

IFFD STATEMENT ABOUT “SEXUAL AND REPRODUCTIVE RIGHTS”

The IFFD, International Federation for Family development, created in 1978, gathers 90 family associations from 60 countries in the 5 continents and it has ECOSOC Special Consultative Status since 1999, the main objective of the federation are parenting courses.

IFFD thanks the rapporteur, Dr Rocío Barahona Riera and the rest of the Committee Secretariat and the ICESCR for the organization of this day of general discussion and general comment about sexual and reproductive rights,

We acknowledge that we find no wording in the UN international Treaties regarding the words “**SEXUAL and REPRODUCTIVE RIGHTS**”

This wording which is very recent in the Human rights history (only used by some countries, UN staff, agencies, NGOs and conferences in the last years) has no international legal legitimacy, since is not formally approved by UDHR, any international treaty or Covenant and therefore by UN States,

Therefore IFFD recalls that the ICESCR Committee and any Specialized agencies should always refer to human rights in the wording approved by the treaties, as it is in their mandates to apply human rights as in the UN treaties and conventions,

Bearing in mind that society evolves and new concepts and new situations appear while others are in misuse, IFFD considers before claiming new rights, or mixing and deleting some rights approved, the UN mission is to protect human rights based in human dignity and apply this human rights to this new situations in an holistic manner, taking into account the **universality, interdependence and inalienability of all human rights internationally approved** and taking into account the wording and concepts and spirit of the law approved by the international community,

“Sexual and reproductive rights” are a little, reduced and uncompleted portion of the rights contained in **the right to marry and to have a family**, and should be completed and by all international human rights

Therefore regarding the wording of the ICESCR we find some articles related to what we understand by “**sexual and reproductive rights**”:

Human rights related to sexual and reproductive rights taking into account their interdependence

ICESC 1966

Art. 7 States parties should recognize “everyone a decent living for themselves and their families”.

Art. 10 The States parties recognize that “The widest possible protection and assistance should be accorded to family, which is the natural and fundamental group unit of society, particularly for its establishment and while its responsible for the care and education of dependent children”. Marriage must be entered into with the free consent of intending spouses.

“Special protection should be accorded to the mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits”.

“Special measures of protection and assistance should be taken on behalf of all children and among young persons without any discrimination for reasons of parentage or others conditions. Children and young children should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law”.

Art.11 “The States parties of the present Covenant recognize the right of everyone to an adequate standard of living for himself and for his family, including adequate food clothing and housing, and to the continuous improvement of living conditions”

Art.12 The States parties recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

2. Steps to be taken by the States shall include:

- The provision for the reduction of stillbirth-rate and infant mortality and for the healthy development of the child
- The provision of all aspects of environmental and industrial hygiene
- The prevention, treatment, of control of epidemic, endemic, occupational and other diseases,
- The creation of conditions that would assure to all medical service and medical attention in the event of sickness.

The wording of this provisions aims States parties to protect **the natural unity of the family as the fundamental group of society**, give them protection in its establishment, give **medical service, hygiene and prevention treatment** also to protect families and give them the **economic and social standards** to live with dignity. This means to promote **family reunification** specially in case of war, natural disaster, forced migration for economic and labour reasons and to respect the right of the child to have contact with both parents, especially in case of divorce, art.7-8-9-10-11 Convention on the rights of the child,

Also the spirit of the covenant aims to **protect women when they are vulnerable and give birth to children in the healthiest manner** for the mother and for the children, to reduce **stillbirth-rate and infant mortality**, this means measures to increase health before, during pregnancy and after pregnancy for the women and the child should be implemented, so that the birth rates increases, and women who deliver should be healthier by providing the medical revisions after, a lack of service that creates many problems for women's health in some countries,

Regarding epidemic diseases, Pharmaceutical and medical measures that have as a **secondary effect to diminish fertility** in women or men should be clearly explained to them and freely accepted by them, also pharmaceutical or medical intervention that aim to **sterilization or mutilate or extirpation of any sexual organs** both for the man and woman should take into account human rights (right of physical and mental integrity, right to found a family, right to free consent to medical and scientific experimentation). Also medical advice should be given regarding risks of sex with different people, scientific information about **Sexually transmitted diseases** and their exact consequences should be given to man and women and that "safe sex" is not existing when having sex with different people because there's no scientific method that eliminates the risk of sexually transmitted disease, with the consequences of infertility, serious illness (ex. cancer) and mortal consequences, (affects millions of people already),

The right to marry and have a family implies that spouses may have the right to have as many children as they want and get informed by all family planning birth methods, including the less cheaper, more affordable and accessible, healthier, ecologic and respectful for the environment.

Also the spirit of the covenant aims to protect health of women and baby before and after birth by **maternal work leave and paid leave of mothers** during pregnancy, especially in dangerous jobs for the health of the women and women should not be discriminated for being pregnant and having children at work, a good measure would be for the State to cover the expenses that this maternity leave may occur,

No forced marriage or underage marriage should be permitted and no discrimination of rights in marriage, during and in its dissolution should be allowed.

International Covenant Civil and Political Rights 1966

-Art.23. 1. :The family is the natural and fundamental group of society and is entitled to protection by society and state.

2. The right of man and women of marriageable age to marry and to found a family shall be recognized,

3.-No marriage shall be entered into without the free and full consent of the intending spouses

States parties shall take appropriate steps to ensure **equality of rights and responsibilities of spouses as to marriage, during marriage and in its dissolution.** In the case of dissolution, provision shall be made for the **necessary protection of children.**

Art. 18: “Everyone shall have **the right to freedom of thought, conscience and religion, this right should include the freedom to have or adopt a religion or belief of his choice and freedom either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.** 2. No one shall be subject to coercion which would impact his freedom to have or adopt a religion or belief of his choice.4. the State undertake to have respect for **the liberty of parents and when applicable, legal guardians, to ensure the religious and moral education for their children in conformity with their own convictions.**

See also art. 7-8-9-10 and also art.24-25-26-27 ICCPR

2. Regarding “SEXUAL RIGHTS”

Sex has been traditionally linked to marriage, and marriage to family, religion, culture and traditions and at the same time it belongs to the private sphere of the human beings,

Regarding this, UN should respect and promote different cultural and religious perspectives on sex, rather than imposing an unique vision of it, as it happens with marriage and family, that respects all cultural traditions regarding law definitions,

The recent vision that separates sex from marriage and family, this vision should take into account art.18 ICCPR, and therefore not be imposed as the only vision, respecting freedom of speech, thought, conscience and religion and education in a pluralistic society and respect for philosophical conceptions and traditions, while respecting freedom in privacy and family rights. Art.17-18 International Covenant on civil and political rights.

UN has to respect plurality of opinions as the base of democracy, peace and justice and should not impose any concrete vision on marriage and on sex other than the vision that is established on the international human rights treaties approved internationally.

For this reason the vision that sex have no effects in any person’s identity, physic, psychological, spiritual, moral and for health, and encourages to use sex as consumption product with no limits only taking into account the pleasure and the physical dimension and forgetting all other dimensions, cannot be imposed as the only vision for scientific and human rights reasons,

Moreover this vision of sex has developed more than ever in history a **“sex market and commerce”** against human dignity, the victims of it are the new form of slavery, **human trafficking**, considering that the majority of victims are children and women in vulnerability situations, forced by violence or coercion, where **violence against women and children take the maximum expression**,

This “sex industry” makes some people rich to the expenses of the violation of basic human rights and human dignity,

Moreover we see that casual sexual relationships are becoming an easy thing to get but it is more difficult to get married or to found a family,

But the economic and social conditions linked to work, money and housing, makes impossible in some cases to marry and have a family,

Statistics show how young people delay the decision to marry for economic, work and social reasons,

Also the cost of education and children rearing, education, specially conciliation between work and child rearing responsibilities is becoming difficult, therefore women are discriminated in the labour market and being forced to delay the pregnancies, and sometimes parents are denied the possibility to have a child and found a family because extreme poverty,

Statistics show how difficult is to have children in some countries, due to the economic expenses, and how parents cannot have the number of children they desire for the economic and social reasons, and this basic human right to found a family is violated, and therefore we urge States to create the economic and social circumstances to be able to exercise this right and help parents and families to achieve their child-rearing responsibilities,

Also other law imposed economic burden for the women or the man for marriage should be eliminated, because it discriminates in some cases the women, and makes difficult to get married and found a family.

Regarding human rights the same limits of MARRIAGE (art.10ICESR-art.23 ICCPR) apply to with more reason to SEXUAL RELATIONSHIPS but in this case, State cannot protect the rights of individuals because sex happens in the private sphere and not in the public sphere like MARRIAGE:

INTERNATIONAL ACCEPTED LIMITS following art.10ICESR, art23, ICCPR:

1.AGE, Physical and psychological MATURITY, Children should be protected, the innocence of children during their physical and psychological evolution to adulthood, including and specially teenagers, where scientist prove their vulnerability related to their physical and psychological changes, should be respected and encouraged, and a complete education of sex adding emotional , psychological, and moral and spiritual education respecting parents moral and psychological and spiritual or philosophical conceptions should be respected and promoted,**art.19 Convention on the rights of the child, art.12,art.5, art.24, The optional protocol to the convention on the rights of the child on sale of children, child prostitution and child pornography is an example of good practice regarding protection of children from sexual abuse,**

2. FREE and FULL CONSENT of BOTH PERSONS, Sex should not be forced in any case, and the persons should be free and consent fully and freely, this is why sex teen should not be encouraged because they are more likely to suffer from sexual coercion or abuse due to their personal immaturity, and this is why slavery or any coercion is not allowed to force to have sex, and also in situation of dependence, and authority.

