



General Assembly

Distr.: General
22 December 2014

Original: English

Human Rights Council

Twenty-eighth session

Agenda items 2 and 3

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

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

Summary of the Human Rights Council panel discussion on the protection of the family

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

The present report contains a summary of the Human Rights Council panel discussion on the protection of the family and its members, which was held to address the implementation of States' obligations under relevant provisions of international human rights law and to discuss challenges and best practices in that regard. The discussion took place on 15 September 2014 during the twenty-seventh session of the Human Rights Council, having been mandated in resolution 26/11 adopted on 26 June 2014 during the twenty-sixth session of the Council.



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I. Introduction

1. On 26 June 2014, at its twenty-sixth session, the Human Rights Council adopted resolution 26/11, in which it decided to convene a panel discussion on the protection of the family and its members in order to address the implementation of States' obligations under relevant provisions of international human rights law and discuss challenges and best practices in that regard.

2. The panel discussion was held during the twenty-seventh session of the Human Rights Council, on 15 September 2014. It was opened by Jane Connors, Director of the Research and Right to Development Division of the Office of the United Nations High Commissioner for Human Rights, and presentations were made by the following panellists: Hiranthi Wijemanne, member of the Committee on the Rights of the Child; Aslan Abashidze, member of the Committee on Economic, Social and Cultural Rights; Karen Bogenschneider, Rothermel Bascom Professor of Human Ecology, University of Wisconsin; Zitha Mokomane, Chief Research Specialist, Human and Social Development Research Programme, Human Sciences Research Council of South Africa; and Rosa Inés Floriano Carrera, Coordinator, Department of Life, Justice and Peace, Caritas, Colombia. The panel discussion was moderated by Yvette Stevens, Permanent Representative of Sierra Leone to the United Nations in Geneva.

3. The participants in the discussion were: Argentina, Australia, Austria, Canada, Chile, Colombia, Costa Rica (on behalf of the Community of Latin American and Caribbean States), Croatia, Czech Republic, Denmark, Egypt, Estonia, Ethiopia (on behalf of the African Group), the European Union, Finland, France, Germany, Guatemala, Honduras, Iceland, Iran, Ireland, Italy, Maldives, Mexico, Montenegro, Namibia, Netherlands, New Zealand, Pakistan (on behalf of the Organisation of Islamic Conference), Poland, Qatar, Russian Federation (on behalf of the Like-Minded Group), Sierra Leone, Slovenia, Spain, Sweden, Switzerland, United Arab Emirates (on behalf of the Arab Group), United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay and Zambia.

4. Representatives of the following non-governmental organizations (NGOs) took the floor: Allied Rainbow Communities International on behalf of the International Service for Human Rights, the International Lesbian, Gay, Bisexual, Trans and Intersex Association and the International Gay and Lesbian Human Rights Commission; Plan International on behalf of Child Rights Connect, Defence for Children International, Eurochild, the International Federation of Social Workers, Save the Children International and SOS Children's Villages International; the NGO Group for the Convention on the Rights of the Child; the Howard Center for Family, Religion and Society; Caritas Internationalis; and the Federation for Women and Family Planning.

II. Summary of the discussion

A. Opening statement

5. In her opening statement, Ms. Connors highlighted the fact that the family and the rights of its members were referred to in a range of human rights treaties, in relation to their civil, cultural, economic, political and social rights. The treaties provided the normative foundation for the discussion on how to understand protection of the family and its members. They included the rights of adults to marry and found a family, the free and informed consent requirement for entering into marriage, women's right to equality within

families, and the provision of protection for children, persons with disabilities and older persons as members of the family. She noted the importance of accepting the diverse forms and functions of families among and within countries, including married couples with or without children; cohabiting couples and their children; single parents and their children; families headed by grandparents or including grandparents; older children caring for siblings and other children; registered partnerships with or without children; and same-sex parents and their children.

6. Ms. Connors observed that, despite international legal obligations, women continued to experience discrimination within the family, largely because of stereotypical gender roles that envisaged women as caregivers and men as breadwinners. Consequently, women were often denied equal rights in respect of issues related to marriage, divorce and distribution of marital property, inheritance, custody and adoption. Other serious human rights concerns affecting women, children, the elderly and persons with disabilities included violence within families that often went unreported or was accepted and remained unpunished.

