

The Impact of Religious Fundamentalisms and Extreme Interpretations of Religion on Women's Human Rights

This briefing paper addresses Religious Fundamentalisms (RFs) and extreme interpretations of religion and their significant impact on women's human rights protected under the CEDAW Convention, including sexual and reproductive health and rights (SRHR). Specifically, it details the implications of RFs not only for laws and policies but also as a barrier to their implementation. It also addresses widespread impunity that arises when accountability for violations of women's human rights is threatened due to the influence of RFs.

This document will form the basis of a joint thematic briefing at the 62nd session of the CEDAW Committee, 16 November 2015, by the Association for Women in Development (AWID), the Asia-Pacific Resource and Research Centre for Women (ARROW), the Sexual Rights Initiative (SRI) and the World Council of Churches (WCC).

Background

Religious Fundamentalisms¹ are about the strategic manipulation of religion by particular State and/or non-State actors to gain or retain power and control and limit rights, and so in many ways RFs contradict the fundamental spirit and essence of many faiths and religions: justice, equality and compassion. We hope to unpack the ways in which RF actors instrumentalize the language of religion, culture and tradition at the national and international level, and illustrate that RFs are in fact about the authoritarian manipulation of religion and extreme interpretations of religion to achieve power and money and to extend social control.

Additionally, religious fundamentalisms undermine women's and girls' rights across contexts - fundamentalism is not the monopoly of any one religion or region. Fundamentalist arguments originate from actors across all major world religions and in local religious traditions and ethno-religious movements. Further, the rise of extremist religious forces around the world is not occurring in a vacuum, but is inextricably linked to political, social and economic factors, including geopolitics, systemic inequalities and economic disparities and militarism.

The 'traditions' that religious fundamentalisms claim to protect and preserve are often only selective elements of a broader, more pluralistic historical tradition, reconstructions or distortions of tradition, hybrid forms powerfully framed and heavily influenced by colonial-era histories and laws, or in some cases, completely new creations. Where societies and cultures

¹ The term religious fundamentalism is not used here in relation to a specific religion but, instead, to discuss how its manifestations

were historically diverse, religious fundamentalisms often seek to impose monolithic ideas about religion, denying or destroying rich cultural heritage in the process. **Religious fundamentalists may promote themselves as representative of an authentic and historically accurate local culture, but often they introduce and impose a homogenized, rigid, singular and arguably foreign culture** and attempt to export this culture to different regions in the world.

While a number of distinctions exist, some common themes recur within religious fundamentalisms around the world. They tend to be absolutist, intolerant and coercive; follow a literal and singular reading of scriptures or the will of a sole religious authority or hierarchy; adhere to a supposedly 'pure' tradition; employ religious rhetoric to gain power; and are patriarchal, against human rights and particularly women's rights and freedoms.

Gender justice is deeply undermined by the strategies of religious fundamentalism. **Fundamentalisms use women's bodies as a battlefield in their struggle to appropriate institutional power.** For RFs, women in particular are often used to symbolize the collectivity, to embody its 'culture and tradition' and its future reproduction. One of RFs' most powerful tools is the imposition of patriarchal norms which further the stereotyping of women and girls and instrumentalise their lives, bodies and sexuality. Women are considered the custodians of cultural and social norms and bearers of family honor, and thus their bodies and sexualities become important sites of religious control. While patriarchal structures are also found outside the context of fundamentalisms, RFs shape and sharpen their impact.

Religious fundamentalists all over the world oppose women's autonomy and any space for change, resulting in direct and indirect controls over gender and sexuality, the curbing of women's rights and especially those of women from marginalized communities, including gender and sexual non-conforming persons. **They normalize the inequalities that they perpetuate, and by giving their patriarchal policies divine justification they make them harder to challenge.**

In responses to an online survey of 1600 women's rights advocates, activists from around the world gave more than 600 examples of the negative impacts that religious fundamentalisms have on human rights. When these responses were grouped together in categories, the top five negative impacts were as follows:

1. Limited health rights and reduced reproductive rights
2. Less autonomy for women in general
3. Increased violence against women
4. Restrictions on sexual rights and freedoms
5. Less rights for women in the public sphere.

Religious fundamentalisms have rolled back past gains made on women's and girls' rights, including SRHR. **They have barred the development and implementation of SRHR policies and programs and blocked the achievement of universal access to SRHR.** If we are to

ensure a holistic and inclusive approach to realizing women and girls' rights, including their right to health, we need to understand and address the influence of religious fundamentalisms.

Implementation of the CEDAW Convention

RFs' manipulation of discourses of religion has disastrous consequences for human rights, gender justice and women's rights — including, but not limited to, gender-based violence and women's full equality; as well as sexual rights, including rights to bodily integrity, the right to choose one's partner and the right to decide on sexual relations; rights related to sexual orientation and gender identity and expression, reproductive rights and health; equal property and inheritance rights; equal rights to nationality; equal rights in all aspects of family law including marriage, divorce and custody of children; freedom of expression, belief, assembly and opinion; and the right to reclaim, reaffirm and participate in all aspects of religious and cultural life.

Religious fundamentalisms thus affect the implementation of the CEDAW Convention on a broad scale. Animated by these arguments, a number of States use discourses citing religion to justify laws, policies and practices that violate multiple articles of the Convention on the national level, and before the Committee in response to country recommendations. These arguments are also used to delegitimize, counter and shut down national women's human rights defenders working to achieve gender justice and the goals of the Convention.

They are used to bolster reservations to the treaty that undermine its object and purpose. And they are directly antithetical to the rights of non-discrimination and equality upheld by **articles 2 and 3** of the Convention, and contravene **article 5's** injunction to States 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 customary and all other practices based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

Extreme interpretations of religion are used to justify violations of women's right to public and political life under **article 7**; of women's equal right to nationality under **article 9**; of the right to education for women and girls under **article 10**; of the equal right to employment under **article 11**; of the right to health care without discrimination in **article 12**; of the equal right to participation in cultural, economic and social life in **article 13**; of full access to justice and equality before the law in **article 15**; and to undermine the duty of States to eliminate discrimination against women in all matters relating to marriage and family relations (**article 16**).

Broad-based Impact of RFs on Gender Justice

Religious fundamentalisms thus affect the lived realities of women and other marginalized groups in numerous ways, including:

1. Sexual and reproductive health and rights

Sexuality and expression of sexuality is strictly controlled often through the institution of marriage, which is also a site for discriminatory laws denying women and girls economic independence. For example, unmarried women may be prevented from accessing sexual and reproductive health services through interventions by religious authorities, who serve as gatekeepers of religious cultural practices. Women and youth living with HIV and AIDS are prohibited from accessing treatment and services as they are often viewed as 'sinners' and of low moral standards, and therefore not deserving of life-saving and necessary treatment.

Sexuality, including the right to alternative sexualities, is often considered taboo and sinful, thus limiting safe spaces for frank and positive discussion of sexual and reproductive health and rights, and legitimising violence and rights violations towards sexual minorities. These groups are unable to acknowledge and develop positive attitudes with regards to their sexuality and to access SRHR services, thus driving them underground. Abortion is restricted and criminalized, often using religious interpretations, thus forcing women to avail unsafe and illegal abortions and thereby endangering their lives, freedom and health.

2. Education

In many cases, the education of girls is considered threatening by religious fundamentalists. Violence is used to spread fear and to prevent girls from accessing schools - these may include actions from burning schools to prohibiting school attendance, as well as discriminating against girls' access to education within the family.

3. Child, Early and Forced Marriage

In the context of RFs, girls are discriminated against, valued less and have less importance outside roles of wives and mothers, and are often considered a financial burden. Due to the dominance of patriarchal norms surrounding marriage - which also exist outside of RF contexts but are rendered more difficult to challenge due to their avowed linkage with religious norms - girls may be considered as objects to be "protected" and exchanged as commodities, rather than as right holders. