

# INTERNATIONAL CENTER ON LAW, LIFE, FAITH AND FAMILY

## A MODEL DECLARATION ON THE RIGHTS OF THE FAMILY

### A TRANSLATION OF THE CHARTER ON THE RIGHTS OF THE FAMILY INTO INTERNATIONAL HUMAN RIGHTS LANGUAGE

**NOTE:** This initiative was developed to assist those working on the drafting of documents, in the political field, where the Charter on the Rights of the Family has been erroneously dismissed, by some, as a religious document. Based on the Charter on the Rights of the Family, this Model Declaration is an example of how the Charter is of ongoing relevance in the field of international human rights.

#### Preamble

*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.<sup>1</sup>

*Considering also* that the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women.<sup>2</sup>

*Recognizing* that the international community has, in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights, proclaimed the foundation of human rights. All human beings, male and female, are morally born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.<sup>3</sup> These rights derive from the inherent dignity of the human person,<sup>4</sup> and are correlative with the individual's duties to others and to the community, in which alone the free and full development of his personality is possible.<sup>5</sup> Therefore, the exercise of such rights and freedoms are not absolute but may be limited by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare of a democratic society.<sup>6</sup>

*Reaffirming* that the international community has, in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights acknowledged a fundamental social dimension of the human person in reaffirming that

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<sup>1</sup> Preamble para. 1, Universal Declaration of Human Rights.

<sup>2</sup> Preamble para. 5, Universal Declaration of Human Rights.

<sup>3</sup> Art. 1, Universal Declaration of Human Rights.

<sup>4</sup> Preamble paras. 1, 5, art. 1 Universal Declaration of Human Rights; preamble para. 2, International Covenant on Civil and Political Rights; preamble para. 2, International Covenant on Economic, Social and Cultural Rights.

<sup>5</sup> Art. 29.1, Universal Declaration of Human Rights.

<sup>6</sup> Art. 29.2, Universal Declaration of Human Rights; preamble para. 5, International Covenant on Civil and Political Rights; preamble para. 5., International Covenant on Economic, Social and Cultural Rights.

the family, based on marriage between one man and one woman, is the natural and fundamental group unit of society, entitled to protection by society and the State.<sup>7</sup>

*Acknowledging* that the Convention on the Rights of the Child proclaimed that the child has the right to know and be cared for by his or her parents,<sup>8</sup> that for the full and harmonious development of his or her personality, the child should grow up in a family environment, in an atmosphere of happiness, love and understanding,<sup>9</sup> and that the family should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,<sup>10</sup>

*Reaffirming* that the Convention on the Rights of the Child has recognized the right to life of the pre-born person in defining the child as a human being under the age of 18 years, in stating that by reason of his or her physical and mental immaturity, the child needs special safeguards and care, including appropriate legal protection, before as well as after birth,<sup>11</sup> and requiring State Parties to respect and ensure the child's rights without discrimination of any kind including discrimination based upon "sex" and "birth"<sup>12</sup> as well as his or her inherent right to life, survival and development<sup>13</sup> and to provide the highest attainable standard of health both pre-natal and post-natal.<sup>14</sup>

*Recognizing that the* Universal Declaration of Human Rights and the Convention on the Rights of the Child acknowledge that parents have a prior right to choose the kind of education that shall be given to their children,<sup>15</sup> including homeschooling, that the parents have the primary responsibility for the upbringing and development of the child,<sup>16</sup> that rights and duties of a parents must be taken into account when the best interests of the their child is being considered,<sup>17</sup> that the State shall respect the parents right, in a manner consistent with the evolving capacities of the child, to provide appropriate direction and guidance in the exercise by the child of his or her rights and duties,<sup>18</sup> in particular the child's right to freedom of thought, conscience and religion,<sup>19</sup> that children must not be separated from their parents, except in cases, for example, of abuse or neglect, and respecting applicable law, procedures and judicial review,<sup>20</sup> and that the child, who is separated from one or both parents, has the right to maintain personal relations and direct contact with both parents on a regular basis, unless this is contrary to the best interest of the child,<sup>21</sup>

*Welcoming* the United Nations' General Assembly resolutions that concern the proclamation, preparation for, and observance of, the First International Year of the Family, in 1994, the Tenth anniversary, in 2004, and preparations for the follow-up 20<sup>th</sup> Anniversary International Year of the Family, in 2014. Recalling the 2004 Doha International Conference for the Family and its outcome document the Doha Declaration of the Family, which reaffirmed the international obligation to give special protection to the natural family based on marriage.