Statistics show how **sexual abuse and violence** is more likely to happen in relationships outside marriage,

3. EQUAL RIGHTS. In marriage State guarantees as the Covenants says that equal rights are guaranteed to the spouses, while marriage and in its dissolution, in a sexual relationships State cannot guarantee this equality in rights and therefore people do not have the protection by Society and State to keep this equality.

4. PARENTAGE, Sex within members of the family other than spouses, are not allowed in the majority of international law at least to some degree.

Other limits depending on the State due to cultural, religious or traditions are establish regarding sexual relationships, art.18 ICCPR

Regarding “REPRODUCTIVE RIGHTS”

The word “reproductive rights” is conceptually against human dignity, we human beings, do not reproduce ourselves like a photocopy or identical copy, because each person is unique, each person in this world has a unique genetic identity and also it comes half and half from each of their parents, cloning is not allowed, and therefore we do not cloning and reproduce ourselves, we have children, procreate, using the wording of the UDHR art.16 **“we found families” this is the most adequate environment for the rearing of children as established in the Convention on the rights of the child:**

As established in the Preamble of the UN Convention on the rights of the child 1989: **“Convinced that the family, as the fundamental unit of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community, ...Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love, and understanding”.**

Recalling that as established in art.18 CRC(Convention on the rights of the child 1989) **“States parties shall use their best effort to ensure recognition of the principle that both parents shall have common responsibilities for the upbringing and development of the child. Parents or as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. State parties shall render appropriate assistance to parents in the performance of their child rearing responsibilities”**Art.5 **“States parties shall respect the responsibilities, rights and duties of parents...”** see also **art.9-art.10 and art.27 CRC**

As established in the Universal declaration of Human rights, UDHR Art.16.3 **“The family is the natural and fundamental unit of society and is entitled to protection by Society and State”.**

Also human dignity and the rights of the child implies that we not only deliver children to the world or “produce” children like products or objects, but parents have a child rearing responsibilities (food, clothing, housing and standard of living adequate to them) and **educational rights and duties** (art.26.3 UDHR) towards their children that they have to assume, and State parties should help them in their responsibilities, by facilitating the necessary, In order to achieve this goal, steps should be taken to provide a work/life balance by family friendly work policies, to help parents to spend time with their children, family stability and cohesion among family members and initiatives to advise and train parents in their roles should be supported”.(art.24 and 18CRC)

And art. 29 CRC that education of children should be directed to: full respect of human rights, development of his personality, talents and abilities, respect for child’s parents, his cultural identity language and values, and natural environment, preparation of the child for responsible life in free society in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin.”

Recalling that as stated by the United Nations Committee on the Rights of the Child (CRC/C/24, /Session 7, held on 10 October 1994), “the family is an essential actor for creating awareness and preservation of human rights and respect for human values, cultural identity and heritage, and other civilizations”, because it is the place where they stem from, are respected, conveyed and where they acquire their true status.

CONCLUSION

IFFD reminds to the IESRC to include the **family perspective and marriage and family rights, children’s rights and international bill of rights**, in this general Comment, due to the interdependence of all human rights.

As established in the mission of the United Nations Programme on the family, **“promoting the inclusion of a family perspective when drawing up national, regional and international policies”**

Reminding the obligation that States should inform the Committee on civil and political rights about the measures they undertake to protect family, as it established in the general Comment CCPR27/07/90 number 19, in p.3 “Ensuring the protection provided for under art.23 of the covenant requires States parties should adopt legislative, administrative or other measures. States should provide detailed information concerning the nature of such measures and the means whereby effective implementation is assured. In fact, since the Covenant also recognizes the right of the family to protection by society, States parties reports should indicate how the necessary protection is granted to the family by the State and other social institutions, whether and to what extent the State gives financial or other support to the activities of such institutions and how it ensures that these activities are compatible with the Covenant.

And moreover States should report to the Committee on the rights of the Child and the Committee on economic and social rights about how states respect and promote the parent’s and family responsibility with their children, and allow them to marry and have a family, have special measures to assist pregnant women, mothers and children, with no discrimination regarding parentage or other conditions.