

Human Rights Without Frontiers

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**Freedom of Religion or Belief and Gender Issues
Attempting to Bridge the Gaps**

Experts seminar organized by Geneva for Human Rights

Geneva, 18 June 2015

Freedom of Religion or Belief and Gender Issues Attempting to Bridge the Gaps

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The intersection of freedom of religion or belief and gender-related rights is an area of tension between two sets of related rights, and a frequent perception of the issue is that they are both contradictory and irreconcilable.

The Holistic Character of Human Rights

Even still, the holistic understanding of human rights has been accurately defined in a principle formulated in the Declaration and Program of Action of the World Conference on Human Rights held in Vienna in 1993 that “*all human rights are universal, indivisible, interdependent and interrelated*” (Part I, par. 5). This, of course, does not give the guarantee that in practice issues promoted under different human rights norms cannot collide at their intersection and this is certainly the case in the interplay between freedom of religion or belief and gender-related issues.

The Limits of Freedom of Religion or Belief

Freedom of religion or belief is a fundamental human right which can be limited, but only under restricted conditions. Nevertheless, this right, like other human rights, cannot be used to justify the violation of other human rights and freedoms as it is said in Article 5 of the International Covenant on Civil and Political Rights. Numerous UN statements have also addressed this issue, inter alia from the angle of the protection of women’s rights and dignity when they are threatened by religious or cultural considerations. Two examples:

Declaration on the Elimination of Violence Against Women (DEVAW)

In 1993, the UN General Assembly adopted a Declaration on the Elimination of Violence Against Women saying in Article 4:

States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination.

Human Rights Committee – General Comment No. 28 (2000): The equality of rights between men and women

In its General Comment No. 28 (2000): The equality of rights between men and women, the UN Human Rights Committee stressed that:

“States parties should ensure that traditional, historical, religious or cultural attitudes are not used to justify violations of women's right to equality before the law and to equal enjoyment of all Covenant rights” and that

“some regulations may involve a violation of a number of rights guaranteed by the Covenant, such as articles 18 and 19, when women are subjected to clothing requirements that are not in keeping with their religion or their right of self-expression; and, lastly, article 27, when the clothing requirements conflict with the culture to which the woman can lay a claim.”

The UN Special Rapporteur on Freedom of Religion or Belief and Gender Equality

In line with these declarations, the Commission on Human Rights has persistently stressed in its resolutions since 1996, the need for the UN Special Rapporteur on Freedom of Religion or Belief to apply a gender perspective, inter alia, through the identification of gender-specific abuses in the reporting process, including in information collection and recommendations. Although some countries initially have been reluctant to see the nexus between discrimination on the basis of gender and the mandate of the Special Rapporteur on freedom of religion or belief, it is now accepted that the mandate-holder will raise cases or highlight situations that relate to the status of women and other gender-related concerns. Furthermore, resolution 2005/40 of the Commission on Human Rights explicitly invited the Special Rapporteur to address “the situations of violations and discrimination that affect many women as a result of religion or belief” and the scope of his/her investigation field is huge.

Human rights violations in the intersection of the two norms

In the name of religion, human rights violations of women are legion at the intersection of the two norms:

- Attacks on the right to life, honour killings, domestic violence, inhuman and degrading treatment
- Practices that are harmful to the health of women and girls applied within their religious communities for reasons of religious traditions or those ascribed to religion
- Genital mutilation
- Forced conversion, i.e. in case of a religiously mixed marriage
- Forced marriage
- Enforced ritual prostitution
- Forcible imposition of dress codes
- Denying girls and women the right to wear religious symbols when they freely choose to do so
- Denial of access to school education, to public institutions, to professional or public positions on the ground of religiously motivated attire
- Discrimination in family law
- Laws granting men and women different rights on divorce, such as the impossibility for a woman to divorce without her husband's consent

Gender Stereotypes

Women and LGBT people are often caught between multiple layers of stereotypes and stereotypical perceptions, and religions have fossilized them in diverse cultures. It must also be recognized that in other contexts religions have challenged gender stereotypes and have been a catalyst for positive change.

