also be consideration of contexts and how the family evolves within particular contexts. What influences this change, including the impact of broader socio-cultural and economic conditions? How should policy actions consider and plan for these changes? What have been the changes in gender roles and its effects on family changes? Are there further questions that need to be answered on this basis? Understanding the nature of the family and individual needs and rights within the multiple forms then become a priority as opposed to sustaining and protecting a given form.

The family, regardless of form, includes an organisation of roles and responsibilities and this enables and requires interactions that determine positions of power. This is different to how gender roles and responsibilities are considered within those in the unit. As such they can be oppressive or deliver equality and empowerment. How positions of power are decided and enforced is related to a notions influenced by religion, culture, tradition and other factors. All these forms can be support systems or systems of oppression. Neither is exclusive nor time bound.

The Traditional Family: Aiding or Preventing SRHR?

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Sexual and Reproductive Health and Rights (SRHR) are rights that have to be considered in their totality rather than selectively. The universality of SRHR and access to these rights includes the availability of services and information related to SRHR and the ability of the population to gain access to these without discrimination. When this is limited, there is clearly a need for SRHR that is not being fulfilled.

REPRODUCTIVE HEALTH
Within the framework of WHO's definition of health as a state of complete physical, mental and social well-being, and not merely the absence of disease or infirmity, reproductive health addresses the reproductive processes, functions and system at all stages of life. Reproductive health, therefore, implies that people are able to have a responsible, satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. Implicit in this is the right of men and women to be informed of and to have access to safe, effective, affordable and acceptable methods of fertility regulation of their choice, and the right of access to appropriate health care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant (World Health Organization, also in Thanenthiran, Racherla, and Jahanath 2013, 22).

REPRODUCTIVE RIGHTS
Reproductive rights are human rights recognised in the national laws and international human rights and consensus documents that give the opportunity for couples and individuals to have the desired number of children when they want to, have access to adequate information and means to do so, and the right to attain the highest standard of SRH. It encompasses the ability to make reproduction related decisions free of discrimination, coercion and violence, as expressed in human rights documents (ICPD in ibid., 22).

SEXUAL HEALTH
According to the current working definition, is ". . . a state of physical, emotional, mental and social well-being in relation to sexuality; it is not merely the absence of disease, dysfunction or infirmity. Sexual health requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination and violence. For sexual health to be attained and maintained, the sexual rights of all persons must be respected, protected and fulfilled."[5] (WHO 2006a)[6]

SEXUAL RIGHTS
WHO, in contributing to the ongoing debate on sexual rights, notes that "there is a growing consensus that sexual health cannot be achieved and maintained without respect for, and protection of, certain human rights. The working definition of sexual rights given here is a contribution to the continuing dialogue on human rights related to sexual health."

"The fulfilment of sexual health is tied to the extent to which human rights are respected, protected and fulfilled. Sexual rights embrace certain human rights that are already recognized in international and regional human rights documents and other consensus documents and in national laws. Rights critical to the realization of sexual health include: the rights to equality and non-discrimination, the right to be free from torture or to cruel, inhumane or degrading treatment or punishment, the right to privacy, the rights to the highest attainable standard of health (including sexual health) and social security, the right to marry and to found a family and enter into marriage with the free and full consent of the intending spouses, and to equality in and at the dissolution of marriage, the right to decide the number and spacing of one's children, the rights to information, as well as education, the rights to freedom of opinion and expression, and, the right to an effective remedy for violations of fundamental rights. The responsible exercise of human rights requires that all persons respect the rights of others. The application of existing human rights to sexuality and sexual health constitute sexual rights. Sexual rights protect all people's rights to fulfil and express their sexuality and enjoy sexual health, with due *regard for the rights of others and within a framework of protection against discrimination.*"[7] (WHO, 2006a, updated 2010)[8]

4   See http://www.who.int/topics/reproductive_health/en/
5   See http://www.who.int/reproductivehealth/topics/sexual_health/sh_definitions/en/
6   See WHO (2006a). Defining sexual health: Report of a technical consultation on sexual health, 28–31 January 2002. Geneva, World Health Organization.
7   See http://www.who.int/reproductivehealth/topics/sexual_health/sh_definitions/en/
8   See WHO (2006a). Defining sexual health: Report of a technical consultation on sexual health, 28–31 January 2002. Geneva, World Health Organization.

Research by the Pew Research Centre (2010) shows that in the United States of America those who are not in favour of single mothers, same-sex couples raising children and other non-traditional arrangements tend to believe that these arrangements have negative consequences to individuals; seemingly discounting the negative influences that the traditional family can have. Their perception is further rationalized by the notion that a child needs both a mother and father at home to be happy, or that marriage is at its best when spouses have traditional gender roles. Thus perception and attitudinal change is an integral component of ensuring a rights framework in relation to the family and recognition of multiple forms of the family.

In many contexts in the Asian-Pacific region, the "accepted" form of family is the nuclear family i.e. the traditional family, and the rights that are assured are a direct response to preserving this form of family. This does not mean that other forms do not thrive. They do. However, the traditional family is a means of transferring traditions and belief systems from other generations. Each member of the family has a role to play in sustaining this system. It is the place where gender roles are defined and stereotypes are perpetuated.

BOX 2: EXAMPLES OF HARMFUL PRACTICES AND VIOLENCE AND DISCRIMINATION WITHIN THE TRADITIONAL FAMILY

Efforts to ensure that the "family", and not individuals within the family, is protected means that protection is at the expense of the individuals that comprise these families. As a result, these practices and acts of violence and discrimination become invisible. This can take place in many ways:

- **Girls and women have an unequal position with the family in comparison to boys and men**, which can manifest in a number of ways – in choices around education access, adequate nutrition, child labour, domestic labour, care responsibilities, nature of work, age of marriage and access to health and other services. Girls are also considered to be a financial burden and investments in their present and future wellbeing are not considered a priority in comparison to that of boys, who are perceived to be providers for parents, especially when the parents grow old.

- **Child marriage**, including early and forced marriage, can affect both boys and girls within a family. However, girls are more disproportionately affected. In such instances, the decision to give an individual in marriage is often that of the parents, especially the father. His decision may be enabled by religious laws that allow or obscure the age of marriage or facilitate it with the approval of religious leaders. The practice can have severe physical and psychological effects on the wellbeing of girls throughout their life cycle. Once married, girls may face domestic violence and forced pregnancy. Reporting and registrations of such early age marriages may not be legally required, while existing laws prohibiting the practice may not be enforced and protect perpetrators, supporting the invisibility of the practice.

