

Asia Pacific Alliance for Sexual and Reproductive Health and Rights: *submission to the Human Rights Council report of the protection of the family and the contribution of the family in realizing an adequate standard of living.*

1. The Asia Pacific Alliance for Sexual and Reproductive Health and Rights (APA) welcomes the report of the Human Rights Council (HRC) on the protection of the family and the contribution of the family in realizing an adequate standard of living, and appreciates the opportunity for civil society to provide input. APA's mission is to mobilize regional civil society advocacy to hold governments and other stakeholders accountable for commitments made towards the realization of sexual and reproductive health and rights of all persons in the Asia Pacific.
2. The family and its members are critical contributors to the achievement of sustainable development and to reaching the ambitious commitments of Agenda 2030. The family and the rights of its members are referred to in a range of human rights treaties, in relation to their civil, cultural, economic, political and social rights. These treaties include principles of equality and non-discrimination, and participation. In Asia Pacific governments recently recognized the contribution of the family to sustainable development highlighting 'the role of gender equality and women's empowerment in improving the well-being of both families and societies'¹.
3. The family exists in diverse forms and functions both between nations and within them. The existence of various forms of the family and in different social, legal and political systems, has been recognized by both the 1994 International Conference on Population and Development Programme of Action (ICPD PoA) para 5.1 and 1995 Beijing Declaration and Platform for Action (BPfA) para 29. The family and its members are recognized in Universal Declaration of Human Rights (UDHR) as a fundamental group in society that is entitled to protection by the state (16.3).
4. The protection of family as a fundamental group should apply to all forms of the family. ICPD PoA (para 5.1) highlights that all the various forms of the family are "entitled to receive comprehensive protection and support". States must make provisions for the different needs and particular circumstances of each form of the family, including single parent, compound, extended and recomposed families².
5. State policies and programmes must address and account for the diversity of family forms, and that they are not fixed but dynamic. There is no "one size fits all" policy approach for the family, and some forms have a higher vulnerability than others. Conflict, war, urbanization, poverty, and natural disasters all put greater strain on the family³. BPfA (para 22, 46) points out that women can face specific gender-based barriers as single headed households, and as do refugees and migrant women. In Asia Pacific, changing family structures are also resulting in increasing number of older adults living alone⁴. Examples of concrete actions that states can take are highlighted in ICPD PoA (para 5.2 -5.4).
5. As diverse forms of the family must be addressed in state policies and programmes, so too the human rights of individuals within families must be promoted, respected and protected. BPfA points out "the rights, capabilities and responsibilities of family members must be respected."⁵ As certain groups are accorded a lower status within society and within families this places them at risk of human rights

¹ 2014 Asian and Pacific Ministerial Declaration on Advancing Gender Equality and Women's Empowerment, para 21.

² A/59/176 para 10.

³ 1994 International Conference on Population and Development Programme of Action (ICPD PoA) para 5.1.

⁴ 2014 Asia Pacific Ministerial Declaration on Population and Development, para 55.

⁵ 1995 Beijing Declaration and Platform for Action (BPfA) para 29.

violations. In particular, 'LGBT and gender non-conforming youth are at risk of family and community violence'⁶. And children are particularly vulnerable and at risk of violence by caregivers and other adults in their home.⁷ States are obligated to protect all individual family members from violence and other human rights violations including those that occur within the structure of the family. In the spirit of the UDHR (art. 1-3) and affirmed by HRC Resolution 26/11, "States have the primary responsibility to promote and protect the human rights and fundamental freedoms of all human beings, including women, children and older persons".

6. Underlying structural inequalities that discriminate against and violate the human rights vulnerable groups such as women and girls must be addressed as part of a broader transformative shift of norms and values. Violence against women and girls is 'rooted in historical and structural inequality in power relations between men and women'⁸. It has devastating consequences for family life and prevents them from fully participating in society and contributing to the achievement of sustainable development.

7. In Asia Pacific, governments have recognized that forms of violence against women 'linked to race, ethnicity, age, sex, language or religion [actually] perpetuate the lower status accorded to women and girls in the family, the workplace, the community and society'.⁹ And further that "multiple and intersecting forms of violence can compound women's and girl's experience of injustice, social marginalization and inequality".¹⁰ Asia Pacific governments have committed to take concrete action and positive policy developments to address the unequal status of women and girls, for example:

- Removal of legal and policy barriers and to address discriminatory social norms and attitudes concerning women's decision making and autonomy, including in sexual and reproductive health and reproductive rights and family life¹¹.
- To 'engage men and boys, families and communities as agents of change in the promotion of gender equality' and prevention of violence against women and girls, including to "address and eliminate intimate partner violence."¹²
- Implement evidence-based policies and programmes focusing on the empowerment of female-headed households and provide them with socioeconomic support and health services.¹³

8. The right to health is a necessary precursor to achieving sustainable development. Yet inequality between men and woman creates cultural, political, economic and social barriers that prevent the fulfillment of women and girls' right to health. For instance, the right of women to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights, as recognized by numerous intergovernmental agreements.¹⁴ Lack of access to family planning is a preventable cause of maternal mortality, yet this continues to be a leading cause of death for women of reproductive age; for example

⁶ A/HRC/29/23 para 22.

