

## **IMADR at the UN**

### **16th UN HRC Side Event: Cultures, Traditions and Violence Against Women**

**IMADR Geneva Office**

On March 7, 2011 the *Violence is Not Our Culture Campaign* organized an event parallel to the 16<sup>th</sup> UN Human Rights Council (HRC) in collaboration with AWID (Association for Women's Rights and Development), and IWRAW (International Women's Rights Action Watch). The event focused on "Cultures, Traditions and Violence Against Women" as a challenge to human rights. Panelists came together to discuss how notions of culture, tradition and religion continue to be used to justify the violation of women's rights, minority rights, and the rights of the LGBT community, regardless of how much recognition the universality of human rights gains. AWID Executive Director Lydia Alpizar moderated the meetings and invited four panelists to speak. The panelists each shared their experiences and perspectives based on their varying backgrounds, which resulted in a rich dialogue that presented different approaches to exploring the issues.

UN Independent Expert on Cultural Rights Farida Shaheed was first to speak, and focused on culture and the different indications of this notion. She defined culture not as music, poetry, fine arts, and monuments, but as a way of life, a prism through which we perceive and respond to the world. She deduced, therefore, that whenever Violence Against Women (VAW) takes place, it indicates a degree of legitimization, usually coming from patriarchal cultures that tend to value and accept violence, while devaluing feminine attributes and, ultimately, women. When violence is transformed into a norm, it gains acceptance and an environment of impunity results. Shaheed further stated that this culture of violence needed to be replaced with a culture of peace.

Shaheed continued by setting forth two main assertions. The first is that no society ever has a singular culture. In every society, there is a dominant culture and other sub-alternate cultures that represent those who do not accept living according to the viewpoints of the mainstream, e.g. women, indigenous people, youth, and human rights defenders. Her second assertion was that culture is never static. It is produced and reproduced through everyday interactions in social and political arenas, and is not just passed from one generation to the next but is constantly evolving from a sense of self. Shaheed stressed that the notion of culture is not synonymous with cultural relativism; there are common sets of values that are found across cultures belonging to humanity in its entirety and are inscribed in the Universal Declaration of Human Rights. This means that each person is entitled to rights and freedoms as recognized in the Declaration and that all States have the obligation to promote and protect human rights.

Shaheed expressed her belief that it is time for women to shift the dialog on culture from being an obstacle and use it to demand their rights. Women have rarely

defined the dominant culture because they don't have the means, so they need to be taken from the subculture to the dominant culture and be supported in shifting from the margins to the center. Shaheed thought the promotion of women's cultural rights was integral to changing their position and commented on what little effort women's right advocates had made in this regard. She highlighted that although CEDAW speaks about cultural rights, but did not believe that women's rights activists or communities had picked up on this. Shaheed concluded by urging people to think about how women's cultural rights can be promoted as a means for stopping VAW and to see what obligations devolve on States to ensure these rights.

Following Shaheed, Madhu Mehra, from IRAW Asia Pacific and Executive Director of Partners for Law and Development in India, took the floor. Mehra voiced her concern about "traditional values," a topic that is currently being discussed at the Council due to a Resolution that Russia is sponsoring. Her concern is that traditional values are clearly defined within the human rights context in CEDAW, and any new usage is unclear to those who look towards human rights instruments as a source of strength. Mehra also voiced concern about culture increasingly being discussed in the context of religion and ethnicity alone, despite the many aspects of life that shape and contribute to culture. She sees most discussion on culture congealing around religion-based family laws and being used to silence debates around this. She pointed out that India has its maximum reservation to CEDAW Article 16, which is framed in terms of cultural diversity, so the government will not interfere in laws of minority communities or social and cultural practices. Therefore, the State uses cultural diversity as a justification for not bringing in change and limiting human rights in the context of minorities.

Mehra gave an example of how the situation with religion-based family law gets played out in India, calling into question who represents the community. Prior to 2001, Christian family law did not allow for divorce. It took women 40 years to mobilize church groups and statutory bodies to change this. Church groups played a vital role in getting the amendment that introduced grounds for divorce, however, if a church group had been against this amendment then it wouldn't have passed. Despite that church groups and women's groups reinforced the same point, it was the church that the State listened to and ultimately heeded to, and not the women's groups. Mehra noted that issues arise when recognizing that communities aren't homogenous; there are inequalities within communities, especially regarding women. This begs the question of who has the right to determine or represent their interests, and why when women's rights are being talked about it is almost always male leadership speaking for women.

Mehra stated that the legal system needs to be improved to give women equal rights. She highlighted that UN agencies and aid now focus on prioritizing work on systems with plural legal systems, but when talking of traditional legal systems, they are not always loyal to international standards. Accordingly, such systems should be probed because people are being asked to work with legal mechanisms without distinguishing if they are traditional or progressive. She concluded by stating the

importance of this distinction in light of traditional mechanisms being inaccessible to women.

Russia was present at the panel and a delegate responded to Mehra's concern about traditional values, saying that the notion of traditional values was impossible to define, but there was still a negative connotation here. However, not all traditional values were negative; there were positive traditional values that helped some societies to survive and develop in a more extensive and comprehensive way. Russia continued to name three values - human dignity, freedom and responsibility - as being values of human kind, and asserted the states' intention to have a study conducted to determine how to best apply the notion of these values in a way that bridges tradition and human rights norms in the promotion of human rights. Russia assured the panelists that there was no notion of cultural relativism in the initiative, and just the opposite; the initiative served to reaffirm the universality of human rights and fundamental freedoms. The Russian delegate then invited panelists to come to him directly if they found any indication of cultural relativism or questioning of the universality of human rights in the resolution so that they could eliminate them together.