- **Female genital mutilation,** which according to the World Health Organisation (WHO), are procedures that involve partial or total removal of external female genitalia or other injury to the female genital organs for non-medical reasons including religious and cultural justifications such as control of sexual desire, virginity and safeguarding women's honour. The practice is facilitated by family members and is usually done when girls are at a young age, before puberty. It is also considered a rite of passage into womanhood, in preparation for marriage. There may not be laws banning the practice which usually takes place in unsterile conditions and done by unskilled practitioners. As with child and early marriage and forced marriage, girls who face the practice are disempowered from reporting abuse as the perpetrators are also their caregivers.

- **Parents control content and young people access to Comprehensive Sexuality Education (CSE)**, by limiting information, deciding on the appropriate issues that young people should learn and be taught, allowing their own perceptions and attitudes to control information and influencing processes that attempt to provide access to such information to young people, such as policies, school programmes and curricular, through interventions.

- **Parental, guardian and spousal consent is required to access reproductive and sexual health such as contraception information and services and with regards to medical treatment.** "Laws and policies

require parental consent for minors to access testing for HIV and other sexually   transmitted infections (STIs), SRH treatment or other SRH services including contraceptives without regard to the specific needs and circumstances of the young person seeking access to services." (UNCESCO 2013, 2). Some countries have requirements of marriage or spousal consent to access services such as contraception and sterilization (ibid.).

- **Lack of recognition of marital rape (also knows as intimate partner violence and spousal rape) and availability of laws for prosecution** are influenced by how violence is defined and perceived, religious interpretation of the roles and responsibilities of spouses, the perception of law enforcers of the role of the family, and their conviction that acts within it take place within a private domain, to be ignored, not investigated and therefore not to be held accountable.

- **Domestic violence** includes violence that takes place within the family and is usually perpetrated by the head of household and/or other males against women and girls. Law enforcement is usually not adequate as the nature of violence is hidden; women are unable to make complaints due to weak legal mechanisms and attitudes of law enforcement officials. Parallel legal systems may not also offer women protection, often favouring the perpetrator.

- **Sexual diversity and alternative sexualities are opposed** because heterosexuality is considered the norm. Individuals   are ostracised and face stigma, discrimination and violence from family members as a result.

SRHR VIOLATIONS PERPETUATED WITHIN THE TRADITIONAL FAMILY

The limitations of focusing on the traditional family are most apparent with regards to SRHR. Given the contentious and sensitive nature of matters related to SRHR, it becomes central to family related control and abuses. Furthermore, the close relations that these rights have with a woman's honour, her movement, bodily integrity and wellbeing makes it easier for controls to be effected by a range of actors. At the same time, gender norms and inequalities as well as stereotypes and patriarchy serve to further facilitate limitations surrounding

these rights. The informal and closed nature of the family, as a private space, provides adequate protection to those who enforce rules and actions that limit rights. Thereby even existing protection mechanisms become inaccessible to those who are affected. This section showcases and illustrates how the traditional family can limit SRHR.

Comprehensive Sexuality Education (CSE) (UNESCO 2016) "is an age-appropriate, culturally relevant approach to teaching about sex and relationships by providing scientifically accurate, realistic, non-judgemental information. Sexuality education provides opportunities to explore one's own values and attitudes and to build decision-making, communication and risk reduction skills about many aspects of sexuality. The term comprehensive emphasizes an approach to sexuality education that encompasses the full range of information, skills and values to enable young people to exercise their sexual and reproductive rights and to make decisions about their health and sexuality."[9]

Research in India and Bangladesh (Balasubramanian, Ram Prakash and Srilakshmi 2016 and Sabina 2016) show that as children reach puberty and grow older, the fear of punishment is used by parents and elders to discourage sexual activity before marriage rather than providing access to adequate information that helps them make informed decisions. CSE is limited, as children have limited access to information resources on sex and sexuality for fear that it would encourage pre-marital sex and experimentation, especially amongst girls.

Being sexually active and reproduction is tied to marriage, with social systems in place to facilitate it. There is no information provided or available freely for access on safe sex practices, access to contraception information and services, and gender relations. In some countries, parental consent is required to access services, including contraception, which prevents young people from seeking information and services, and being compelled to rely on information available to peers and the internet.

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[9] See http://www.unesco.org/new/en/hiv-and-aids/our-priorities-in-hiv/sexuality-education/

In the Indian case, parents tend to feel CSE is more beneficial to girls, highlighting the influence of gender norms, gender specific roles and responsibilities within the family. The preference to abstinence-only education implies that a sex-positive approach cannot be implemented easily (Balasubramanian, Ram Prakash and Srilakshmi 2016). In Bangladesh, SRH education is dominated by discourses that are linked to health or morality, emphasising biological factors and the negatives aspects of sex (teen pregnancies, disease, abuse, or violence) (Sabina 2016).

Another study shows that in China, the male centred line (patrilineal) of descent gives precedence to males, sometimes the eldest male in the family, who are also considered important to continue the family line. Male members, including those within the family a woman marries into, are considered more superior to women. Inheritance is also regulated through this. In the extended family, care and responsibility towards elder parents usually from the male line is considered to be that of the children. In a nuclear set-up the husband is central and seen as the provider, while the wife plays a complementary role, her main function being reproduction and continuing the lineage (Hu and Scott 2016). This shows that the lack of equality between men and women is institutionalized and permeates into every aspect of a woman's life. It is also considered the norm and unchangeable, which further reinforced gender norms.

Research from Egypt and the Maldives (Abdelaal 2017 and SHE 2016) illustrate how a woman is considered to be under the control of her family, her virtue and honour being closely protected and linked to retaining the honour of her family. This is relevant in terms of services and information provision that requires spousal or parental consent and other provisions that require women to be married in order to access services. As such, these controls are often seen throughout her lifecycle and passed on from her father to her husband. Choices made regarding her life may or may not involve her – she may be fed, clothed, educated equally or not to boys in the family. Her voice and agency are limited. She is forced to have children even when her body is not always capable of bearing children (such as in child, early and forced marriage), as reproduction is her primary role, resulting in maternal mortality and morbidity. Women have limited access to safe abortion services, which can be criminalized or made selectively available in cases of endangering the life of the mother, rape, or incest.

