



violence is not our culture
the global campaign to stop killing and stoning women

PROCEEDINGS

VIOLENCE AGAINST WOMEN AND GIRLS EXCUSED IN THE NAME OF 'CULTURE'

NGO PARALLEL EVENT

54TH SESSION OF THE UN COMMISSION ON THE STATUS OF WOMEN

On March 3rd, a panel discussion on violence against women and girls justified in the name of culture was held by the Global Campaign to Stop Killing and Stoning women (SKSW Campaign) during the 54th Session of the UN Commission on the Status of Women (CSW). The aim of the event was to present an overview of the diverse contexts the Campaign is active in, focusing on the frontline work of our partners in their local contexts, and to expand the Campaign's outreach through the distribution of Campaign materials and networking.

The panel involved the following speakers and topics:

- Overview of the SKSW Campaign - Fatou Sow, WLUML-ICO Coordinator
- Culture and VAW as a Global Phenomenon - Zarizana Abdul Aziz
- Stoning is Not Our Culture: Iran and Nigeria - Rochelle Terman and Mufuliat Fijabi
- Criminalisation and Inhuman Punishment of Women and Girls through Laws: Indonesia including Aceh – Ni Loh Gusti Madewanti and Evi Zain
- VAW in the Context of Conflict and the Culture of Lawlessness: Afghanistan – Roya Rahmani
- Sexual Harassment: the Hidden, Unspoken form of CVAW in Sudan – Zaynab El Sawi

The UN Special Rapporteurs invited to give their insights on the human rights implications of violence against women and girls justified in the name of “culture” were:

- Rashida Manjoo - Special Rapporteur on VAW, its Causes and Consequences
- Philip Alston - Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions
- Manfred Nowak - Special Rapporteur on Torture and other Cruel, Inhuman and Degrading punishments

Proceedings of the Event

Overview of the SKSW Campaign - Fatou Sow, Executive Director, Women Living Under Muslim Laws

Women Living Under Muslim Laws (WLUML) is a feminist international solidarity network that provides information, support and a collective space for women whose lives are shaped, conditioned or governed by laws and customs said to derive from Islam. WLUML is not a faith based organization and considers religion as a private matter. WLUML's advocacy strategies are drawn from multiple sources and oppose those that polarise or dichotomise strategies that use progressive religious arguments and dialogues with religious leaders and those that put primacy on invoking human rights principles.

WLUML seeks to break the isolation of women struggling for their rights in Muslim contexts through solidarity actions and providing them with information and analysis that demystify sources of control of their lives. We usually hear that gender based violence and the use of culture and religion to justify this is only in Muslim countries, but gender violence occurs in all cultural, religious and social contexts around the world.

The Campaign was launched in November 2007, in Istanbul Turkey, with partners working in Muslim and non-Muslim contexts alike. The ultimate goal of the Campaign is to end all forms of culturally justified violence against women and girls. To achieve this goal the Campaign has established a network of sister campaigns in Aceh, Indonesia, Pakistan, Nigeria, Senegal, Sudan and Iran who are at the forefront of raising visibility of CVAW as a human rights concern, through a multi-pronged approach. The Campaign utilizes the UN human rights system to push for State accountability and responsibility in confronting CVAW, documenting occurrences of CVAW globally, offering critical analysis of cultural and religious justifications and publicizing progressive interpretations as alternatives, and issuing solidarity alerts to support the demand for justice on behalf of victims and survivors of CVAW.

Future challenges for the Campaign include broadening the reach and scope of the Campaign by highlighting similar justifications in the name of culture and religion in non-Muslim contexts. We celebrate the fact that we have brought the Campaign to its current stage but we are very conscious that our effectiveness can be further enhanced if we are able to link the Campaign to struggles of women facing similar hardships in non-Muslim contexts. Within countries considered as Muslim majority, we also need to pay more attention to the situation of women in the minority groups and how these cultural justifications of discrimination and abuse may be affecting them.

We are also very conscious of the need to articulate our aspirations that addressing discrimination and violence against women in the name of culture must address the situation of the next generation. We intend to incorporate the positive developments gained in the Convention on the Rights of the Child into our strategy and future actions.

