



THE PROTECTION OF THE FAMILY, THE RIGHTS OF THE CHILD, AND THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT

In order to ensure the protection of the rights of all children and that no child is left behind, a family-centric approach must be taken in implementing the 2030 Agenda for Sustainable Development. The protection of the family as the natural and fundamental group unit of society is essential to achieving this.

The Convention on the Rights of the Child (CRC) compels and requires its signatories to make the best interests of the child a primary consideration in all actions concerning children. In doing so, they must ensure, to the maximum possible extent, the survival and development of the child, and to guarantee that he or she, by reason of their physical and mental immaturity, has access to special safeguards and care, including appropriate legal protection before as well as after birth.

With respect to the 2030 Agenda for sustainable development, UNICEF has released a paper declaring that “sustainable development starts with safe, healthy, and well-educated children,” that “safe and sustainable societies are, in turn, essential for children,” and that “children’s voices, choices, and participation are critical for the sustainable future that we want.”¹ The rights of children as expounded in the CRC, therefore, are central to achieving the ends of the 2030 Agenda when it comes to eliminating poverty and hunger, combatting social inequalities, and promoting environmental protection. The question subsequently becomes one of determining what methods of safeguarding children’s interests are best oriented to implementing the 2030 Agenda in this way.

Article 7(1) of the CRC provides that the child has, “as far as possible, the right to know and be cared for by his or her parents.” This corresponds with Article 23(1) of the International Covenant on Civil and Political Rights (ICCPR), which declares that “the family is the natural and fundamental group unit of society and is entitled to protection by society and the state.” Together, these provisions establish that international law recognises the natural family as being the optimal environment in which children should be raised whenever possible.

¹ UNICEF. *A Post-2015 World Fit for Children: Sustainable Development Starts with Safe, Healthy, and Well-Educated Children*. May 2013, http://www.unicef.org/agenda2030/files/SD_children_FINAL.pdf, accessed 29th August 2016.



Operating Paragraph 22 of the most recent resolution on the protection of the family, adopted during the thirty-second session of the Human Rights Council, sought to recognise

that the family unit plays a key role in social development, and as such should be strengthened and attention paid to the rights, capabilities and responsibilities of its members, and invites States, the organizations of the United Nations system and all other relevant stakeholders to take into account the role of the family as a contributor to sustainable development and the need to strengthen family policy development in their ongoing efforts to achieve the internationally agreed development goals, including the 2030 Agenda for Sustainable Development.²

When considering how to ensure the protection of the rights of all children and ensuring that no child is left behind, therefore, one of the primary and paramount concerns must be the protection and strengthening of the family unit for the sake and the flourishing of its members. Following on from this, the family's entitlement to protection by society and the State in Article 23(1) of the ICCPR is bound up with the right expounded in Article 23(2) "of men and women of marriageable age to marry and to found a family." It is not an accident that the Covenant places these rights in such proximity to one another, because marriage itself contains this compound right to marry and establish a family. The family is then in turn to be protected and supported for the purpose of fulfilling the human rights of its members, especially its children.

The right to marry is not enshrined in international law solely for the sake of affirming the unions and commitments of consenting adults. The right to private and family life and the right to freedom of association under Articles 17 and 22 respectively of the ICCPR would suffice if this was the case. The legitimate interest that every Member State, and therefore the international community at large, has in marriage is that it is "society's least restrictive means of ensuring the well-being of children," that "state recognition of marriage protects children by encouraging men and women to commit to each other and take responsibility for their children," and that "by encouraging marriage, the state is strengthening civil society and reducing its own role."³

² A/HRC/32/23

³ Anderson, Ryan T. *Marriage Matters: Consequences of Redefining Marriage*. The Heritage Foundation, March 2013, <http://www.heritage.org/research/reports/2013/03/why-marriage-matters-consequences-of-redefining-marriage>, accessed 29th August 2016.



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The fundamental human rights of all children require protection and support, and this must be without prejudice to the type of family structure within which they are raised. The ideal to which society and the State must aspire to maximise, however, is that of a stable mother-father biological family unit, as it is within such a family structure that the protection of children's rights can be optimally ensured. Within the context of the United States alone, social science research has shown that being raised by one's married parents bears out a 6.8% child poverty rate, as opposed to 37.1% of single-parent, female-headed households.⁴ Similarly, the breakdown of the family can be seen to have exacerbated other social ills, including teen pregnancy, crime, drug abuse, health problems, and huge amounts of money being spent on social welfare to offset these problems, as well as by divorce, broken households, and unwed childbearing more generally.⁵ Government research has also shown that children living with their married biological parents universally have the lowest rates of domestic maltreatment, whereas those living with a single parent and their cohabiting partner have the highest, at 8 times the rate of maltreatment overall, 10 times the rate of abuse, and 8 times the rate of neglect.⁶ Despite this, in the United States alone in 2010, 40.8% of births were to unmarried women, a figure which has increased dramatically since hovering around the 5% mark in 1960 and prior.⁷ On top of this, although a precise figure is almost impossible to calculate, using a cohort measure rate, there is on average a 40-50% risk that any given marriage will end in divorce, though a number of individual risk factors alter this rate in one direction or another for any given couple.⁸ Such rates are replicated, some at even more alarming levels, in other Western countries.