This lack of control enables and perpetuates domestic violence. The level of dependence on the family system does not allow women to access available services and hold perpetrators who are from within the family accountable. The Bill voted in by Russian parliament in January 2017 that decriminalizes domestic violence is illustrative of this. The Bill weakens access to already existing services and justice processes. Women would be forced to face continuous abuse by partners within a framework that denies recognition of violence unless certain conditions are met – such as more than one instance of violence and proof of physical injuries. When convicted, punitive action is also limited, including minimal fines, community service and a short period of arrests. The law also disregards previous attempts to address domestic violence in Russia when in 2016 parliament adopted amendments criminalizing violence against relatives. Opponents to these moves did so on the grounds that it would have a negative impact on traditional family values. The Russian Orthodox Church also criticized the amendment as lacking "moral justification and legal grounds." These stances and attempts are indicative of dangerous attitudes towards women and justifying the use of violence against them (HRW 2017).

Clearly, while considered a protective space, the family can also be the site of coercion, oppression and violence, including physical, emotional, psychological, social, and economic forms. The family can have perpetrators of harmful and traditional practices, including child and sexual abuse, female genital mutilation, child, early, and forced marriage, marital rape, dowry related violence, honour killings and other forms of domestic violence that reside within the family (Mitra 2013).

In the case of sexual health, access to services and information on sexually transmitted infections (STIs) including HIV and AIDS is not only limited but also fraught with widespread stigma and discrimination from service providers to care givers, including family members. The affected may be forced to leave home because they have brought dishonour and the associated stigma to the family (Devi 2016).

Further, "HIV/AIDS-related stigma and discrimination reinforce and interact with pre-existing stigma and discrimination" (ibid., 326). This is also evident within the family context. Examples in India reveal that the level of discrimination and violence faced by women living with HIV and AIDS or whose husbands are infected or have died of the illness, is much higher than men within families. They are blamed, rejected and lose their

children and place in the marital home as well as have greater care burdens and loss of access to inheritance and property. Widows lack economic support, are deprived of basic needs and are abused. The shame associated with returning to the birth home is greater when associated with the illness and has negative effects on her wellbeing within the birth home. Women are blamed for infecting their partner or not controlling his urges that led to infection. The quality of care provided in the family is less for women than men (Devi 2016).

The re-enforcement of gender inequality is a crucial factor in social exclusion of women living with HIV and AIDS. The fear of social isolation towards the family further enables stigmatisation and discrimination within the family towards those living with HIV and AIDS (ibid.).

In terms of sexual diversity, the traditional family can serve to reinforce inequality and oppression. Within the traditional family, sex and sexual activity are generally taboo and gender identities are not expected to manifest beyond the accepted gender binary. Sexual diversity and alternative sexualities are opposed and those who are of these identities are often shunned from existing families and forced to live ostracized, forced to seek "treatment" and/or enter into a heterosexual relationship (Gibson and Macleod 2012 and Cornelius and Whitaker-Brown 2016).

Those adults who were identified to be religious in the Pew Research Center in the United States of America were less likely to view same-sex or unmarried couples as families. They did not see a same-sex couple raising a child, childless same-sex couples and unmarried couples with no children as a family. If same sex couples or unmarried couples do not have children, or they are single patents, they are more accepted as a form of family (Pew Research Centre 2010). These views point to the existence of levels of acceptance when it comes to claiming sexual rights and its influence on forms of the family. This implies an attitude of intolerance when children are involved, perhaps due to passing on of these values and influencing young minds, and greater openness to accepting adults, who may not have the opportunity for the same influence.

In terms of sexual diversity, the traditional family can serve to reinforce inequality and oppression. Within the traditional family, sex and sexual activity are generally taboo and gender identities are not expected to manifest beyond the accepted gender binary. Sexual diversity and alternative sexualities are opposed and those who are of these identities are often shunned from existing families and forced to live ostracized, forced to seek "treatment" and/ or enter into a heterosexual relationship (Gibson and Macleod 2012 and Cornelius and Whitaker-Brown 2016).

The traditional family reinstates heteronormativity through heterosexism[10] and related practices that take place within the family and in broader society. Policies regarding the family reaffirm heterosexuality as being the "normal" and "natural" sexuality (Kitzinger 2005: 477 in Gibson and Macleod 2012). Heterosexism can manifest in many ways – speech and practices that reinforce heterosexuality to physical and sexual violence against LGBT people (Kitzinger 2005 in Gibson and Macleod 2012). Institutionally heteronormative practices and policies privilege heterosexuality and deny the existence of LGBT people. Heterosexism and its manifestations are influenced by social, cultural, and geographical location. LGBT people can face heterosexism in their family relationships which is not always overtly discriminatory and requires them to constantly navigate a space that can be sometimes safe and accepting and a cause for discomfort, coercion, violence, discrimination and stigma (Gibson and Macleod 2012).

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[10] Discrimination or prejudice against homosexuals on the assumption that heterosexuality is the normal/only accepted sexual orientation.

The "Sanctity" of the Family

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Religion is said to be a bond between human beings and gods, which, in turn, ties humans to each other, which in turn forms the basis of social life (Aytac 2016).

The family is positioned as sacred or important in the religious texts and interpretations of all major religions. Across the main religions practised in the Asian-Pacific region, the family i.e. the traditional family is also considered an integral part of nurturing and continuing the religion. For many individuals within the family, religion is an important part of their lives as well as of the collective. However, religion, and the use of religion, is never simply a personal experience and even within the family is extremely political. The institutionalisation of many of the prominent religions means that it has permeated throughout life experiences and influenced many processes including the family. The growing ideologies of conservatism, extremism and fundamentalism influence the curtailment of multiple forms of the family while protecting the traditional family, thereby limiting rights related to SRH.

Family is a vehicle to transmit faith, through which family tradition is also passed on. It ensures the continuation of property and prosperity, name and honour, and respect for forebears (Glaser 2002). The role of the family is to protect a certain way of life and a certain set of beliefs, which are passed on to offspring, ensuring that members do not stray off the accepted path, which in turn would endanger the survival of the religion. A certain form of family is considered the natural union and others are considered un-natural. According to Starr Sered (1991), religion, religious practice and family are complementary spheres of interest, activity and concern. They are inseparable and overlapping.

