

GENDER AND INDIGENOUS PEOPLES' CULTURE

4 briefing note

Why are gender issues important?

Cultural rights are fundamental to the protection of all other human rights, including civil, political, social, and economic human rights. Yet, despite the indivisibility of all human rights, some human rights theorists and practitioners mostly perceive cultural rights to be in tension with women's human rights. In recent years, women human rights advocates from a broad spectrum of countries, religions, ethnicities, and social sectors have reasserted the inter-relationships between cultural rights and women's human rights.¹ In many countries, women are working to demonstrate that cultural rights and women's rights can be mutually reinforcing. They work to highlight and build cultural practices and traditions that are supportive of the human rights framework. This note focuses mostly on Indigenous women and culture.

Indigenous women from around the world are linking cultural rights to the protection of women's rights, by articulating the centrality of cultural rights to the exercise of the collective rights of Indigenous Peoples—including rights to territory, natural resources, education, language, religious expression, and self-determination—and arguing that only the protection of those rights enables Indigenous women and their families to enjoy the full range of their human rights as women, including their right to a life free of violence. The issue of violence in many Indigenous cultures is seen as 'family violence' and has to be addressed holistically as it includes men's violence against women, men on men violence, and even sometimes women violence on children, youth violence on elders, women on women violence to be protected from violence. So it not only about protecting themselves but also their children, parents, partners and the whole community.

What is Culture?

Culture is often imagined to be a set of archaic practices contained within an unchanging, bounded community. A more nuanced understanding of culture,

however, elaborates cultural practices as fluid, contested, and connected to relations of power.

Cultures are never homogenous and are shaped by people's actions and struggles over meaning. Culture is the way that people make sense of their world, both as individuals and as part of larger collectives. Cultures have always been subject to change – both internal and external. From this perspective, respect for cultural differences exists simultaneously with the belief that cultural practices and beliefs can and do change over time.

How does applying a gender perspective make a difference?

How do Women's Human Rights Advocates Relate Cultural Rights to Women's Rights?

Articulations that posit culture as static, sacred, monolithic, and outside of history undermine historic and ongoing efforts of women human rights advocates who work within their own communities and within policy arenas at the local, national, and international levels to actualize social change and legal protections for women. For many women advocates, this means negotiating between traditional law and custom, and new forms of legal protection gained through international advocacy. It also means advocating for the rights of women within a larger struggle to protect the rights of their communities: whether from aggressive development policies; from state repression. In contrast to a framework that sees dissonance between rights based on culture and those based on gender, many women human rights advocates view those sets of rights as interdependent and mutually constitutive.²

What are the key issues to be considered?

Recognizing Women's Role in Cultural Practices

Among many cultural and religious traditions, women have primary responsibility for transmitting cultural and spiritual knowledge and practices, and

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group identity in general, to succeeding generations. Because culture exists through, and is generated by, the lived experiences of people, women's role in transmitting culture also situates them as creators and custodians of culture. For this reason, people across a diverse range of communities view women's adherence to and promulgation of cultural norms as integral to cultural survival. In many instances, this relationship between gender and culture is used as a basis for justifying violations of women's human rights. For example, in many cultures, religions, and states, the rights of individual women are subordinated to upholding women's role as the carriers of group identity. Thus, women are often denied the right to make autonomous decisions regarding their own sexuality, childbearing, and marriage; and their children's nationality, religion, and citizenship. These violations of basic rights are rationalized as necessary to ensure cultural preservation and other collective identities, which women are thought to embody.

On the other hand, women's primary role in transmitting and creating culture can serve as a basis for protecting and enhancing women's status within their families and communities. For example, the international Indigenous women's movement has demonstrated that among many Indigenous Peoples, women's roles as spiritual guides, midwives, healers, and political leaders—all forms of cultural expression—are a central basis of women's power and status among their Peoples. *Indeed, women's cultural practices are important not only for the spiritual health of their communities, but also for their communities' overall well-being. In most communities around the world, women are the primary providers of food, water, and healthcare for their families. Women fulfill these roles in culturally specific ways, highlighting the relationship between women's gender-based human rights, cultural rights, and economic and social rights.*

What are the practical implications?