7. She stressed that the family was the very first unit in which the idea that every individual was entitled to human rights should be fostered and promoted, and accordingly States were required to provide it with the widest possible protection and assistance. Ms. Connors recognized that protection was linked to rights, such as the rights to work, an adequate standard of living, social security, health, education and cultural rights. As such, one key issue was the burden of unpaid and undervalued care responsibilities within the family. Predominantly undertaken by women, those responsibilities could hamper women's ability to participate in education and work on an equal basis with men. Consequently, women were economically and socially disadvantaged in both the family and the wider community, and, together with their family, were at heightened risk of poverty.

8. Of particular concern was the situation of single-parent families, usually headed by women. Ms. Connors noted that such women carried a double burden of care responsibilities and were frequently employed in precarious jobs without adequate social security coverage.

B. Presentations of the panellists

9. Aslan Abashidze outlined the relevant international standards, including article 16, paragraph 3, of the Universal Declaration of Human Rights, which stipulated that "the family is the natural and fundamental group unit of society and is entitled to protection by society and the State", and article 10, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights, which provided that "the widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses". He highlighted the fact that article 10 specified that the protection of families included providing assistance to families, and special care to mothers and children, without any discrimination for reasons of parentage or other conditions.

10. Mr. Abashidze also highlighted States parties' obligations under article 2, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights, including the need to take steps to progressively achieve economic and social rights. That should include preventing retrogressive measures that could negatively affect the family, such as cancelling child benefits. He further highlighted the fact that States must protect individual family members from violence and forced separation, and ensure that social assistance was available to families, including affordable housing and where necessary, special measures for mothers and infants.

11. Hiranthi Wijemanne focused her intervention on the Convention on the Rights of the Child, noting that the protection of the family was of direct and particular importance to children's rights. The preamble of that Convention stated that the family was the fundamental group of society and the natural environment for the growth and well-being of its members and, as such, should be afforded the necessary protection and assistance. It did not refer to a single form of family, instead referencing a variety of different forms. The Convention clearly recognized children as rights-holders, which entailed the right of children not to be discriminated against on any grounds, including the type of family in which they grew up; the right to be heard; and the right to preserve their identity, including nationality, name and family relations as recognized by law without unlawful interference.

12. Ms. Wijemanne highlighted the fact that, while families could help promote and protect children's rights, many faced significant hurdles, including economic crises, job loss, temporary employment, lack of regular income and deprivation of basic services. Owing to poverty and other factors, some children were separated from their parents. In that regard, she highlighted the obligations of States to provide families with protection and support to prevent separation.

13. She drew attention to the fact that families could be dangerous places for children, who could experience and/or witness physical and sexual violence, and harmful traditional practices such as child, early and/or forced marriage, so-called honour killings and female genital mutilation. In that context, she underscored the fact that article 19, paragraph 1, of the Convention on the Rights of the Child obliged States parties to take all appropriate measures to protect children from all forms of physical or mental violence, injury or abuse, including sexual abuse, neglect or negligent treatment.

14. Karen Bogenschneider described her work organizing family impact seminars, including presentations, briefing papers and discussion sessions that communicated family-focused, research-based information to policymakers on timely topics, including child and elder care, parenting, poverty and youth crime. In particular, the seminars encouraged policymakers to build consensus by focusing on the family's well-being by asking questions such as: What might the impact of that policy be on families? Would the policy be more effective if families were involved? How does the policy affect individuals' responsibilities towards other family members? How might it impact family stability? She concluded by suggesting three questions, based on her experiences, for the Human Rights Council to consider. First, could the Council emphasize those issues on which agreement and consensus were most likely to be reached? Secondly, if so, would that bring more countries to the table, and would there then be more potential for strengthening family-centred policies? Third, could the Council involve researchers to help identify which research-based family policies and programmes existed and the impact they might have on family well-being?

15. In her presentation, Rosa Inés Floriano Carrera emphasized the importance of taking care of the family unit in conflict and post-conflict situations, since it was usually the family that was most affected by forced migration, disappearances, forced recruitment by armed groups and, in some cases, by members of the same family fighting on different sides. Unless the response took into consideration that complexity, it might do more harm than good, and could bring about further family disintegration. She highlighted the need for both aggregate and disaggregated approaches that recognized individual needs, and suggested that the responses should focus on protecting the family and family links, and on creating a secure base environment.