As what our partners from Afghanistan and Aceh will share in their presentations in a short while, we are also mindful of the fact that culturally-justified discrimination and gender-based violence are most acute in situations of conflict, post-conflict and humanitarian crisis. We want to link up with groups who are working in these arenas and explore how the lenses of 'culture' are used to justify sexual violence faced by women and girls in these dire situations and how they act as barriers to women's political participation in peace-building and reconstruction.

'Culture' and VAW as a global phenomenon- Zarizana Abdul Aziz, Human rights and women's rights advocate, WLUM Board member

While VAW has been on the global human rights agenda for 15 years now, it is still too often thought of as an issue of the "private" sphere, particularly as often the perpetrators of violence against women are their family members, kin, spouses or intimate partners. The problem of treating VAW as a private issue is that it promotes impunity, by reducing the ability of others to intervene on behalf of the women and girls being violated, and simultaneously denying women and girls avenues for recourse. It further removes the issue from the scrutiny of the law, allowing States to divest themselves from responsibility for preventing it. We know though, that States are actually promoting violence against women, they are not neutral. The Campaign is calling on all States to maintain their international human rights obligations by investigating all cases of VAW, regardless of whether they occur in the public or private spheres, and regardless of the justification given, and especially when the justification is 'culture'.

The formulation of 'culture' as bounded and static needs to be challenged, as when VAW is analyzed through a lens of cultural relativism, it is portrayed as inherent to certain cultures, and women victims who 'transgress' ethnic and religious culture are responsible for the reprisals against them. When a girl is raped on the orders of a village council, those external to the culture say "That's part of their culture", and women are told to accept that violence, but it is precisely women from within various cultures who are standing up and saying that rape and violence is an unacceptable part of any culture. When discussing culture, it is important to pay heed to who is claiming a cultural authenticity, and why that is given legitimacy over other interpretations of culture. Who is promoting violence, whose narratives of group identity and privilege are being preserved by this, and whose voices are being denied?

This applies as well when discussing religious laws, particularly as within Islamic jurisprudence there are many diverse interpretations of what constitutes Islamic law. Yet political Islamists are increasingly pushing for a 'return to *Sharia*' as the solution to counter corruption, immorality and failure of government - and somehow, despite the fact that different schools of *Sharia* exist, it is implementing *Hudud* laws and physical punishments such as stoning and whipping which is being given legitimacy as the marker of an Islamic or Muslim State. This needs to be challenged, by distinguishing between what is reprehensible and should not be preserved or given legitimacy as 'culture', and by placing the onus on

nation States to de-legitimize harmful cultural discourses and to define and promote human rights for everyone, especially women.

Stoning is not our culture: Iran and Nigeria - Rochelle Terman and Mufuliat Fijabi

When examining the cultural history of Iran, it becomes clear that all too often, so called 'cultural' justifications for violence against women are very rarely cultural, but rather extremely political. Prior to the 1979 revolution, stoning was never practiced in Iran, even though Islam was the main religion of the nation. The Iranian regime, like other political-fundamentalist actors and groups, has built their image and mandate on the control of women's bodies, and defines its boundaries of control via the family and through control of women's sexuality. In doing so, it has made adultery a capital crime against the State, and often the punishment for murder is less severe than the punishment for adultery.

In this framework, though the legal text on adultery applies to men and women equally, in reality women are far more likely to be found guilty of adultery due to the myriad forms of legal discrimination women face in regards to family law, age of consent, divorce, polygamy, temporary marriages, and child custody. If a man is sexually unsatisfied or in an unhappy relationship, he has many legal avenues open to him to satisfy those desires – by divorcing his wife, taking a temporary marriage, marrying a second wife, etc. – but women are denied these options, and therefore driven into adultery by these policies, and their bodies more likely to be criminalized. In fact when Iranian activists were campaigning against the stoning law, they found that stoning was really a window into a larger conversation on gender discrimination and sexual rights, which is why stoning is such a salient and relevant issue for anyone working on legal discrimination, violence against women and girls, and sexual rights.