*Bearing in mind* the many challenges facing the family today, including current social conditions, which render it difficult to understand the authentic nature of marriage, to achieve the ideal of fidelity and solidarity in conjugal love, to bring up children and to preserve the family unit. Such conditions have increased the disintegration of the family, which in turn, has negatively affected the common good of society. Both society and the State have a legal obligation to support the family in the task of giving birth to children and

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<sup>7</sup> Art. 16, Universal Declaration of Human Rights; art. 23 International Covenant on the Civil and Political Rights, art. 10 International Covenant on Economic, Social and Cultural Rights.

<sup>8</sup> Art. 7.1, Convention on the Rights of the Child.

<sup>9</sup> Preamble para. 6, Convention on the Rights of the Child.

<sup>10</sup> Preamble para. 5, Convention on the Rights of the Child.

<sup>11</sup> Preamble para. 9, Convention on the Rights of the Child.

<sup>12</sup> Art. 2, Convention on the Rights of the Child.

<sup>13</sup> Art. 6, Convention on the Rights of the Child.

<sup>14</sup> Art. 24, Convention on the Rights of the Child.

<sup>15</sup> Art. 26 (3), Universal Declaration of Human Rights (cf. preamble 3, Convention on the Rights of the Child).

<sup>16</sup> Art. 18.1, Convention on the Rights of the Child.

<sup>17</sup> Art. 3.2, Convention on the Rights of the Child.

<sup>18</sup> Art. 5, Convention on the Rights of the Child.

<sup>19</sup> Art. 14.2, Convention on the Rights of the Child.

<sup>20</sup> Art. 9.1, Convention on the Rights of the child.

<sup>21</sup> Art. 9.3, Convention on the Rights of the Child.

educating them to live as responsible citizens and contributors to the community in a way that promotes individual human flourishing and the overall common good of society.

*With the hope and desire that* this present declaration will inspire States and society to strengthen their legal obligations to protect the family based on marriage, between one man and one woman, and will encourage families to join forces in the defence and promotion of their own rights,

We agree upon the following articles:

## **Part I: (The Foundation of Human Rights)**

### **Article 1 (The Human Person)**

- a) All human beings, male and female, are born, morally speaking, free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.<sup>22</sup>
- b) Rights derive from the inherent dignity of the human person;<sup>23</sup> who shall be recognized as a person before the law,<sup>24</sup> from the moment of conception.
- c) Rights are correlative with the individual's duties to others and to the community.<sup>25</sup>
- d) Rights are not absolute but may be limited by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare of a democratic society.<sup>26</sup>

### **Article 2 (The Family)**

- a) The family is based on marriage, a complementary partnership for life, between one man and one woman of marriageable age, constituted with full and free consent, publically expressed, to which the mission of transmitting life is naturally and exclusively entrusted.<sup>27</sup> The family, the natural and fundamental unit of society, exists prior to the State or any other community and is, therefore, entitled to protection from society and the State.<sup>28</sup>
- b) The family is a juridical unit, a subject of rights and duties, before society and the State, which harmonizes the rights and duties of individual members towards each other within the family, the rights and duties of individual members towards the family as a whole, the rights and duties of the family and its members towards society and the State.<sup>29</sup>

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<sup>22</sup> Art. 1, Universal Declaration of Human Rights. (It is noteworthy that the term "born" refers to moral birth, not physical birth).

<sup>23</sup> Preamble para. 1, 5, art. 1, Universal Declaration of Human Rights; preamble para. 2, International Covenant on Civil and Political Rights; preamble para. 2, International Covenant on Economic, Social and Cultural Rights.

<sup>24</sup> Art. 16, International Covenant on Civil and Political Rights.

<sup>25</sup> Art. 29.1, Universal Declaration of Human Rights; preamble para. 5, International Covenant on Civil and Political Rights; preamble para. 5., International Covenant on Economic, Social and Cultural Rights.