Scientific research has made clear that the very social ills the Sustainable Development Goals (SDGs) seek to eliminate are exacerbated by divorce, family breakdown, and households headed by single parents. Therefore, it is essential that Member States reclaim the family's place of social

⁴ Rector, Robert. *Marriage: America's Greatest Weapon against Child Poverty*. The Heritage Foundation, September 2012, <http://www.heritage.org/research/reports/2012/09/marriage-americas-greatest-weapon-against-child-poverty>, accessed 29th August 2016.

⁵ Anderson, *Marriage Matters*.

⁶ Sedlak, Andrea J. et al. *Fourth National Incidence Study of Child Abuse and Neglect (NIS-4): Report to Congress*. U.S. Department of Health and Human Services (DHHS), Administration for Children and Families (ACF), Office of Planning, Research, and Evaluation (OPRE), and the Children's Bureau, January 2010, http://www.acf.hhs.gov/sites/default/files/opre/nis4_report_congress_full_pdf_jan2010.pdf, accessed 29th August 2016.

⁷ Hamilton, Brady E. et al. *Births: Preliminary Data for 2010*. CDC National Vital Statistics Reports, Volume 60, Number 2, 17th November 2011, http://www.cdc.gov/nchs/data/nvsr/nvsr60/nvsr60_02.pdf, accessed 29th August 2016.

⁸ Stanton, Glenn. *What is the Actual US Divorce Rate?* The Witherspoon Institute, 16th December 2015, <http://www.thepublicdiscourse.com/2015/12/15983/>, accessed 29th August 2016.



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esteem, encourage men and women to commit themselves to one another in lifelong unions for the sake of their children, present or future, and to curb the rates of divorce and non-marital births.

The 2030 Agenda is also concerned with closing the gap between men and women and bolstering gender equality. The results of a decline of a firm marriage culture imply that strong, stable marriage actually protects women and, in turn, any children that they bear and raise during their lives and relationships. Statistics for 1993-1998 released by the US Department of Justice indicate that women who have never married are victims of non-lethal domestic violence at a rate of almost 4.5 times higher than married women. In turn, women who are divorced or separated suffer violence at the hands of a partner at rates almost three times higher than women who have never married. Women who have been widowed (likely correlating with marital stability and longevity), however, were seen to have experienced the same type of violence at a statistically miniscule level, relatively speaking.⁹ These phenomena present a multi-pronged problem to achieving the goal of sustainable development, primarily the fact that significantly higher rates of domestic violence against unmarried and divorced women are an affront to gender equality and women's rights. This leads to the state needing to expend funds and resources on ameliorating the negative consequences of this, and there are numerous additional effects that impact the well-being and development of the children of the women involved.

During discussions on the issue of the family, some Member States have raised the concern that the promotion of the family might indicate that the family itself is a rights-holder, which could potentially lead to the toleration of the infringement of the rights of individual family members, including child abuse, domestic violence, and other forms of negative or criminal activity, for the sake of "protecting the family." This concern is mistaken, however, as the promotion and protection of the family does not make the family a rights-holder at all. Rather, it is an institution, rooted in biological reality, which is afforded special protection and support by society and the State for the sake of realising the human rights of its individual members. A fundamental part of protecting and strengthening the family involves preventing and rooting out the causes of violence, abuse, or neglect that occur within some individual family units. By ensuring that as few of these instances occur as possible, family units are able to function as they properly should.

⁹ Rennison, Callie M. & Welchans, Sarah. *Bureau of Justice Statistics Special Report: Intimate Partner Violence*. U.S. Department of Justice, May 2000 (revised 31st January 2002), <http://www.bjs.gov/content/pub/pdf/ipv.pdf>, accessed 29th August 2016.



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Another concern about the family raised by some Member States is that the term “the family” as opposed to “families,” supposedly excludes “various forms of the family” that exist in different social and cultural contexts. The ICCPR, however, specifically marks out the family in Article 23(1) as a singular institution to be protected in its own right for the sake of the benefits that it bestows on society, not simply individual family units that happen to arise in a variety of ways.

Ensuring the rights of all children, according to the CRC, requires appropriate legal protection before as well as after birth. Article 6 of the ICCPR ensures the right to life of all human beings, and that should not be understood as excluding those not yet born. A strong culture of marriage and family is always coupled with a strong culture of life, and therefore the strengthening of marriage and family must be oriented towards ensuring that as many children that are conceived as possible are born into stable, loving homes in which both of their biological parents are present, and that all children are cherished and afforded protection even before birth. Sustainable development cannot be understood as being advanced by increased access to elective abortion, as to do so would be to concede that some children should in fact be left behind. The ensuring of women’s sexual and reproductive health and reproductive rights, in accordance with the Programme of Action on the International Conference on Population and Development (ICPD) and the Beijing Platform of Action, cannot be understood to impose any obligation on the part of a Member State to allow or provide access to elective abortion. Indeed, Member States should do all that is in their power to avoid recourse to abortion, as noted in the ICPD.

The 2030 Agenda for Sustainable Development clearly shows the commitment of the international community to come together in eradicating all forms of poverty and ensuring the necessary conditions for the freedom and dignity of all men, women, and children throughout the world. As set out in the Position Statement of the Holy See, it is hoped that “by [recognising] the role of the family in integral development, we will ensure the centrality of the human person as the primary subject responsible for development, while holding governments accountable,” and that the pledge that no one will be left behind includes the right to life of all people, “from conception until natural death.”¹⁰

¹⁰ Vatican Radio, *Holy See on UN’s 2030 Agenda for Sustainable Development*. 3rd September 2015, http://en.radiovaticana.va/news/2015/09/03/holy_see_on_uns_2030_agenda_for_sustainable_development/11_69218, accessed 29th August 2016.