"The Bible affirms family as a primary characteristic of human beings made in the image of God. But that which has potential for good also has potential for evil, and Genesis indicates disruption of family as a major result of the fall." (Glaser 2002, 24).

" . . . the Muslim family is the building block of the Muslim community, its preservation is essential to the security of the community; and because leaving the faith implies

leaving the family, it is the more important that people remain Muslim as well as within the family . . ." (Glaser 2002, 26).

Buddhism[11] involves the renunciation of all familial ties— following the ideal model of the Buddha himself. Thus, many Buddhist texts depict the family as a primary source of attachment, delusion, and suffering. ". . . Yet to survive, Buddhism also relies on a surrounding lay community that is organized on a familial basis." This includes providing advice on the conduct of familial life, and the promotion of rituals and practices for fertility, procreation, and the productivity and success of the family, as well as the necessity for the family to build relationships between parents and children etc. (Ohnuma 2014).

All Hindus are born into a family, belonging to a particular caste, passing through the stages of life by practising the dharma – cosmic law upheld by the gods and expressed through the right behaviours of humans. A man marries to have children, especially male children, to continue the lineage and thereby paying off his debt to his ancestors. Family extends beyond the nuclear family in terms of importance (Rank, undated).[12]

The Pew Research Center's (2010) work finds that resistance to multiple forms of the family comes from adults who consider themselves more religious (measured through those who attend frequent religious services). They favour traditional families that have stereotypical gender roles assigned to its members – a marriage where the husband provides for the family and the wife cares for the home and children – to be the more satisfying way of life. While comparable data is not available and there is greater visibility towards changing family systems in the Asia-Pacific region (Sharma 2012), this is indicative of the influence religion and religious teaching can have on attitudes towards the natural form of the family, which label alternative forms as unnatural, dangerous and to be limited as far as possible.

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[11] The author recognizes here that Buddhism is considered a philosophy by many but is also referred to as a religion.

[12] See http://family.jrank.org/pages/768/Hinduism-Hinduism-Family.html

The continuation of the traditional family should also be considered in the light of growing religious extremism across countries in the region and amongst religions. Religious extremism is "rigid interpretations of religion that are forced upon others using social or economic coercion, laws, intolerance, or violence. It is accompanied by non-fluid definitions of culture, religion, nationalism, ethnicity or sect, which move citizens into exclusionary, patriarchal and intolerant communities" (ICAN and AWID 2014, 2).

Families then become spaces where these interpretations are enforced and passed on. In spaces where there is limited room for discussion, debate and question, the rights of individuals become secondary and irrelevant in comparison to ensuring the continuation of the religion and the rigid enforcement of the teachings. Women who are already subjected to harsh treatment would experience a worsening of conditions with regards to their SRHR and further narrowing of spaces as the push to conform comes from various directions.

Extremist as well as mainstream religious ideologies position the family as an institution and the boundaries of the family (responsibilities, interactions, decision making, voice and agency as well as relations with the external world) as sacred and personal, and requiring protection, away from the eyes of others. Crucially, the concept assists its proponents in the removing of the traditional family outside of the reach of laws and therefore beyond spaces of accountability. It is one way through which extremist views and interpretations of religions, culture and tradition has permeated and been used to control women and girls and their wellbeing by limiting human rights, including SRHR. It places limits on what they can do and who and how they can engage within the world at large – in formal and informal spaces.

Human Rights and Protecting the Traditional Family

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Over the years there have been many attempts to further regressive positions by conservative countries at local, regional and international levels with a focus on specific human rights including by limiting those related to gender equality and sexual rights. However, civil society organisations have

fought back and seen success with hard won battles that have resulted in human rights accountability mechanisms as well as consensus documents such as the Programme of Action (PoF) from the International Conference on Population and Development (ICPD) and the Beijing Platform for Action (BPfA).

Despite these, the strategy of conservative lobbies has evolved in their efforts to limit rights-based policies and interventions. Issues related to SRHR face the most opposition as they have a direct connection with gender equality, empowerment and dismantling of patriarchal power structures. More recently a direct focus on the family, in terms of retaining the traditional heteronormative family, has emerged.

EFFORTS TO ENSURE THE PROTECTION OF THE FAMILY

At the 26th Session of the Human Rights Council in June 2014 a Resolution[13] titled "Protection of the Family" was tabled. The Resolution called for the holding of a panel on the subject in September 2014.[14] It was adopted on June 26, 2014, as a result of a procedural tactic called a 'No Action' Motion,[15] which was introduced by Russia to prevent discussion on an amendment proposed by a cross-regional coalition of 33 states[16] calling for the recognition of members within the family and the existence of various forms of the family in different cultural, political and social systems.[17] A subsequent amendment was tabled by Saudi Arabia and Pakistan that attempted to limit the concept of family to forms based on "the union of a man and a woman." This was an indication of the unwillingness to consider previously agreed language despite previous discussions on the draft Resolution. While noting the inadequacies, a vote was

[13] The Resolution was tabled by Bangladesh, China, Côte d'Ivoire, Egypt, El Salvador, Mauritania, Morocco, Namibia, Qatar, Russian Federation, Sierra Leone, Tunisia and Uganda.

[14] The vote on the "No Action" Motion resulted in 22 in favour, 20 against, with 4 abstentions. Resolution for 2014 https://documents-dds-ny.un.org/doc/UNDOC/LTD/G14/065/59/PDF/G1406559.pdf?OpenElement

[15] The no-action motion is used to interrupt debates at the General Assembly between member States on a draft Resolution; it is put to a vote and requires a majority vote. http://www.china-un.ch/eng/rq/jzzdh/t85074.htm

[16] 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.

[17] See SRI website for amendment - http://sexualrightsinitiative.com/wp-content/uploads/L-20-amendment-Chile-et-al.pdf

BOX 3: REFERENCE TO THE FAMILY IN CONSENSUS DOCUMENTS

ICPD PoA 5.1:
While various forms of the family exist in different social, cultural, legal and political systems, the family is the basic unit of society and as such is entitled to receive comprehensive protection and support. The process of rapid demographic and socio-economic change throughout the world has influenced patterns of family formation and family life, generating considerable change in family composition and structure. Traditional notions of gender-based division of parental and domestic functions and participation in the paid labour force do not reflect current realities and aspirations, as more and more women in all parts of the world take up paid employment outside the home. At the same time, widespread migration, forced shifts of population caused by violent conflicts and wars, urbanization, poverty, natural disasters and other causes of displacement have placed greater strains on the family, since assistance from extended family support networks is often no longer available. Parents are often more dependent on assistance from third parties than they used to be in order to reconcile work and family responsibilities. This is particularly the case when policies and programmes that affect the family ignore the existing diversity of family forms, or are insufficiently sensitive to the needs and rights of women and children (UNFPA 2004).