<sup>26</sup> Art. 29.2, Universal Declaration of Human Rights.

<sup>27</sup> Art. 16, Universal Declaration of Human Rights; art. 23, International Covenant on the Civil and Political Rights, art. 10, International Covenant on Economic, Social and Cultural Rights.

<sup>28</sup> Art. 16.3, Universal Declaration of Human Rights; art. 23.1, International Covenant on the Civil and Political Rights; art. 10.1, International Covenant on Economic, Social and Cultural Rights.

<sup>29</sup> Art. 16, Universal Declaration of Human Rights; art. 23, International Covenant on the Civil and Political Rights; art. 10, International Covenant on Economic, Social and Cultural Rights.

c) The family, the natural and fundamental group unit of society,<sup>30</sup> is the irreplaceable social institution *par excellence*: a household of hospitality open to the greater community that takes into account cultural traditions, which favor the good, to cultivate within its members, especially children, not only a sense of his or her inherent dignity from which rights and duties derive but also a sense of his or her acquired dignity, that is, the full and harmonious development of his or her personality through gradual formation and education to live an authentically free and responsible life in society.<sup>31</sup>

d) The family is an economic unit essential for economic activity in creating human capital and when combined with educational opportunities, family members provide economic stimulus as workers, consumers, and service providers, and when assisted and supported can best care for its vulnerable members (e.g., elderly, dependent adults, persons with disabilities, unborn children, and infants, *inter alia*).

e) The family, much more than a mere juridical, social and economic unit, is a community of love and solidarity, based on the enduring bond of communion between the husband and wife, which is uniquely suited to teach diversity and complementarity between the sexes and transmit cultural, ethical, social, spiritual and religious values, essential for the development and well-being of children, of extended family relations and of society.<sup>32</sup>

f) The family is a principal agent of peace where the same love that nurtures its members, and builds and maintains unity in the family, is the vital building block of society that promotes relationships of collaboration among all members of the human family.

g) The family cultivates inter-generational solidarity to help one another grow in human wisdom and to foster a greater sense of responsibility to future generations with specific attention to a sustainable comprehensive management of the environment, natural resources, and the universal destination of goods on national and international levels, while ensuring that the inherent dignity of the human person is not violated in attempts to preserve the environment.

## **Part II: (The Family)**

### **Article 3 (Right to Work)**

The family has the right to economic conditions which assure decent work, free choice of employment, just and favourable conditions of work and a standard of living appropriate to ensuring the family an existence worthy of human dignity and integral development.<sup>33</sup>

### **Article 4 (Right to Private Property)**

The family has the right to own and maintain private property alone and in association with others, necessary for favoring stable family life;<sup>34</sup> the laws concerning inheritance or transmission of property must respect the needs and rights of family members, as well as the rights of both men and women.

### **Article 5 (Right to Adequate Standard of Living)**

The family has the right to an adequate standard of living which takes into account needs, such as food, clean water, clothing and decent housing fit for family life and commensurate to the number of its members, and considering circumstances involving premature death of one or both parents, of the abandonment of one of the spouses, of accident, or sickness or disability, unemployment, or whenever the family has to bear extra

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<sup>30</sup> Art. 16.3, Universal Declaration of Human Rights; art. 23.1, International Covenant on the Civil and Political Rights; art. 10.1, International Covenant on Economic, Social and Cultural Rights.

<sup>31</sup> Preamble paras. 5, 6, 7, Convention on the Rights of the Child.

<sup>32</sup> Preamble para. E, Charter on the Rights of the Family.

<sup>33</sup> Art. 23, Universal Declaration of Human Rights.