In Nigeria, stoning to death is a legal punishment in 12 northern states. When the laws were passed in 1999 it was a particularly dangerous time to talk about women's rights. Despite this, BAOBAB for Women's Human Rights in Nigeria, which is now leading the Sister Campaign "Stop Violent Punishment Against Women", took the lead in opening up discussions and dialogues on the issue, with much support from a number of local women's groups, as well as international and human rights groups. It was a very intense process, but with support and mobilization, and with the use of arguments from various frameworks, especially Islamic jurisprudence, all sentences of stoning were successfully overturned. This is a huge step, but the fact that these laws, which never existed prior to 1999 are still there now, lying quietly in the books means that there is still incredible uncertainty as at any point in time another woman may be sentenced to death and it may be carried out. Given that Nigerian government has signed several international conventions, such as the CEDAW, and the Convention on the Rights of the Child, and at the regional level is also party to the African Protocol on the Rights of Women, we need to push the government to be responsible to these obligations.

While stoning codified in religious law for adultery in the north, there are records of women being stoned to death elsewhere in Nigeria on accusation of 'being possessed', showing that diverse cultural excuses for stoning exist. Having oppressive laws in place, even if they are not implemented, encourages non-State actors to perpetuate CVAW, often with impunity. The fact that Nigeria has parallel legal systems creates a strong challenge to hold the State accountable to its international obligations, and I would ask the Special Rapporteurs and NGOs to continue campaigning around State accountability.

**Criminalisation and inhuman punishment of women and girls through laws:
Indonesia including Aceh - Ni Loh Gusti Madewanti and Evi Zain**

Indonesia is a republic based on social democratic principles and is not an Islamic state. Yet since 1999 activists in Indonesia have been battling the rising trend of politicized Islam which has resulted in the introduction of 149 regional and national policies which serve to criminalize women and their bodies, and contradict Indonesia's constitution. This includes the "Anti-Pornography Bill", the introduction of the "whipping law" in Bulukumba, South Sulawesi, which is being applied to women and minors and was passed by a village council in complete contradiction to national legislation in Indonesia, and the introduction of the Qanun Jinayat in Aceh, which has brought for the first time to Indonesia an extremely strict version of *Sharia* that prescribes stoning to death for the crime of adultery and 100 lashes for homosexuality.

Solidaritas Perempuan has launched the Sister Campaign "Stop the Criminalization and Inhuman Punishment of Women", which engages in multi-pronged strategies to counter rising threats of CVAW from the grassroots to the national level. Too often women activists are challenged as being anti-religion and Islam because these laws are based on religious interpretations, and women are made to choose between a false dichotomy of religion or human rights. We insist that we are not against religion, or Islam, but we are against the politicization of religion and Islam to justify violence. Advocacy work is done within both Islamic and human rights frameworks. At the national level this includes pushing for State accountability to the constitution and international human rights obligations, including to CEDAW which was ratified in 1984.

Since 2003, the Acehese government has introduced a series of Qanuns (legal codes) which include highly discriminatory regulations that serve to criminalize women and girls, including the 2009 Qanun Jinayat (Islamic criminal code), which prescribes stoning to death for the crime of adultery. Aceh is the only province in Indonesia where such legislation based on 'Islamic' traditions can be introduced – a right which was ceded during negotiations with the Indonesian government in order to quell the conflict situation in the region.

On the basis of one Qanun, the Acehese government implemented 'sweepings' (patrols) in certain zones targeting women who were not covering their hair with scarves or the hijab.

This led to several cases of non-State actors calling themselves religious police conducting their own sweeps, and subjecting women to inhuman punishments such as being forced to shower with dirty water, being forced to walk around naked, and even sometimes sexual exploitation. A major problem is the lack of clarity in the wordings of how the laws should be applied, to whom, and how punishments should be given out. Experience shows that over the past 6 years, those most criminalized and victimized by the discriminatory laws in Aceh are always the poor and marginalized communities, as they often do not have access to information about the laws when they are written or passed, and are not educated about their rights or how to challenge this.