BPfA 29:
Women play a critical role in the family. The family is the basic unit of society and as such should be strengthened. It is entitled to receive comprehensive protection and support. In different cultural, political and social systems, various forms of the family exist. The rights, capabilities and responsibilities of family members must be respected. Women make a great contribution to the welfare of the family and to the development of society, which is still not recognized or considered in its full importance. The social significance of maternity, motherhood and the role of parents in the family and in the upbringing of children should be acknowledged. The upbringing of children requires shared responsibility of parents, women and men and society as a whole. Maternity, motherhood, parenting and the role of women in procreation must not be a basis for discrimination nor restrict the full participation of women in society. Recognition should also be given to the important role often played by women in many countries in caring for other members of their family (UN 1995).

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called: twenty-six in favour, fourteen against, six abstaining, and one not voting. These events point to the definition of the family that conservative states aim to continue to call for, which is exclusionary, denying the protection of multiple forms of family. The Resolution was used as a means of perpetuating patriarchy, regressing in women's, children's and lesbian, gay, bisexual, transgender and/or Intersex (LGBTI) rights, and misusing international standards (SRI 2014). ARROW published a statement condemning the Resolution and its contents.[18]

In 2015, another Resolution was tabled at the HRC's 29th Session,[19] by a core group of 12 states[20] titled "Protection of the family: The 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". This initiative as a whole is very problematic as it sought to elevate "the family" as an

that families can perpetuate patriarchal oppression and traditions and harmful practices, and that human rights abuses occur within families (such as marital rape, child abuse, female genital mutilation, early and forced marriage, dowry related violence, so-called "honour" killings and other forms of domestic violence). In a sense, it is antithetical to other work of the Council (SRI 2015).

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[18] ARROW Statement 2014 - http://arrow.org.my/statement-on-the-resolution-by-the-hrc-on-protection-of-the-family/

[19] Resolution for 2015 – OHCHR - https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/163/18/PDF/G1516318.pdf?OpenElement

[20] Bangladesh, Belarus, China, Cote d'Ivoire, Egypt, El Salvador, Mauritania, Morocco, Qatar, Russian Federation, Saudi Arabia and Tunisia.

BOX 4: KEY FOCUS OF ARROW'S STATEMENT ON THE PROTECTION OF THE FAMILY RESOLUTION IN 2014 AND 2015

- Critiqued the process of passing the Resolution through the No Action Motion and lack of discussion.
- The focus on one form of family, as opposed to multiple forms of the family, which does not recognise that diverse forms of family exist in different cultural, political and social systems and the contexts these exist in.
- The need to discuss the family beyond the idea of marriage or marriage between a man and a woman and that there is a need for a broad definition of the family so that all forms that may not have origin in marriage can be included and these forms are entitled to similar protection.

- There is currently language that recognises this diversity in UN conventions and consensus documents.
- The family is not the subject of protection in human rights frameworks, the individual is. This fails to recognise individuals within the family as rights holders. This denies the reality that human rights abuses take place within the family. This also deviates from the responsibilities of the State to prevent and protect against such violations.

Source: ARROW 2014 and 2015

This Resolution too, was passed by the HRC using a similar process as in 2014 where more progressive language on the family was dismissed. This Resolution also called for the protection of the family as an institution without acknowledging the rights abuses that take place within the family. Again, it failed to recognise multiple forms of the family. More broadly, moves such as this can be considered to be efforts against the infiltration of so-called western values and efforts to advocate for gender equality, human rights and empowerment as well as acceptance of sexual and gender diversity.It has been also linked to the rise in religious and social conservatism and traditionalism (AWID 2015). ARROW published a statement condemning the Resolution and its contents (ARROW 2015).[21] There have been a number of other statements by rights groups condemning the Resolution citing similar reasons.[22]

Subsequently, the need to "protect the so-called traditional family" was also raised in New York spaces, such as the Commission on the Status of Women, and as part of the Sustainable Development Agenda. These efforts are indicative of the continued efforts to ensure limited human rights for the individual.

In 2016, during the 31st session of the Human Rights Council, the High Commissioner for Human Rights presented his report on the Protection of the family (OHCHR 2016). He noted the lack of definition of the family under international human rights law, the need to recognize the diverse and changing forms of the family, and the importance of promoting equality and recognizing diversity. It referred to the need to recognise the conditions of respect for the principle of equality and non-discrimination, including the equal treatment of women and guaranteeing the best interests of the child.

The protection of the family might appear to be positive but, as noted in this section, it can have debilitating effects on human rights of individuals, with the prospect of affecting marginalised groups the most, with a focus on people of diverse sexuality. These efforts to advance the protection of the family can be considered to have most effect on limiting SRHR as the family is usually the centre of making decisions around accessing or denying these rights. At the same time, preventing a broader definition of family can counter achievements regarding rights on same sex marriage and other progressive steps that have been taken to ensure SRHR. In particular,

[21] ARROW Statement 2015 http://arrow.org.my/statement-on-the-resolution-on-the-protection-of-the-family-at-the-hrc-2/

[22] See:
1. Article 19 – https://www.article19.org/resources.php/resource/37605/en/un-hrc:-%E2%80%9Cprotection-of-the-family%E2%80%9D-a-thin-veil-for-censorship, SRI - http://sexualrightsinitiative.com/2015/hrc/hrc-29-session/sri-condemns-hrc29-resolution-on-protection-of-the-family/
2. http://www.ohchr.org/Documents/Issues/Women/WRGS/JointLetterPresidentHRCProtectionFamily.pdf

effort focusing on raising the need for such a Resolution and attempts to pass it are a direct response to denying the advancement of Sexual Orientation and Gender Identity (SOGI) despite the recent appointment of an independent UN expert to look into LGBT rights and rights abuses in 2016 promoting heteronormativity and heterosexism. Thereby rights regarding human sexuality are denied by controlling and narrowly defining sexual attraction, gender identity and expression, sexual orientation and sexual practices. Indirectly, such efforts can undermine the human rights and efforts to achieve development by adopting a human rights based approach. Thus it is important to consider the reasons behind states' push to protect the traditional family in international forums and look beyond what the family needs protection from. It is also important to review what happens to individual rights in such conditions.