<sup>34</sup> Art. 17, Universal Declaration of Human Rights.

burdens on behalf of its members for reasons of old age, physical or mental disabilities or the education of children.<sup>35</sup>

#### **Article 6 (Family-Work Balance)**

The family has the right to rest and leisure which requires that priority be given to promoting a healthy work-family balance taking into consideration the demands and requirements of family life together with an opportunity for rest and leisure that provides opportunities to strengthen relationships between the spouses, and among parents and children as well as inter-generational solidarity, all of which in turn, will positively affect the dealings the family has with the greater community.<sup>36</sup>

#### **Article 7 (Right to Family Unity)**

a) The family, as a subject of rights and duties, must be taken into consideration in penal legislation and policy, in such a way that a detainee remains in contact with his or her family and that the family is adequately sustained during the period of detention.<sup>37</sup>

b) The families of migrants have the right to receive support and assistance towards their integration into the community to which they contribute, and emigrant workers have the right to see their family united as soon as possible.<sup>38</sup>

c) Refugees have the right to the assistance of public authorities and International Organizations in facilitating the tracing of parents or other members of the family in order to obtain information necessary for family reunification.<sup>39</sup>

#### **Article 8 (Freedom of Religion)**

The family has the right to live freely its own domestic religious life under the guidance of the parents, as well as the right to profess publicly and to propagate the faith, to take part in public worship and in freely chosen programs of religious instruction, without suffering discrimination.<sup>40</sup>

#### **Article 9 (Mass Media)**

The family has the right to expect that the function performed by the mass media will be positive for the building up of society, and will be aimed at the promotion of the child's social, spiritual and moral well-being, physical and mental health.<sup>41</sup>

### **Part III: (Marriage)**

#### **Article 10 (Marriage and its Restrictions)**

a) Every man and woman has the right to the free choice of their state of life and thus to marry and establish a family or to remain single.<sup>42</sup> Marriage cannot be contracted except by free and full consent duly expressed

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<sup>35</sup> Art. 22, art. 25, 26, Universal Declaration of Human Rights.

<sup>36</sup> Art. 24, Universal Declaration of Human Rights.

<sup>37</sup> Art. 9, Charter on the Rights of the Family.

<sup>38</sup> Art. 12, Charter on the Rights of the Family.

<sup>39</sup> Art. 22.2, Convention on the Rights of the Child.

<sup>40</sup> Art. 7, Charter on the Rights of the Family.

<sup>41</sup> Art. 17, Convention on the Rights of the Child.

<sup>42</sup> Art. 1, Charter on the Rights of the Family.

by the spouses,<sup>43</sup> therefore, with due respect for the traditions of families in certain cultures in guiding the decision of their children, all force, fear, duress and pressure which would impede the choice of a specific person as spouse is to be avoided.<sup>44</sup> In particular, the kidnapping, rape and forced conversion of women must be stopped.

b) Every man and every woman, having reached marriageable age and having the necessary capacity, has the right to marry and establish a family without discrimination;<sup>45</sup> other legal restrictions to the exercise of this right, including the requirement that marriage be entered into between one man and one woman, are validly introduced since this is required by grave and objective demands of the institution of marriage itself and its social and public significance, just requirements of morality, public order and the general welfare in a democratic society.<sup>46</sup>

#### **Article 11 (Protection of Marriage)<sup>47</sup>**

a) Those who wish to marry and establish a family have the right to expect from society the moral, legal, educational, social, cultural and economic conditions which will enable them to exercise their right to marry in a responsible manner and support them in their decision.

b) The institutional value of marriage should be upheld by the public authorities; the situation of non-married couples, including civil or registered partnerships, should not be equated to duly contracted marriages between a man and a woman.

c) The future spouses have the right to their religious liberty. Therefore, to impose as a prior condition for marriage a denial of faith or a profession of faith which is contrary to conscience, constitutes a violation of this right.

d) Married couples who have a large family have a right to adequate support and assistance from society and the State, and should not be subjected to discrimination.

#### **Article 12 (Spouses)**

a) The spouses have the inalienable right to decide on the spacing of births and the number of children to be born, taking into full consideration their duties towards themselves, their children already born, the family and society, in a just hierarchy of values and in accordance with the objective moral order, which precludes contraception, sterilization or abortion.<sup>48</sup>

b) The spouses have the right to be free from all duress, fraud, fear and pressure through activities of public authorities, private organizations both national and regional, which attempt in any way to limit the freedom

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<sup>43</sup> Art. 16.2, Universal Declaration of Human Rights; art. 23.3, International Covenant on the Civil and Political Rights, art. 10.1, International Covenant on Economic Social and Cultural Rights (cf. Art. 1 of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages).

<sup>44</sup> Art. 16.2, Universal Declaration of Human Rights; art. 23.3, International Covenant on the Civil and Political Rights; art. 10.1, International Covenant on Economic Social and Cultural Rights (cf. Art. 1, Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages).

