

The Concept of the Family and Its Principles from the Perspective of International Human Rights Instruments

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Abstract : The family has existed as a natural unit of human relations from the beginning of creation and life of human society until now and has been the core of the relationship between women, men, and children. However, in the field of human relations, the definition of family, related rights and duties, principles governing the family, the impact of the family on other individual or social phenomena and various other areas have changed over time, especially in recent decades, and the subject has now become one of the important categories of studies including interdisciplinary studies. It is difficult to provide an accurate and comprehensive definition of the family, and in the context of different cultures, customs, and legal systems, different definitions of family are presented. The meaning of legal principles governing the family is the general rules of law that determine the organization of different dimensions of the family, and dozens of partial rules are inferred from it or defined in the light of these general rules. How each of these principles was formed has left its own detailed history. In international human rights standards, which have been gradually developed over the past 72 years, numerous data can be found that in some way represent a rule in the field of family law or provide an interpretation of existing international rules which also address obligations of governments in the field of family. Based on a descriptive-analytical method and by examining human rights instruments, the present study seeks to explain the effective elements in defining and the principles governing the family. This article makes it clear that international instruments do not provide a clear definition of the family and that governments are empowered to define the family in terms of the cultural context of their community. But at the same time, it has been stipulated that governments do not have the exclusive authority to provide this definition, and certain principles should be considered as essential elements. Also, 7 principles have been identified as general legal rules governing all international human rights instruments related to the family, such as the principle of voluntary family formation and the prohibition of forced marriage, and the principle of respecting human dignity for all family members. Each of these 7 principles has led to different debates, and the acceptance or non-acceptance of each of them has different consequences in the rights and duties related to the family and the relations between its members and even the family's interactions with others and society. One of the consequences of the validity of these principles in family-related human rights standards is that many of the existing legal systems of countries in some cases need to be amended and their regulations revised, and some established cultural traditions in societies that are considered inhumane in terms of these principles need to be modified and changed. Of course, this process of governing the principles derived from human rights standards over the family also has vulnerabilities and misinterpretations that should not be neglected.

Keywords : family, human rights, international instruments, principles

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