Even still, it is true that gender stereotypes and gender stereotyping are often misunderstood in human rights discourses. They are also overlooked as the cause of human rights violations and discriminatory practices.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is a well-known instrument to combat stereotypes and stereotyping but it is not the only international human rights treaty to impose obligations related to this issue. Many of the human rights treaty bodies have recognised that the rights to non-discrimination and equality

– and through them, other rights and freedoms – contain an implied obligation to address harmful stereotypes and wrongful stereotyping.

Pursuant to Article 5 (a) of the Convention, State parties are obliged to take all appropriate measures “to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudice and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles, for men and women.”

To fulfil this obligation, State parties must challenge centuries-old, and even thousands-year-old, cultural practices.

Culture and Religion

Culture and collective identity in male-dominated and hetero-dominated human communities are frequently interwoven and provide strong resistance to change. In many countries, social patterns including gender discrimination are founded on cultural and/or religious practices. The traditional distribution of roles between men and women in family life and in society inherited from prehistoric times can survive in the most modern societies, even without their being aware of all its aspects. Ignorance about the nature of sexual orientation and gender identity is at the root of deeply-held prejudices and acts of violence in many countries today.

However, cultures are not immutable in time. They are in constant and dynamic interaction with their environment and the time has come for them to absorb and integrate the rights parameter which includes gender equality and gender inclusion in its fullest sense. The challenge for State parties is to extirpate discriminatory cultural patterns deeply rooted in past interpretations of religious and sacred texts while preserving the hard core of their values and the colors of past times.

The relationship between culture and religion shows manifold facets between and within religious traditions but both are not identical. Scholars and reformers from within religious communities but also outside are working on a conceptual distinction between religion and culture and they use this opened space for critical but constructive questioning and reform

agendas that could contribute to bridging the gaps. This means there is a potential for synergies.

Potential for Synergies

Freedom of religion or belief, in conjunction with freedom of expression, can open up controversial religious traditions to systematic questions and debates. This can lead to more gender-focused reading, revisiting and understanding of sacred texts in the light of contemporary understandings and realities. In this context, everyone should have a voice and a chance to be heard: historians and sociologists of religion, conservative and reform theologians, liberal critics, human rights scholars and of course women and all those who have been victimized and deprived of their legitimate rights and dignity.

However, due to the antagonistic views at stake in the interplay between freedom of religion or belief and gender justice, the potential for synergies between the involved actors on both sides has been largely underexplored. When there were such activities, they were sometimes de-legitimized instead of being encouraged. Indeed, synergetic efforts do exist and initiatives have already been undertaken not only by women and men of different religious persuasions but also by progressive theologians and civil society organizations.

There is obviously a need to give more visibility and to be more supportive to constructive research works and positive practices aiming at bridging the gaps, and I am sure participants in this seminar will have a lot to share about their own experience.

A Call to Action

In conclusion, I will launch a Call to Action, the title related to the best-seller of former US President and Peace Nobel Prize Winner Jimmy Carter “Women, Religion, Violence and Power”.

His report addresses the system of discrimination that extends to every nation. Women are deprived of equal opportunity in wealthy nations and “owned” by men in others, forced to suffer servitude.

A Call to Action addresses the suffering inflicted upon women by a false interpretation of carefully selected religious texts and a growing tolerance of violence, some key verses of sacred texts being often omitted or quoted out of context by male religious leaders to exalt the status of men and exclude women.

Mr Carter was encouraged to write this book by a wide coalition of leaders of all faiths. He drew upon his own experiences and the testimony of courageous women from all regions and all major religions to demonstrate that women around the world, more than half of humanity, are being denied equal rights.

This topic affects us all and I am confident that this seminar will contribute to constructive and efficient action for the sake of those courageous women and others who are affected by gender-based discrimination from all regions and religions who fight for their dignity and equal rights, sometimes at the risk of their lives.