Respect without Relativism

In recent decades, people around the world have experienced rapid social change induced by accelerated economic globalization. In many contexts, people have responded to experiences of economic dislocation, migration, loss of livelihoods, and armed conflict by invoking a rigid and monolithic conception of culture that is intended to reassert traditional power relations and to garner a sense of stability and continuity in the face of rapid social transformations. For this reason, the tension between cultural

rights and women's human rights have intensified in recent years. *Tradition, like culture, is often thought to be inherent and unchanging. Yet traditional practices are not necessarily ancient; in many communities women provide a contemporary response to political and social upheaval.*

Despite a contemporary understanding of culture that clarifies its changing and contested nature, "cultural relativity" is sometimes invoked to justify human rights abuses against women. The notion of cultural relativity emanates, originally, from an ethic of respect for cultural difference, which is wholly compatible with—and in fact essential to—a human rights framework. However, a problem arises when respect for difference is conflated with an injunction against opposing any practice labeled "cultural." As a result of such faulty logic, one set of rights (cultural rights) is used to excuse violations of another set of rights (women's human rights). Examples of grave violations of women's human rights that have been justified in the name of culture, tradition, or religion are "honor crimes," female genital mutilation (FGM), widow cleansing, and forced early marriage.

Those who defend such human rights violations in the name of culture tend to posit the framework of human rights in opposition to "culture." However, this thinking assumes that it is culture that subordinates women and modernity – in the form of universal human rights legal protections—that liberates them. This stance suggests that beliefs that underpin a human rights framework do not find origin in other value systems. In fact, a wide range of cultures put forward notions of rights and human dignity upon which to condemn violence and oppression.

What are some of the challenges to be addressed?

Reconciling Cultural Rights and Women's Human Rights

Women, who experience human rights violations on the basis of both gender and culture, explain that it is not "culture" that lies at the root of women's oppression, but practices and norms that deny women gender equity, education, resources, and political and social power. While culture needs to be understood as part of the context in which human rights abuses occur, it does not rationalize or justify these abuses. The report of the Special Rapporteur on Violence Against Women³ (1996) declares, "It is important to emphasize that not all customs and traditions are unprotective of human rights... However, those practices that constitute definite forms of vio-

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lence against women cannot be overlooked nor justified on the grounds of tradition, culture or social conformity.”

As the Special Rapporteur implies, it is true that some aspects of cultures may be used to violate women's human rights; however, other aspects of culture may be used to promote a human rights framework. For example, before contact with colonizing powers, many Indigenous communities practiced relatively egalitarian gender relations, and reproduced worldviews that define gender roles as complementary, rather than hierarchical. Thus, for Indigenous women, cultural preservation as an element of cultural rights may be a strategy for transmitting values that support women's human rights.

Today, women human rights advocates from a wide range of cultural contexts are working to ensure the continuation of cultural practices and values, while working to change cultural practices that may harm women. Women---those who navigate the lived realities of debates regarding gender and culture---are paving the way for nuanced and historically specific negotiations of “culture” and “human rights”. They are challenging this binary by demanding that states respect, protect, and fulfill both women's human rights and cultural human rights, recognizing that both sets of rights and the interplay between them are integral to people's enjoyment of the full range of human rights.

In response to these multiple challenges the UN Permanent Forum on Indigenous Issues recommended (May 2006) that “appropriate United Nations organizations, including the United Nations Development Fund for Women (UNIFEM) and the United Nations Children's Fund (UNICEF), as well as States, take immediate action to review and monitor the situation of indigenous women and provide comprehensive reports on violence against indigenous women and girls, whose suffering is based not only on gender but also on ethnicity and culture. Indigenous women must be full participants in this process”

References

- ¹ “*Bringing Indigenous Perspectives to the International Arena: An Indigenous Women's Conference*”, International Indigenous Women's Forum Declaration, New York 2005.
See paragraph 5. The *Final Report on the 49th Session of the Commission on the Status of Women* E/CN.6/2005/11.
- ² “*Bringing Indigenous Perspectives to the International Arena: An Indigenous Women's Conference*”, International Indigenous Women's Forum Declaration, New York 2005.
See paragraph 13.
- ³ United Nations, *Report of the Special Rapporteur on Violence Against women*, E/CN.4/1999/68/Add.2.
- ⁴ United Nations, *Fifth Session Report of the Permanent Forum on Indigenous Issues*, E/C.19/2006/11, paragraph 47 and 55.

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For further information please contact:
Ms. Mirian Masaquiza
Email: masaquiza@un.org
Division for Social Policy and Development
Secretariat of the Permanent Forum of Indigenous People (SPFII)
2 United Nations Plaza, Office DC2-1772 New York, NY 10017

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