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Publisher:

Partners for Law in Development
F-18, First Floor, Jangpura Extension
New Delhi- 110014
Tel. No.: 011- 24316832 / 33
Telefax: 011- 24316833
pldindia@gmail.com
www.pldindia.org
www.cedawsouthasia.org

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Intersections Between Women's Equality, Culture, and Cultural Rights

**Report of the
South Asia Plus Consultation on
Culture, Women and Human Rights
September 2–3, Dhulikhel, Nepal**



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List of Abbreviations

- ADB: Asian Development Bank
ADR: Alternative Dispute Resolution
AIR: All India Reporter
ASEAN: The Association of Southeast Asian Nations
BLAST: Bangladesh Legal Aid and Services Trust
BMMA: Bharatiya Muslim Mahila Andolan
CEDAW: Convention on the Elimination of All Forms of Discrimination Against Women, 1979
Cr.PC: The Code of Criminal Procedure, 1973
FWLD: Forum for Women, Law and Development
GR: General Recommendation
ICESCR: International Convention on Economic, Social and Cultural Rights, 1966
ICMPLR: Independent Committee for Muslim Personal Law Reforms
ICCPR: International Covenant on Civil and Political Rights, 1966
IWRW: International Women's Rights Action Watch
KP: Komnas Perempuan
LTTE: Liberation Tigers of Tamil Eelam
MWRAF: Muslim Women's Research and Action Forum
NGO: Non Government Organisation
NU: Nahdlatul Ulama
NWFP: North West Frontier Province
PLD: Partners for Law in Development
SCC: Supreme Court Cases
SIS: Sisters in Islam
SAARC: South Asia Association for Regional Cooperation
UNIECR: United Nations Independent Expert on Cultural Rights
UNSRVAW: United Nations Special Rapporteur on Violence Against Women, Its Causes and Consequences
UNESCO: United Nations Educational, Scientific and Cultural Organization
VAW: Violence against Women
WHR: Women for Human Rights
WOREC: Women's Rehabilitation Centre

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Introduction

This report is a documentation of the South Asia Plus Consultation on ‘Culture, Women and Human Rights’, organized by Partners for Law in Development (PLD) on 2–3 September 2010 in Dhulikhel, Nepal.¹ The consultation was part of a larger process of understanding cultures and cultural transformations that embrace and promote women’s rights. It involved mapping discursive interventions at the local and national levels in diverse contexts across Bangladesh, India, Indonesia, and Nepal that contest discrimination and negotiate gender justice in small, concrete, and powerful ways.² The interventions are motivated by the vision of creating a gender-just society, and rely upon community work, litigation, public education, and advocacy to challenge hierarchy-producing interlocking structures of gender, caste, religion, ethnicity, and class that are oppressive to women and marginalized groups. Instead, they facilitate processes of cultural change and transformation. While these interventions have often been described in singular categories such as women’s rights, public interest, and social justice, they are also, amongst other things, powerful tools for redefining culture to strengthen the values and practices of egalitarianism, inclusion, and equality. It is important, therefore, to examine and revisit these interventions to learn more about culture and cultural change, as well as the actors and strategies that contribute to bringing about this change. This is particularly necessary in the face of dominant national and global discourses that present cultures as fixed, immutable, and homogeneous with a view to rejecting the demands for social transformation and to de-legitimizing actors and interventions that challenge hierarchy and the status quo. Dominant discourses on culture have historically served to justify exclusion, to uphold gender discrimination, and to deny the possibility of change. This position is illustrated by the reservations of the states that have

¹ The consultation was organized by PLD in Nepal with local assistance from Women’s Rehabilitation Centre (WOREC).

² See the report of the field study, ‘Negotiating Gender Justice, Contesting Discrimination: Mapping Strategies that intersect Culture, Women and Human Rights’, New Delhi: PLD, 2010.

ratified CEDAW, seeking to limit their obligations to eliminate discrimination against women under CEDAW broadly on the grounds that it is against culture and religion. The consultation was a step towards sharing and consolidating the findings of the field study and towards collectively understanding the intersections of culture, women's equality, and cultural rights. Most importantly, this process was the first attempt in the South Asia region to develop an understanding of cultural rights and their relationship with the women's equality agenda.

The creation of the mandate of the UN Independent Expert in the field of Cultural Rights by the UN Human Rights Council in 2009 has turned attention towards a hitherto inadequately developed area in human rights. This consultation provided the forum for understanding cultural rights in relation to women's equality, and to reflect on the ways in which the cultural rights framework affirms and protects change agents as well as women's rights activists. Indeed, the development of cultural rights holds the potential of challenging flat and static versions of culture, and indeed the monopoly of an elite few in representing, upholding, and protecting culture. It recognizes the possibilities of developing overlapping cultural frameworks of justice and equality, by promoting democracy, inclusion, and gender justice in diverse communities, and consequently promoting the universality of human rights.

The consultation brought together forty women's rights activists³ from Bangladesh, India, Indonesia, Malaysia, Nepal, Pakistan, and Sri Lanka, to share the diverse strategies and approaches adopted by them at the local and national levels, and the relationship between their strategies and approaches and the historical and contemporary political realities. The consultation also provided a forum for a dialogue with three key human rights bodies within the UN human rights system that are mandated to promote women's human rights on the ways in which their respective mandates frame issues

³ There were three male participants at the consultation, as gender justice is a goal shared by many progressive organizations, including those with religious affiliation, such as the Nahdlatul Ulama (NU) in Indonesia.

concerning women and culture. These are Farida Shaheed, the UN Independent Expert on Cultural Rights (IECR); Rashida Manjoo, the UN Special Rapporteur on Violence against Women, its Causes and Consequences (SRVAW); and three members of the CEDAW Committee, Ayse Faride Acar (Turkey), Pramila Patten (Mauritius), and Zohra Rasekh (Afghanistan).

In bringing two mandate holders, the CEDAW Committee members, and activists from different backgrounds together on a common forum on culture, women, and human rights, the consultation sought to inform the work of the new mandate of the UNIECR through the work of activists. It also sought to explore ways in which cultural rights could be integrated more fully into the work of CEDAW in the promotion of women's equality.

The report is based on the presentations and discussions that took place at the consultation. The panel presentations have been summarized in chapters that correspond to the session themes. There are six chapters in all. Each chapter concludes with 'discussion points' summarizing the discussion related to the presentations.

The first chapter sets out the human rights framework, based on the presentations of the UNIECR and the UNSRVAW. It includes a summary of the presentations made by the three CEDAW Committee members. These were sequentially made much later in the consultation, but have been placed in this section to set out comprehensively the human rights standards relating to women and culture.

The second chapter provides an overview of Southeast Asia and South Asia, highlighting the ways in which culture has served to reinforce hegemonic political forces and state power, even as it has served to challenge state authoritarianism and dominant interest groups to usher in social and political changes. This chapter underscores the value of engaging with culture to reinforce social transformation and to pursue justice agendas.

Chapters three, four, and five look at various strategies and approaches that seek to transform culture—ranging from community interventions to public advocacy, from law to policy interventions—with the aim of bringing out the diverse methods adopted by the various stakeholders and the many forces that shape culture.

The sixth chapter synthesizes the concerns related to cultural rights, discussing aspects that make this an area of political work, listing the strategies adopted in the two sub regions, and making recommendations for strengthening activism leading to cultural change. This report, like the field study preceding the consultation, must be seen as a contribution to the ongoing and future discussions on the ways in which culture and cultural rights challenge flat and static versions of culture (relativist or essentialist), secure recognition of and protection for change agents, and advance women's human rights.