STATE ACCOUNTABILITY

Human rights entail both rights and obligations. Keeping human rights at the centre ensures State accountability. Continued efforts such as the one to Protect the Family is a move to reduce state accountability to rights holders. States are bound by international human rights laws and normative standards – they are duty bearers towards rights holders.

This includes States ensuring the protection of private citizens and other agents under their jurisdiction from abuse. Individuals within the family clearly fall within this focus. When an individual acting in his or her private capacity commits a human rights abuse the state bears responsibility to protect, prosecute and punish. However, the lack of clarity in the nature of government obligations enables State apathy towards ensuring human rights holistically. Yet there is consensus that States have the responsibility to respect (refrain from interfering or curtailing enjoyment of human rights), to protect (individuals and groups from human rights abuses) and to fulfil their obligations (take positive action to facilitate the enjoyment of human rights). Due diligence is the legal standard for assessing the adequacy of government action (Human Rights Advocacy and the History of International Human Rights Standards, undated).

The duty to protect requires the State to take positive action to protect citizens and other people within its jurisdiction from violations that may be perpetrated by private actors or

other states. The State's duty towards this is well established in international law, which entails taking preventive measures, enacting legislation and establishing regulatory and monitoring mechanisms to prevent the violation of human rights in the private sphere and take reactive measures in the case of violations. The obligations relate to civil, political, economic, social and cultural rights. The State has to exercise due diligence to ensure that private actors do not commit violations (Chirwa 2004, 13-14).

At the same time, there is recognition that State action alone is not enough to ensure human rights. With increased privatization access to basic services, including health services, people have become dependent on private providers. Rights can also be violated – such as women's and children's rights in private relations taking place in the private domain (Chirwa 2004).

The principle of universality of human rights is the cornerstone of international human rights law. Together with it comes the guarantee that human rights are inalienable and indivisible (whether they are civil and political rights, such as the right to life, equality before the law and freedom of expression; economic, social and cultural rights, such as the rights to work, social security and education, or collective rights, such as the rights to development and self-determination). They are interrelated and interdependent. The improvement of one right facilitates advancement of the others and the deprivation of one right adversely affects the others. Non-discrimination is a cross-cutting principle.[23]

There can be no loss of sight of individual rights in relation to obligations and processes of ensuring collective rights. Collective rights, the rights of groups, are necessary but not at the expense of individual rights. In this is enshrined that all people are created equal and their rights should not be restricted by the actions of others (Kymlicka, undated).

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[23] OHCHR online – http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx

EXISTING HUMAN RIGHTS NORMS

The family is recognised in various international commitments and obligations. International documents recognise that in different cultural, political and social systems, various forms of the family exist and that while these systems have to be protected, the rights of individuals within them must also be protected and ensured, including those of women and girls. However, the concerted effort by some States to move away from the language of "various forms of families" to one that protects the concept of the "traditional family" are concerning. These efforts must be challenged.

While these instruments make way for protection and the inclusion of a broad definition of the family, they are continuously being challenged and thereby the rights of individuals within the range of families are being undermined. The push towards limiting sexual rights and ensuring holistic SRHR has seen increasing efforts to use the avenue of protecting the family – i.e. the traditional family as a means of doing so.

The Universal Declaration of Human Rights (UDHR), calls on the protection of the family in Article 16. This is used narrowly and selectively by those who are pushing for the protection of the family. Article 16 ensures "(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution. (2) Marriage shall be entered into only with the free and full consent of the intending spouses. (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State" (United Nations).[24] This article refers to all individuals as having equal rights to married life and rights within a family unit. It does not refer to only a man and woman or to the family unit being one that has been built by a man and woman.

UN Consensus Documents

ICPD: In the context of International Conference on Population and Development (ICPD), the principles and the Programme of Action (PoA) recognise the existence of various forms of families in "different social cultural, legal and political systems" (Chapter 5 and Principle 9), which is entitled to receive comprehensive protection and support. The PoA also recognises individual rights as a part of the unit and the need to promote equality of opportunity for members within the family, including women and girls.

BPfA: The Beijing Platform for Action (BPfA) recognises that the rights, capabilities and responsibilities of family members must be respected. It also recognizes that many women face obstacles because of their family status and due to changes brought on by migration, especially those with several dependents. It identifies the family support system and notes that some people may become more vulnerable when they lose it. It calls for the need to include the impact policies and programmes could have on the wellbeing and conditions of the family, within the realm of using a gender perspectivein order to ensure more equitability and equal sharing of responsibility between boys and girls. It calls for a recognition of the roles played by women within the family and removal of the disproportionate burden on women. There is recognition of violence (physical, sexual and psychological) that occurs within the family targeting women, including dowry-related violence, marital rape, traditional practices such as female genital mutilation, and non-spousal violence.[25]

Treaty Bodies

CEDAW: The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) identifies the role that women play in families and the need to ensure non-discrimination within the family through greater equality and recognition of the role that women play and the discrimination that women face that hampers the growth and prosperity of the family. Women make a great contribution to the welfare of the family, and that has to be recognised, including those related to maternity, parenting and raising of children in addition to the shared responsibilities between both parents.[26]

CRC: The Convention on the Rights of the Child (CRC) identifies the family as "the fundamental group in society" and that a child should grow up in a family environment, that is an

24 See http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf
25 http://www.unwomen.org/~/media/headquarters/attachments/sections/csw/pfa_e_final_web.pdf
26 See http://www.ohchr.org/Documents/ProfessionalInterest/cedaw.pdf

atmosphere of happiness, love and understanding (Preamble). States are obligated to ensure that a child is protected, including from actions by family members.[27]

CESCR: The Covenant of Economic, Social and Cultural Rights (CESCR) identifies the family as being the natural and fundamental unit of society – the individual and the family has the right to an adequate standard of living and the continuous improvement of living conditions.[28] The General Comment No. 22 on the right to sexual and reproductive health (article 12) adopted in 2016 states that the right to sexual and reproductive health is indivisible from and interdependent of other human rights. It is linked to civil and political rights underpinning the physical and mental integrity of individuals and their autonomy, such as the rights to life; liberty and security of person; freedom from torture and other cruel, inhuman or degrading treatment; privacy and respect for family life; and non-discrimination and equality (page 3).[29]