The Qanun Jinayat contradicts higher national legislation by extending inhuman punishments such as stoning and whipping. Some laws also have articles which allow impunity for violence when committed by members of the Acehese provincial government and police force. For example, one article of a law says that “Those who commit criminal acts when enforcing the law shall not be punished”, which means that if a member of the police commits a crime, such as rape of a woman prisoner, or inhuman treatment of ‘criminals’, or arbitrary arrest and sentence, they may not be punished. These laws are supposedly based on religious interpretation of Islam and *Sharia*, but they completely contradict Islamic principles stating all laws should apply to every Muslim equally.

Koalisi NGO HAM has been active in Aceh for many years, and was at the forefront of protesting the Qanun Jinayat. While the law has not yet been implemented, it is still a threat and Koalisi NGO HAM continues to campaign and raise visibility of CVAW and to stop the spread of regulations and policies which discriminate against women. Strategies include actively monitoring the implementation and enforcement of laws, documenting abuses and engaging in evidenced based lobbying and advocacy, and conducting dialogues and workshops with policy makers.

<p>VAW in the context of conflict and culture of lawlessness: Afghanistan - Roya Rahmani</p>

The case of Afghanistan shows clearly that women experience additional discrimination, threats to their bodily security, and denial of their rights during conflict and post-conflict situations, as economic, military and other concerns take priority for governments and political actors seeking to seize, dominate and establish their spheres of influence and control.

During the Soviet invasion, aerial bombardments triggered large-scale population movements, and women and girls not only lost their homes, means of livelihood but also freedom of movement. Due to the loss of socio-cultural protective mechanisms, many were married off at a much lower age, and banned from going to school. The Mujahedeen period (1992-1996) saw the most atrocious forms of VAW occurring. This was when middle class women were pushed back to become rural housewives, the *hijab* was made mandatory.

Militia soldiers acted with complete impunity, often subjecting women to degrading treatment, such as forcing women to give birth naked, on the streets, in full view of anyone around. After this period the Taliban took over, and their horrific treatment of women in society is well known and documented. Today, since the ousting of the Taliban, there is no question about the rapid and significant gains women have experienced, with more women and girls than ever before in schools, in universities and in the labour market. This is despite the fact that only a minute fraction of international assistance is spent on development efforts in Afghanistan – 80% of international assistance goes to the foreign military and from the remainder only 9% has been channelled to civil society.

However, the main issue still affecting women is insecurity and lawlessness. We cannot educate women about their rights without infrastructure to support this, when women receive threats or when they are killed there is no serious investigation on the issue. The notion of family honour is deeply entrenched in Afghanistan, so when women are accosted, assaulted or killed outside their homes, it is the family's honour that is shattered, never mind the woman herself. When women run away from forced marriages, they are often imprisoned for something that is not even a crime. As a result women often submit to self-censorship, and restrict their own movements – highlighted particularly by high dropout rates from school when girls reach the age of puberty, due to the lawlessness and lack of security. Afghanistan is a case where the issues of cultural violence intersect immensely with the lack of security, development, rule of law, peace negotiations and governance. All of these issues need to be brought to the table simultaneously, but there is clearly no willingness on the part of the Afghan government to do so, nor has the international community done their share either. I urge the Special Rapporteurs to explicitly examine the issue of how each of these issues impact women's lives in Afghanistan and to address and name the relevant stake holders in both from Afghanistan and international community.

Sexual Harassment: the hidden, unspoken form of CVAW in Sudan - Zaynab El Sawi

In Sudan, there are many well documented forms of CVAW that women are subject to, such as FGM, early marriage, marital rape, wife inheritance and sexual harassment. Women and girls are still seen as burdens on a household, which contributes to high rates of early marriage, especially as marriage also offers compensation in terms of dowry. Domestic violence is often seen as a symbol masculinity and male power, as wives are their husbands' property. In many cases, women themselves do not view domestic abuse and marital rape as violence against themselves, because it occurs with such regularity and impunity, and the cultural norm is to excuse it as inherent to men's behaviour. FGM is another form of CVAW, which is explicitly about controlling girls' sexuality. The act symbolizes women as the obedient, passive, faithful upholders of tradition, and often families hold large celebrations and give presents to girls who have undergone circumcision. Wife inheritance occurs across many tribes of southern Sudan, where a man's wife is inherited by one of his kin after his death. Sexual harassment also occurs regularly,

especially as women have taken more active social roles, in the labor market particularly. Yet because it is masculinity and male privilege that is promoted, women accosted are always blamed, because they were 'asking for it', due to the ways they dress, talk, walk, etc.

Previously there have been no laws in place to prevent such acts from occurring, and the main strategy of civil society and international organizations tackling these issues is to lobby the government to adopt laws that protect the women. Examples of ongoing work include a) conducting a baseline survey on sexual harassment, to feed into evidence-based lobbying and new frameworks for analyzing cultures of masculinity, b) holding those who perpetrate early/forced marriages accountable to the legal age of marriage as set out in the Sudanese Personal Status Law of 1991, c) the "Alliance 149" of diverse organizations working to reform the definition of rape in the Sudanese Criminal Act of 1991 to reduce impunity and blame being placed on women, and d) campaigning to adopt Article 13 in the Child Act which would criminalize FGM. Positively, the government has made an effort on some of these issues, by creating a "Family & Child Unit" in most parts of Sudan that work to follow cases of child abuse & domestic violence.

<p>Rashida Manjoo - Special Rapporteur on Violence Against Women, its Causes and Consequences</p>
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In the international arena there have been many milestones in terms of human rights agreements, including CEDAW, DEVAW, UN resolutions on traditional and cultural practices, on honour crimes, and so on, which call on States to exercise due-diligence, and which indicate that there is a very strong political will at the international level to tackle issues of discrimination and violence against women and girls, in all its diverse forms. Furthermore, over the past 15 years, and the Special Rapporteurs on VAW have been at the forefront of addressing the issue of culturally, traditionally, religiously justified violence against women through their various country and thematic reports. In 1999 Radhika Coomaraswamy wrote of the concept of family 'honour', based on women's assigned sexual roles and identities dictated by traditional family ideology, to justify violence against women, and the 2002 report discussed female genital mutilation. Yakin Erturk wrote on forced marriages in her Afghanistan country report, and her 2007 thematic report was on culture and its intersections with VAW. My country report coming out in June of this year will also take up the issue of forced marriages justified by tradition occurring in a Central Asian country, and will examine the issues of coercion and lack of consent involved. These reports and human rights instruments are incredibly important tools for activists, as they provide details of the forms and contexts in which CVAW is occurring, and also serve as mechanisms by which to monitor State's behaviours and hold State's accountable to their international human rights obligations. Unfortunately, 'othering', cultural essentialism, and cultural relativism have and continue to occur, isolating VAW from the broader political and economic environment which contributes to the perpetuation of VAW. At the international level, challenges that the mandate faces is the need for increased documentation and information from the grassroots on the occurrence and causes of

CVAW, in order to strategize about more effective mechanisms for enforcing accountability and the upholding of human rights obligations at the community levels. We also need to ask some important socio-legal questions about how to reconcile religious and human rights frameworks, and how we can amongst ourselves participate in generating new cultural discourses, given that there is nothing static about any cultural tradition.

Philip Alston – Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions

The emerging issue of witchcraft is an acute example of culturally justified violence against women and girls, and also sheds light on the ease with which cultural issues can be dismissed. The initial response to the issue of witchcraft was that it is “too deeply entrenched” in the culture, and therefore impossible to address because it means imposing different values on a culture. This is unacceptable given that the basic premise of any intervention on CVAW is to promote and value everyone’s individual human rights, yet we do need to grapple with the complexities and nuances of culture in our analyses and approaches if we are to make any progress. It is true that witchcraft is embedded deeply in various cultures of dozens of countries around the world, with some numbers estimated at 1000s of “witches” killed a year. In the case of the Central African Republic, killing of witches is supported through the criminal code which prescribes the death penalty for “charlatanisme” or “sorcellerie”, and it is often the military which carries the killings out. Yet the definition of who constitutes a ‘witch’ varies greatly, and is based often on perceptions or accusations by communities, which can occur simply as a result of personal conflict or without rationale at all. Indeed it is women who are primarily and disproportionately affected by the issue of witchcraft. In the case of blood feuds in Albania, where it is usually male relatives of those involved in the feud who are killed, women are still severely victimized, and the gendered aspect of culturally justified violence needs to be addressed. In order to tackle these issues at the community and grassroots level, there is a need for increased documentation and reporting, and education of the historical nature of these practices, but to do so with a gendered and human rights analysis. Further, there needs to be a movement to revoke all laws which discriminate and promote violence against women, as their very presence is utterly oppressive and disempowering. Where the UN Special Rapporteur system can aid is by reporting to nation States on violations occurring within their boundaries, by undertaking country missions and reporting on the issues to raise visibility.