16. Zitha Mokomane outlined some of the challenges families currently faced, and ways to help protect families. The challenges included poverty, the changing structures of families owing to migration, instability and/or dissolution, the breakdown of traditional family structures and non-marital childbearing, and family unfriendly workplace conditions

structured around the assumed existence of a “male breadwinner/female caregiver” model. Among the possible pathways to address those challenges, she suggested ensuring income and basic social security, including through cash transfer programmes; developing and effectively implementing evidence-based policies; improving the nexus between policymakers and researchers; and including a stand-alone goal on the family in the post-2015 development agenda with measurable, family-focused targets.

C. Interventions by Council members, observer States and other observers

17. All participants emphasized the importance of the family. A number of delegations stressed the importance of families as key means of ensuring welfare and stability, promoting traditional values in society and protecting human rights. Others recognized the need to focus discussions on the protection of individuals’ rights within the family, observing that human rights abuses might be experienced in the family by more vulnerable family members such as women, children and the elderly. They also acknowledged the importance of recognizing the diversity of families, which could include same-sex unions, single parents, and adoptive or foster parents.

18. Many delegations emphasized the fact that the family should be protected as the fundamental and natural unit of society, and referenced several international and regional human rights instruments in that regard. They recalled that the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights explicitly and unambiguously obliged all States to provide protection and support for the family as the natural and fundamental unit of society. Several also referred to article 18 of the African Charter on Human and Peoples’ Rights, which provided that the family was the natural unit and basis of society and obliged States to take care of and protect the physical and moral health of the family.

19. Some delegations noted that States had a duty to assist the family unit as the custodian of morals and traditional values recognized by the community, and called on stakeholders, including United Nations mechanisms, NGOs and national human rights institutions, to put the family at the core of their agendas. They perceived the family as an instrumental social unit that contributed to social cohesion, development and human rights, as well as to the preservation of identity, culture and traditional values. They highlighted evidence-based research demonstrating that well-protected families helped improve respect for the rights of women, children, older persons and persons with disabilities, and played a role in eradicating violence against women, reducing child labour and exploitation, and lowering dropout rates from primary education. Several speakers raised the possible role that families could play in promoting sustainable development and eradicating poverty, and called for such an influential social institution not to be ignored in the post-2015 development agenda.

20. Several delegations regretted that, 20 years after the International Year of the Family, some countries were reluctant to recognize the value of the family unit and accept their respective legal obligations. The point was made that different challenges had cast a negative shadow on the status of the family in society, increased its vulnerability to disintegration and decreased its resilience. The family as a leading societal institution should never be perceived as a force which aimed to oppose the interests, rights and fundamental freedoms of individuals.

21. Several delegations drew attention to situations in which homes had been demolished, land confiscated and families broken apart. They highlighted the role of terrorist groups in undermining the rights of families and individuals, including by depriving children of the care of family members and placing huge financial burdens on

families who lost their main breadwinner. The impact of economic sanctions on the family was also raised.

22. Several delegations highlighted the importance of the family in their cultures and communities, and its contribution to stability. They outlined some of their achievements in protecting the family through legislation, recognizing it as the natural and fundamental group unit of society, entitled to protection by law.

23. Other delegations reiterated that the diversity of families was recognized in General Assembly and Human Rights Council resolutions and in the legislation of many countries. That diversity could comprise single-parent families formed by choice or resulting from divorce, separation, or death; child-headed households; extended and intergenerational families; and same-sex couples, all of which required different support. They called on the international community to respect that diversity, which should be reflected in family-centred policies and programmes. Several delegations indicated that they had been reluctant to support the holding of the panel discussion, as Human Rights Council resolution 26/11 did not refer to family diversity and the individual rights of family members.

24. Many delegations noted that individuals within families needed and were entitled to protection. They were the rights-holders, not the family, and as such, States bore the primary responsibility to ensure that their rights were adequately protected, no matter what form their family took. Citing the United Nations Children's Fund (UNICEF) report entitled "Hidden in Plain Sight", which drew attention to the violence that could occur within families in all regions of the world, many delegations highlighted the fact that the family was not always the safest place for individuals, especially women, children and the elderly. Specific examples included forcing female victims of sexual assault to marry the perpetrator of the assault, and child, early and forced marriages, which were recognized by the Human Rights Council as violations, abuse or impairment of human rights.

25. Several delegations clarified that States were obliged to promote and provide support to the family in order to ensure that it could undertake its care responsibilities. They indicated that States must consider the social and economic factors, and implement policies that helped provide for a balance between work and family responsibilities. Otherwise, they ran the risk of limiting parents' ability to take care of their children. They also asserted that particular attention and assistance should be given to families in vulnerable situations, such as single-parent families, poor families with elderly members, families affected by child abuse and domestic violence, same-sex unions and others.