CRPD: Committee on the Rights of Persons with Disabilities General Comment 3 (Article 6 – Women with disabilities) notes that ensuring the human rights of women requires a comprehensive understanding of the social structures and power relations that frame laws and policies, as well as of economic and social dynamics including within family life (para 8). It notes that women with disabilities face discrimination within the private sphere including the family (para 18). Article 6 deals with cross cutting issues including SRHR (para 28). It notes that women with disabilities can face violence within the family (para 29), including sexual violence (para 33) and can be at risk of violence from family members (para 35). They can be at risk of harmful practices justified by religion and culture and can experience social isolation, segregation and exploitation within the family (para 36). They have rights to found a family should they wish to (para 38 and 45). They may lack decision-making power within the family (para 44).[30]

Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages affirms that individuals have the right to marry and have a family should they choose to and with free and full consent of spouses. The reference to the term "spouses" does not specify a particular gender of those entering into a marriage. Family is defined as in the UDHR.[32]

ICCPR: The International Covenant on Civil and Political Rights (ICCPR) preamble states that "Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world . . . "[32]

Special Procedures

During the 29th regular session (June/July 2015) of the UN Human Rights Council, four UN Special Procedures — the Working Group on the issue of discrimination against women in law and in practice, the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the Special Rapporteur on the sale of children, child prostitution and child pornography — sent a letter to the President of the Human Rights Council expressing concerns regarding the debates on the Protection of the Family Resolution.[33] The joint letter laid out essential elements for the protection in accordance with international standards. This included rights of individual family members, including women and children within the family; state responsibility to protect individuals from harm, including when that harm is created by the family and perpetuated within the family; the protection of children from violence, including from within the family; the recognition of multiple forms of family and provision of human rights education for all children.

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[27] See http://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf
[28] See http://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf
[29] See http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/GC/22&Lang=en
[30] See http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/3&Lang=en
[31] See http://www.ohchr.org/EN/ProfessionalInterest/Pages/MinimumAgeForMarriage.aspx
[32] See http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx
[33] See http://www.ohchr.org/Documents/Issues/Women/WRGS/JointLetterPresidentHRCProtectionFamily.pdf

CONCLUSIONS

This paper attempts to add to the discourse on the family by presenting an overview of the issues that are related to the family, particularly focusing on women and girls – in terms of their individual rights, the diverse forms of family and how some individuals within the family can have their rights violated, withheld and/or limited throughout their lifecycle. The traditional family is being advocated in human rights spaces, particularly within the Human Rights Council, in order to derail advances relating to SRHR, sexual rights in particular and human rights in general. The limitations of this approach, as noted throughout this paper, are numerous and these efforts are a cause for concern.

De-prioritisation of protecting and ensuring the human rights of the individual: There is recognition of the family as being more important than the rights and protection of human rights of individuals within the family unit. This is particularly limiting to ensuring the rights of women and girls, including realising their SRHR, as their individual rights are not recognised. A range of rights is violated, including the right to non-discrimination, the rights of the child, and elimination of all forms of violence against women.

The Family is considered to be an institution that requires protection: The emphasis on the need to protect the family and the recognition of it as an institution in need of protection overlooks human rights violations that take place within families. Furthermore, the effects of patriarchy on women's and girls' human rights and the space it creates for harmful practices (various forms of violence including marital rape, intimate partner violence, incest, child abuse, child labour, FGM, CEFM, dowry violence, honour killings and other forms of violence) that are enabled through justifications of religion, tradition and culture, amongst others, are ignored.

Only one form of family i.e. the traditional family exists: The existence of multiple forms of the family is ignored. There is also no recognition of individuals, including those with alternative sexualities, who have chosen to construct their own notions of the family.

Protecting culture, tradition and religion through the protection of the family: The move implies that the protection of the family is necessary in order to protect religion, culture, and traditions, as well as safeguard the related practices and identity. This stance hides and accepts the human rights abuses that happen to individuals, particularly affecting women and girls, within families. These rights abuses include the rights to bodily integrity, bodily autonomy, choices over if, when, and with whom to get married, lives and decisions affecting them, freedom of movement and dress, reproductive rights, sexual rights including sexual expression and access to comprehensive sexuality education.

It does not acknowledge that some practices that are justified through religion, culture and tradition, are harmful to members within the family. This includes female genital mutilation; dowry; honour killings; child, early, and forced marriage; incest; various forms of violence including marital rape, intimate partner violence, sexual violence and verbal abuse, corporal punishment; segregation during menstruation; violence related to sexual diversity and more.

RECOMMENDATIONS

RECOMMENDATIONS TO STATES:

Consider the human rights of individuals, including SRHR, as integral to, and over and above, the rights of the family. This should be reflected in policies and programmes. The family is an institution through which the structural causes of gender inequality can and are perpetuated. Narrow definitions of the family, and Resolutions put forward by states using these definitions, do not accurately reflect lived reality in any country of the world. Any efforts to pass such Resolutions should be condemned from the outset by States, civil society and human rights defenders. Ensuring that the existence of diverse forms of family is recognized by States is a critical component. This recognition is important as it falls within the realm of ensuring the rights of those of diverse sexuality, not just in relation to LGBTI rights. States must also recognize and ensure the human rights of individuals, including SRHR in its totality, throughout the life cycle of all individuals within the family.

Furthermore, efforts to protect the traditional family deliberately serve to perpetuate patriarchy, gender norms and stereotypes and related practices, and discrimination of women and girls, particularly in informal spaces where it is easier to hide human rights abuses. Accountability of violators within the family, especially when violations are done by the head of household (usually male), cannot be assured as this usually goes unreported by victims. There is increased inequality within the family and outside of the family, inhibiting the empowerment of women and girls.

The recognition and call for the protection of multiple forms of family, which is evident in all societies, in the ICPD PoA must be upheld by States in a consistent manner. This should then feed into policies and practices that aim to address the broad range of issues that have an impact on the human rights of individuals, including that of women and girls."