Manfred Nowak – Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatments of Punishment

The Vienna World Conference in 1993 is a watershed in the international human rights movement, especially as the women’s organizations presence and efforts at this conference were the best organized and served directly to bring violence against women to the

forefront of the international agenda resulting in the Declaration on the Elimination of Violence Against Women immediately afterwards, and the appointment of the UNSRVAW which was a result of overcoming the issue of the public-private dichotomy. While the mandate of the UN Special Rapporteur on Torture is limited in addressing violence against women to the extent that the definition of torture is very State-centered and focuses on torture by public officials, there has been progress made in expanding the mandate by focusing on the issue of powerlessness as a strict criterion for torture. Whether a woman is raped in custody, or raped by her husband, the powerlessness is the same, and therefore in all cases rape constitutes torture. Furthermore, discrimination is explicitly mentioned as one of the purposes of torture. So if inflicting extreme pain or suffering for the purpose of discrimination is torture, and rape and sexual violence are always discriminatory, you don't have to prove that sexual violence constitutes torture, whether it occurs during police custody, under interrogation, or even if it does not occur in the context of extracting a confession. Positively, the International Criminal Tribunal for the former Yugoslavia and Rwanda are strongly coming out in support of this stance.

Recent thematic reports have examined in detail those conceptual issues on women and torture, and looked into the various cases of State actions that could constitute torture, which included the denial of reproductive rights, and the implementation of corporal and capital punishment, including stoning to death and flogging. In the classical private sphere, the mandate focuses on domestic violence, including honour crimes in Jordan, and trafficking of women in Moldova. Concerted efforts by the UN Special Rapporteurs have helped to raise visibility on this issue, and recently the European Court of Human Rights has taken up the issue of trafficking, pushing State's responsibilities to prevent and prosecute when it occurs. The mandate of the UN Special Rapporteur on Torture has shown that it can connect the issue of VAW and State obligations to prevent it, and should be utilized by those working to combat violence and discrimination against women.

Open Forum

The open forum which followed brought up the following comments and questions:

The Campaign was congratulated for bringing to the CSW women at the forefront of struggle and contestation against the misappropriation of culture and religion in their societies. There were two questions raised to the UN Special Rapporteurs on how to bring address the issue of non-State actors, like family members, when they are the perpetrators. UNSRVAW Rashida Manjoo responded to this by referring to the standard of due diligence which is now increasingly becoming part of the standards in invoking State accountability on violations by private citizens or 'non-State actors'. An audience member expressed frustration with the Campaign panellists for denying her the right to choose to live by her religion, and that it should be the women from within the affected communities representing the issues at the table. Another audience member proclaimed that the Campaign was representing the interests of the 'imperialist agenda', and making false statements and claims about the fact that stoning is not proscribed in the Quran. The response of the panellists was to explain that all of the panellists were themselves from the

communities affected, and that the aim of the Campaign is precisely to let women choose the rules by which they wish to govern their lives. In response to allegations that the Campaign was attacking Islam, the Campaign referred to the detailed research in the Policy Briefing Series which was handed out during the forum, and reiterated the fact that stoning is never mentioned in the Quran, and is not implemented in many Muslim States. UN Special Rapporteur on Torture Manfred Nowak explained how acts of violence such as stoning constitute torture, cruel and inhuman punishment. Regardless of whether the justification given resides within a religious or secular framework, torture is never acceptable.