26. One delegation raised the situation of indigenous communities in which there were complex and intricate family kinship systems that often did not fall within the framework of the so-called "nuclear family". The point was made that the appreciation of family diversity in all its forms went hand in hand with forging strong and productive partnerships with local indigenous communities, in order to ensure that government interventions were tailored, culturally appropriate, genuinely accessible and aimed at achieving the best possible outcome. Panellists were asked whether they had any additional recommendations of ways to ensure that policies relating to families and their members protected the diversity of indigenous and kinship families.

27. Observers highlighted the diversity of families and recalled that States must ensure that children and other family members were not discriminated against because of the form their family took. States and the Human Rights Council were asked to focus on the human rights of individual members of the family, including children. Some observers also drew attention to the situation of lesbian, gay, bisexual and intersex persons who might be vulnerable to being disowned, abused or forced to undergo involuntary psychological or medical treatment by their families.

28. Several observers highlighted the fact that the protection of the family should be understood as supporting and strengthening families to ensure the fulfilment of the rights of all their members. They observed that many States had failed to protect families adequately, and called for family-friendly policies that recognized and promoted the capacity of strong family bonds, the birthright of all humanity, to serve as a source of society capital and stability for the wider fabric of the universal human family. The point was made that without safe family-based care, children were at greater risk of various forms of exploitation.

29. One observer stated that, as recognized in United Nations human rights treaties, the family was the natural and fundamental group unit of society, and as such was entitled to comprehensive and the widest possible protection and support by society and the State.

30. Delegations and observers posed numerous questions to the panellists, including how States could improve the well-being of families and counter stereotypical views of gender roles within the family. They requested examples of initiatives aimed at ensuring equality, especially gender equality between family members, and asked the panellists to share their experiences on how victims of domestic violence could be supported in claiming their rights. The panel was also asked to suggest concrete measures that could be taken to protect members of the family against abuse and how States could avoid discrimination against families that did not conform to majority family patterns. They asked what States and the Human Rights Council could do to address better the reality of family diversity and how they could help encourage families to transmit values that were consistent with human rights.

III. Responses of the panellists

31. In response to the questions, Ms. Mokomane reiterated the importance of a stand-alone goal on the family in the post-2015 development agenda and/or of mainstreaming issues related to the family in all other goals. She referred to the example of one State which, with a view to mainstreaming HIV issues, had included HIV coordinators in every government administration and department. Building on the remarks of other panellists, she also stressed the importance of evaluating the impact of policy decisions on families and the need for family-friendly policies. In particular, she cited problems with work concepts that continued to be based on the male breadwinner model, despite the fact that more women worked and had child-rearing responsibilities than had previously been the case.

32. Ms. Floriano stressed the need to consider the relationship between family members, including any patterns of violence and power. She highlighted the importance of ensuring that public policies responded to new realities, and the role of civil society organizations in the protection of families, particularly in following up on loopholes and gaps that government institutions had failed to address.

33. Ms. Bogenschneider underscored the role that family impact analysis could play in the context of each of the post-2015 Sustainable Development Goals. For instance, reducing family poverty could involve examining how to improve parenting, childcare and job opportunities for families. Family issues could also be a distinct goal. Family impact assessments could also help identify areas for new policies, such as preparing youth for successful employment, and/or improving mentoring between generations.

34. Highlighting the situation of disadvantaged families, Ms. Wijemanne emphasized that top-down programmes did not always reach those most in need. She called on States to turn such policies around and create family-friendly interventions with community workers who could reach out and identify disadvantaged families and issues of concern. She stressed the fact that, where there was violence within families, there needed to be

accessible services, observing that victims might not want to be in contact with law enforcement. There was also a need for investment in skill development and access to psychosocial services.

35. Mr. Abashidze referred to the relevant human rights standards, including article 10 of the International Covenant on Economic, Social and Cultural Rights. He also emphasized States parties' obligations under article 2 to achieve progressively the full realization of the rights recognized in the Covenant and to adopt legislative measures to the maximum of their available resources. That included adopting relevant criminal legislation to hold those responsible for domestic violence fully accountable, and establishing rehabilitation centres. He made clear that the principles of equality and non-discrimination applied to everyone in relation to all rights.