<sup>45</sup> Art. 16.2, Universal Declaration of Human Rights; art. 23.3, International Covenant on the Civil and Political Rights, art. 10.1, International Covenant on Economic Social and Cultural Rights.

<sup>46</sup> Art. 29.2, Universal Declaration of Human Rights (*See also*: Art. 16.2, Universal Declaration of Human Rights; art. 23.3, International Covenant on the Civil and Political Rights, ; art. 10.1, International Covenant on Economic Social and Cultural Rights).

<sup>47</sup> Art. 16, Universal Declaration of Human Rights; art. 23, International Covenant on the Civil and Political Rights, ; art. 10, International Covenant on Economic Social and Cultural Rights.

<sup>48</sup> Art. 24, 2(f), Convention on the Rights of the Child; art. 3, Charter on the Rights of the Family.

of couples in deciding about their children since this constitutes a grave offense against the inherent dignity of the human person, and the rights and duties of the family, and the child.<sup>49</sup>

c) Spouses enjoy the same inherent dignity and equal rights and responsibilities as to marriage, during marriage and in cases of separation or divorce, when required by grave and objective reasons (e.g., protection of children) taking into consideration the institution of marriage itself and its social and public significance.<sup>50</sup>

#### **Part IV: (Parents and their Children)**

##### **Article 13 (Responsibility to Protect)**

a) Parents have the primary responsibility for the upbringing, development and protection of their child,<sup>51</sup> because they have conferred life on their child<sup>52</sup> or have legally adopted their child.<sup>53</sup>

b) Parents, in the first instance, have the duty and right to protect their child whose inherent right to life and personal security must be respected and defended from the moment of conception,<sup>54</sup> especially from acts of homicide, cruelty, abuse, neglect and so forth including abortion, human embryo manipulation and/or destruction, physical, psychological, emotional and/or sexual abuse.<sup>55</sup>

c) The State has a complementary role in protecting and defending the rights of the child from the aforementioned acts of violence committed within the family and society.<sup>56</sup>

d) The State and the international community, including regional and international organizations, have an obligation to ensure that the family and its rights are fully respected by the legal systems to ensure that protection and defence of children's rights and duties can become fully effective, since parental duties and rights are intrinsically linked to those of their child.<sup>57</sup>

##### **Article 14 (Responsibility to Educate)**

a) Parents have the prior right and duty to educate their children,<sup>58</sup> the State's role in education is always subsidiary to that of the child's parents.

b) Parents have the right to educate their child in conformity with their moral and religious convictions.<sup>59</sup> It necessarily follows that parents have the right and duty to ensure that their children are not compelled to attend a compulsory system of education from which religion is excluded or to attend classes that are not in agreement with their own moral and religious convictions.<sup>60</sup>

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<sup>49</sup> Art. 16, Universal Declaration of Human Rights; art. 23, International Covenant on the Civil and Political Rights; art. 10, International Covenant on Economic Social and Cultural Rights.

<sup>50</sup> Art. 16, Universal Declaration of Human Rights; art. 23, International Covenant on the Civil and Political Rights; art. 10, International Covenant on Economic Social and Cultural Rights.

<sup>51</sup> Art. 18.1, Convention on the Rights of the Child.

<sup>52</sup> Art. 5, Charter on the Rights of the Family.

<sup>53</sup> Arts. 20.3, 21, Convention on the Rights of the Child.

<sup>54</sup> Preamble para. 9, arts 1, 6, 24, Convention on the Rights of the Child.

<sup>55</sup> E.g. arts. 34, 37, Convention on the Rights of the Child.

<sup>56</sup> E.g., arts. 19, 20, Convention on the Rights of the Child.

<sup>57</sup> Preamble I, Charter on the Rights of the Child.

<sup>58</sup> Art. 26.3, Universal Declaration of Human Rights.

<sup>59</sup> Art. 13.3, International Covenant on Economic, Social and Cultural Rights.