Mehra disagreed with Russia's claims and affirmed that all possible measures regarding traditional values are in CEDAW and so there is no need for "picking on traditional values as a separate" or giving it specific emphasis, due to it being relative to time. She continued by stating that a law on traditional values was unnecessary because there were already standards in place dictating when a law is discriminatory that it needs to be changed and so there was no value in formulating something new. Furthermore, she maintained that everything needed to be consistent and compliant with international standards, so there was no advantage to Russia's resolution.

The leader of the Epinayu clan of the Wayuu indigenous community in Columbia, Karmen Ramirez Boscan, joined the discussion to share the perspective of indigenous people in addressing gender violence. Boscan described the difficulty in talking about violence against indigenous women within the community because of their practices, beliefs, and priorities. In the situation indigenous people face, in her community with the particular backdrop of internal conflict, indigenous people constantly have to protect their traditions, their cultures, their way of life, their land, their livelihood and even their lives. This leaves little room for discussing violations of women's rights or problems of gender-based violence. Boscan said that in her indigenous community, they did not even understand the meaning of gender due to the context of their community, and that when trying to address this issue, it had created conflict within the community not only between men and women, but also among women. The inability to address the issue also comes from an inherent fear of change due to unpredictable negative effects that can transpire on culture and traditions, which have in some cases caused other indigenous communities to disappear and cause a fear that this could happen to other communities. Boscan also shared the myth surrounding indigenous culture of people being the "noble or good

savage,” meaning that people either think good or bad about them. This causes people to have the impression that they are in a romantic position because they are taking care of mother earth, who is female and sacred (a belief that ties women’s rights to territory rights,) and therefore they are doing everything right, including how women are treated. Boscan said this is not only an excuse coming from Western culture but also from within the community to hide its bad practices; in cases where violence is discussed, only the causes from outside the community are addressed, while those from within remain last on the agenda.

Boscan skipped the conclusion of her presentation in order to make two complaints. Her first was that a woman working for her organization was killed for defending her territory. She wanted this to be a reminder that the rights of indigenous women must not be separated from the rights of the territory, because they are always linked. Her second complaint was that a week ago, police killed a two-year old girl because they were destroying a racetrack where the indigenous community practiced their traditional games and she happened to be there. Boscan shared these facts to inform the audience that the protection of territory was related to violence and that this violence was being produced by the State and other actors against indigenous women, and she therefore called for more respect for indigenous women. The moderator best summed up the situation of indigenous people as having a “culture of resistance” and highlighting how important indigenous women’s understanding of this was to their struggle.

The final presentation focused on women’s experience in Sudan. Fahima Abdelhafiz Hashim, director of the Salmmah Resource Center in Sudan, came to share this reality. Women in Sudan are in a situation where for the last 22 years, Islamic fundamentalists have ruled and Sharia law, replacing what was once Sudanese culture with Islamic culture, has dictated their lives. Women now find themselves in an unstable community structure where religion is often misused as an instrument of control. Women had a very difficult time adjusting and understanding the ways Islamists wanted to do things when Sharia law was first being enforced. At university, they were told that when talking to a man, they had to stand at least two meters apart, and that they could be subject to ID checks when walking with others to prove their relationship with them; this was horrifying to women when it first started. Hashim highlighted that the laws and restrictions on women were only arbitrarily enforced, creating serious inconsistency for women. There are also serious issues regarding the dress code; women have seen the colorful traditional dress of their mothers and grandmothers replaced by the Taliban Burka, but what is appropriate Islamic dress is left to the interpretation of whoever accuses the women of dressing inappropriately. One man or authority figure may believe proper Islamic dress to be one thing, while another could have a different interpretation, so depending on the opinion of the enforcer of the dress code, a women can be taken to court and subject to lashings one day based on something that was acceptable the previous day. This leaves women in a constant state of insecurity, making them vulnerable, while greatly restricting their mobility.

Reproductive rights are also deeply violated in Sudan. The government is once again legitimizing female genital mutilation, despite the work that has been done to stop it and studies proving it problematic. Access to reproductive health is limited, while sexual health services and sexual education are lacking. According to the current rape law, a woman can be even accused of committing adultery if she comes forward saying that she has been raped, unless she has four male witnesses who will testify in court that she has in fact been raped. In Darfur, security authorities get away with whatever they want because if you work for the State, you aren't obliged to be taken to court and the likelihood of securing four male witnesses to testify is very low. Hashim called for the reform of practices in Sudan, the application of pressure on the government to ratify CEDAW, and a change in the attitude that Islam cannot be changed because the women in Sudan need support if they are going to make any progress.

The moderator followed the presentations by drawing attention to the increasing violence that is targeting women human rights defenders and defenders of the LGBT community. Alpizar said that in the past, activists who have come to Geneva to speak on panels have faced severe percussions upon returning home. Hashim, in coming to Geneva to claim her right to speak and voice what is happening in her country, was in considerable risk of reprisal when she returned to Sudan. Alpizar asserted that the government needed to be held responsible for any violence exercised against her and voiced the hope that Hashim's rights would be respected upon her return to Sudan.