⁷ UNICEF, Hidden in Plain Sight (2014) p.61. available at:

http://files.unicef.org/publications/files/Hidden_in_plain_sight_statistical_analysis_EN_3_Sept_2014.pdf

⁸ 2014 Asia Pacific Ministerial Declaration on Population and Development para 44.

⁹ 2014 Asia Pacific Ministerial Declaration on Population and Development para 47.

¹⁰ 2014 Asia Pacific Ministerial Declaration on Population and Development, para 43; see also 2014 Asia Pacific Ministerial Declaration on Advancing Gender Equality and Women's Empowerment para 15.

¹¹ 2014 Asia Pacific Ministerial Declaration on Advancing Gender Equality and Women's Empowerment, para 57b.

¹² 2014 Asia Pacific Ministerial Declaration on Population and Development para 135.

¹³ 2014 Asia Pacific Ministerial Declaration on Population and Development para 136.

¹⁴ such as: 1994 International Conference on Population and Development Programme of Action, 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1995 Beijing Declaration and Platform for Action.

in South East Asia every 2 out of 1,000 pregnant women are at risk for death due to prenatal and perinatal complications (as of 2010).¹⁵ The technical guidance on the application of a human rights based approach to the implementation of policies and programmes to reduce preventable maternal morbidity and mortality (HRC Resolution 18/2) provides a solid guideline for governments to address underlying structural causes of maternal mortality and morbidity.

9. Gender based violence (GBV) also reflects deep-rooted inequality between the sexes and occurs within the structure of the family. Consequences of GBV prevent women and girls from finishing their education, limit employment opportunities, prevent women and girls from fully participating in society and undermine their ability to contribute to the sustainable development of their countries. Harmful traditional practices such as early and forced child marriage and female genital mutilation are two forms of GBV that violate the right to health. In South Asia, 46% of girls marry or enter into union before age 18, and in 2010 half of all child marriages globally took place in Asia¹⁶; female genital mutilation (FGM)¹⁷ is documented in a number of countries in Asia Pacific. Adolescent girls face a ‘higher risk of complications and death as a result of pregnancy than older women’¹⁸; and both early marriage and FGM increase the risk of maternal mortality and morbidity and of contracting sexually transmitted infections. In addition to protecting the right to health, states are obligated to protect children from harmful traditional practices¹⁹ such as FGM and early and child forced marriage. States must enforce the human rights of women including their ‘right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence’.²⁰

10. The rights of women and girls and other vulnerable members of the family are in need of protection as individuals, as it is the family that serves as a vehicle through which structural inequalities are perpetuated. The state has an obligation to ‘take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations’ as stated in CEDAW (art 16), and to address the social and cultural patterns of behavior in order to eliminate prejudices and cultural practices based on inferiority (art 5). States are urged to take a ‘transformative and comprehensive approach for gender equality, empowerment of women and the realization of human rights of women and girls’,²¹ and to be accountable for devoting ample resources, both financial and human, to the achievement of Sustainable Development Goal 5, ‘Achieve Gender Equality and Empower All Women and Girls’ and Goal 3 ‘Ensure Healthy Lives and Promote Wellbeing for All at All Ages’, as world leaders committed to in ‘Transforming our world: the 2030 Agenda for Sustainable Development’.

¹⁵ World Health Organization. (2013). World Health Statistics 2013: Part III Global Health Indicators. available at: http://www.who.int/gho/publications/world_health_statistics/EN_WHS2013_Part3.pdf

¹⁶ UNFPA, *Marrying too Young: End Child marriage* (2012). Available at : <https://www.unfpa.org/sites/default/files/pub-pdf/MarryingTooYoung.pdf>

¹⁷ FGM has been included as a form of Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment by the Committee against Torture, General Comment No. 2 (2008, para. 18)

¹⁸ World Health Organization, *Maternal Mortality factsheet No 348* (2014). Available at: <http://www.who.int/mediacentre/factsheets/fs348/en/>

¹⁹ Convention on the Rights of the Child (CRC) art 21, 24.

²⁰ 1995 Beijing Declaration and Platform for Action, para 96.

²¹ See 1995 Beijing Declaration and Platform for Action art 5; 2014 Asia Pacific Ministerial Declaration on Advancing Gender Equality and Women’s Empowerment para 12, outcomes from the Commission on Status of Women 58th session.