<sup>60</sup> Art. 5, Charter on the Rights of the Family.

c) Parents have the right and duty to freely choose schools in keeping with their convictions, including homeschooling or other means necessary to educate their children, which conform to such minimum standards as may be approved by the State.<sup>61</sup>

d) Parents have the right to public subsidies so that they can freely exercise their duty to provide for their child's education without incurring unjust burdens such as direct or indirect extra charges, which would deny or unjustly limit the exercise of this freedom.<sup>62</sup>

e) **Parents'** prior right to educate means that, when not choosing homeschooling, they have the duty and right to collaborate with teachers and school authorities, and in particular, in forms of participation designed to give the family a voice in the functioning of schools and in the formulation and implementation of educational policies.<sup>63</sup>

## **Part V: (Mothers and their Children)**

### **Article 15 (Special Care and Assistance)**

a) Mothers and children have a right to special care and assistance.<sup>64</sup> Mothers have a right to special protection during a reasonable period before and after childbirth.<sup>65</sup> They have the right to health care and access to a fully developed health care infrastructure with competent medical assistance for a full range of health issues including gynaecological, psychological, biological, mental and physical care. State population policies that treat women as mere objects providing them only with services and benefits related to population control policies violates their right to health care.

b) Pregnant women and their pre-natal children have the right to be free from all forms of abuse, neglect and violence, including capital punishment.<sup>66</sup> Each pregnant woman has a right to have her physical, mental and moral integrity respected, including protection from legal, illegal, and forced abortion, which negatively affects the same.<sup>67</sup> No pregnant women and her pre-natal child shall be subjected to torture, or cruel, inhuman, degrading punishment or treatment by a State, and in particular, measures taken through its population policies in the form of sterilization or abortion programs.<sup>68</sup>

c) The work of the mother in the home must be recognized and respected because of its value for the family and for society through policies, including those which directly or indirectly pay mothers through family bonuses, child bonuses or tax policies.<sup>69</sup>

## **Part VI: (Children and their Family)**

### **Article 16 (Children and the family)**

a) The child, every person under the age of 18,<sup>70</sup> has rights and duties that are interdependent with those of their family and parents.

b) Every child has a right to know and be cared for by his or her mother and father,<sup>71</sup> where the child can learn to appreciate the diversity and complementarity of the sexes and can develop a mature personality.<sup>72</sup>

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<sup>61</sup> Art. 13.3, International Covenant on Economic, Social and Cultural Rights.

<sup>62</sup> Art. 5, Charter on the Rights of the Family.

<sup>63</sup> Art. 26.3 Universal Declaration on Human Rights.

<sup>64</sup> Art. 25.2, Universal Declaration on Human Rights.

<sup>65</sup> Art. 10.2, International Covenant on Economic Social and Cultural Rights.

<sup>66</sup> Art. 6.5, International Covenant on Civil and Political Rights.

<sup>67</sup> Art. 7, International Covenant on Civil and Political Rights.

<sup>68</sup> Art. 7, International Covenant on Civil and Political Rights; art. 37, Convention on the Rights of the Child.

<sup>69</sup> Art. 25.2, Universal Declaration of Human Rights; Preamble para. 9, art. 1, art. 6, art. 24, Convention on the Rights of the Child.

<sup>70</sup> Art. 1, Convention on the Rights of the Child.

c) The child has the right to preserve his or her family relations<sup>73</sup> and if separated from his or her mother and father, to maintain on a regular basis personal relations and direct contacts with both parents, save in exceptional circumstances,<sup>74</sup> or save the best interests of the child, in particular cases, including neglect or abuse.<sup>75</sup>

d) The child needs special measures of protection and assistance,<sup>76</sup> special safeguards and care, including appropriate legal protection, before as well as after birth,<sup>77</sup> including modern technologies that permit doctors to treat pre-born patients in the womb.

e) Every child shall be recognized everywhere as a person before the law.<sup>78</sup> This right includes the right of a legal representative or *guardian ad litem* to protect his or her pre-born client's inherent right to life.<sup>79</sup>

f) Everyone is equal before the law and is entitled without any discrimination to equal protection of the law. In respect to children, the law shall prohibit discrimination and guarantee to all children equal and effective protection against discrimination on any ground, especially those grounds of discrimination that seek to justify abortion or infanticide such as the sex or disability of the child, or the child's rejection by society or his or her parents.<sup>80</sup>

g) Every child deprived of his or her liberty, including the pre-born person living in the womb, shall be treated with humanity and respect for the inherent dignity of the human person.<sup>81</sup>

h) Every child has the right to the protection of the law from arbitrary or unlawful interference with his or her private life, home, including the pre-born person living in the womb, and family relations, including the relationships of the pre-born person with his or her mother, father, siblings and grandparents.<sup>82</sup> Every child, born and unborn, has a right to the protection from unlawful attacks on his or her honor or reputation and to be free from violence justified on the basis that the unborn person is not a human being, not a human person, not viable, not able bodied, not able minded, or not wanted.<sup>83</sup>

## Part VII: Persons with Special Needs

### Article 17 (Family Care)

a) The elderly, dependent adults, and persons with disabilities have the right to find within their own family or, when this is not possible, in suitable family-like institutions, an environment which will enable them to enjoy a long life, in conditions which promote serenity, self-reliance and active participation in the community, including activities which are compatible with their age, and capacities.<sup>84</sup>

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<sup>71</sup> Art. 7, Convention on the Rights of the Child.

<sup>72</sup> Preamble para. 5, 6, Convention on the Rights of the Child.

<sup>73</sup> Art. 8, Convention on the Rights of the Child.

<sup>74</sup> Art. 10, Convention on the Rights of the Child.

<sup>75</sup> Art. 9, Convention on the Rights of the Child.

<sup>76</sup> Art. 10.3, International Covenant on Economic, Social and Cultural Rights.

<sup>77</sup> Preamble para. 9, Convention on the Rights of the Child.

<sup>78</sup> Art. 16, International Covenant on Civil and Political Rights.

<sup>79</sup> Art. 6, Convention on the Rights of the Child; see also art. 3, Universal Declaration of Human Rights; art. 6 International Covenant on Civil and Political Rights.

<sup>80</sup> Art. 24, art. 26, International Covenant on Civil and Political Rights.

<sup>81</sup> Art. 10.1, International Covenant on Civil and Political Rights.

<sup>82</sup> Art. 16, Convention on the Rights of the Child; *See also*: the child's right to life and security in preamble para.9, art. 1, art.6, art. 24.2(d), art. 37 Convention on the Rights of the Child; *See also* child's right not to be separated from his or her parents art. 9 Convention on the Rights of the Child.

<sup>83</sup> Art. 16, Convention on the Rights of the Child; *See also*: preamble para.9, art.6, art. 24.2(d), art. 37 Convention on the Rights of the Child.

<sup>84</sup> Art. 23, Convention on the Rights of the Child.

b) Orphans of dead or living parents, who are deprived of the assistance of their family must receive particular protection on the part of society. The State, with regard to foster-care or adoption, should provide legislation which encourages and assists suitable married couples, based on the best interests of the child, to welcome into their homes children who are in need of permanent or temporary care, while respecting the rights of natural parents.<sup>85</sup>

c) All children living with one parent, where rates of poverty are generally high, should enjoy the widest possible assistance and support with a view to their integral personal development.

### **Part VIII: (Family Policies)**

#### **Article 18 (The Need for a Family Policy)**

The family has the right to be able to rely on an adequate family policy on the part of public authorities in the juridical, economic, social, cultural and fiscal domains, without any discrimination whatsoever.<sup>86</sup>

#### **Article 19 (Basic Guiding Principles)**

The fundamental principles which should guide policy decisions are fourfold: the family must be respected as a subject of rights and duties, especially as regards matters pertaining to primary care, religion, education, association with others, access to appropriate information, and privacy; parents are presumed to act in the best interests of their child; limited State intervention is the norm save in cases involving the criminal justice system; and every piece of legislation should be evaluated in relation to the effect it may have on strengthening the family.

#### **Article 20 (Family Participation)**

In developing such a family policy, the family has the right to form associations with other families and institutions in order to fulfil the family's role suitably and effectively, as well as to protect their rights, foster the good and represent its interests in the planning and development of such policies and eventual programs.<sup>87</sup>

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<sup>85</sup> Art. 21, Convention on the Rights of the Child.

<sup>86</sup> Art. 9, Charter on the Rights of the Family.

<sup>87</sup> Art. 20, Universal Declaration of Human Rights.