Ensure family-friendly policies are rooted in human rights or a human rights based approach (including the pillars of transparency, accountability, international assistance, participation, non-discrimination and human dignity etc.) **and a gender equality and empowerment perspective**. This means putting the individual rights of members of households and the family at the forefront and as guiding principles – especially the rights of women, children and any disadvantaged or vulnerable family member (e.g. due to disability, occupation, such as domestic workers, or those who facilitate child marriage etc.).

Dismantle the centrality of the institution of heterosexual marriage in order to create greater acceptance of multiple forms of family. Just as marriage has to be considered a matter of choice rather than a marker of success into adulthood in order to achieve gender equality and rights, its relevance to the family as the sole pathway to family creation and sustenance has to be questioned. Decision-making needs to be updated to be responsive to these realities and diverse needs and challenges families face. Failure to do so perpetuates cycles of poverty, social exclusion and inequality, undermines human capital accumulation and leaves many behind. Ensure that social protection and related policies are responsive to diverse family structures and priority needs – for housing, children's education, health, special needs.

Ensure universal access to sexual and reproductive health and rights for all through outreach to families and households. This is essential, for example to:

- Ensure all women and couples have access to a wider range of modern methods of contraception and are able to determine the number and timing of children. **SRHR strengthens families** when women are able to control decision-making about their own sexuality and childbearing, they opt for having less children or the number they can provide for and nurture. **Smaller families boost human capital accumulation** – since less children means parents can invest more in each child's nutrition, education and health – resulting in better educated, healthier and more productive generations.

- **Prevent HIV and AIDS** and counsel couples (with emphasis on men) – and prevent transmission, for example from husbands to wives and then to their children during pregnancy – which leads to destruction and impoverishment of entire families.

- **Prevent maternal mortality and morbidity** – which are hugely traumatic events for all family members concerned, reducing chances of children's survival and development, as well as family income and overall well-being. A mother's role, on average, is significantly more correlated than a fathers', to successful outcomes for children and their chances for breaking out of poverty.

- **Provide equal maternity and paternity leave** so that parents can balance their productive and reproductive roles between home and the workplace.

- **Prohibit discrimination based on pregnancy or motherhood** so that girls can complete their education and women can secure decent employment and wages.

- Ensure caregivers and households with particular needs have access to **affordable care** for children, the elderly, the ill, and those living with HIV or disabilities.

- Support **early childhood intervention programmes**, to ensure all children, especially those at risk and living in dysfunctional families and settings, have the same rights and opportunities to physical, cognitive, and social/emotional development.

- Ensure policies, laws, programmes and services address **violence within the family**, including domestic and other forms of violence against women and girls, and child physical, mental and sexual abuse.

- Ensure **universal access to comprehensive sexuality education for all young people both in and out of school**. Beyond biology and prevention, comprehensive

sexuality education equips young people with skills to manage their relationships with values of mutual respect, non-violence, self-care and responsibility. In addition, young people should learn about equal rights within marriage and responsible motherhood and fatherhood.

- Ensure programmes to build **parenting skills**, especially for young mothers and fathers who need support.

Recognise that traditions, cultural practices and religious interpretations do help justify certain human rights abuses that take place within the family and that these have to be countered. State parties are also obligated to ensure that traditional and religious practices and justifications that take place within families, which endanger the wellbeing of women and girls, are addressed through legal means.

Ensure that the family as a unit, functions effectively, and make information on SRHR accessible so that it creates an environment for questioning, consultation and discussion for all its members. Choices regarding marriage, partner and pregnancy, if intended, should be left to the individuals involved and not be considered family and societal considerations. Furthermore, marriage, especially for women, should not be considered an integral part of their lives and a measure of her self-worth and success. By delinking marriage from reproduction, there would be greater acceptance of women and children who do not fall within these set definitions of the traditional family – such as single mothers, children born outside of wedlock, and people of diverse sexuality. Individuals should be able to make choices about their sexuality and have the necessary support of their family, should it be sought. Moreover, by ensuring a woman's reproductive health and rights the family becomes a safe space that facilitates access to rights rather than a source of oppression and control. It is a space that assures healthy lives for women and girls and enables them to maximize their potential.

RECOMMENDATIONS TO CIVIL SOCIETY ORGANISATIONS:

- **Education, including information on human rights, is an important component** of ensuring rights are not violated with regards to these efforts. Make such education accessible to all young people as well as others. For young people, it can be included as part of CSE. This education should recognize the diversity and heterogeneity of families and ensure the rights of individuals within each family are realized.

- Include education on multiple forms of the family, non-discrimination and respect for different types of family, in early childhood programmes up to CSE. These should not only stress the value of all families but also the value of members within all forms of family.
- **Challenge stereotypes** of the family, its role, composition and function and how it should further human rights rather than be used as a means of limiting rights. This should be built into work advocating for human rights, gender equality, empowerment and development in general.
- **Encourage an intersectionality approach** in analysis and in programming that recognizes diversity and the need to ensure the diverse range of rights and human rights for all.
- **Use human rights accountability mechanisms** to report on human rights violations related to the family, urging treaty bodies, consistently, to monitor human rights violations within the family.
- **Create greater awareness** amongst civil society to discuss the effects of this concept and related Resolutions and develop strategies on related interventions at all levels.
- **Monitor** conservative elements, including states and their positions, as well as counter argument from progressive factions and states.
- **Reach out and advocate** to states in advance of future Resolutions on this issue to take a progressive stance during informals and voting.
- **Engage with treaty monitoring bodies**, especially progressive figures in these bodies and relevant Special Procedures. Ensure that Treaty Bodies who are reviewing States, which espouse these Resolutions are questioned on the actions they will be taking to implement the Resolution and issue strong Concluding Observations against such a concept.
- **Provide positive examples/stories** on how children of various forms of families have developed and been brought up in positive, enabling family environments, to effectively advocate the issue.

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Inclusive Families: Realising Gender Equality, SRHR and Human Rights

This Thematic Paper is an initiative of a regional partnership working on building the interlinkages of religion (fundamentalisms and extremisms) on Women's Sexual Reproduction Health and Rights (SRHR). The initiative involved generating evidence from ten countries with national partners from India, Sri Lanka, Pakistan, Bangladesh, the Maldives, Indonesia, the Philippines, Malaysia, Morocco and Egypt. This Thematic Paper was supported by the Norwegian Agency for Development Cooperation (Norad).

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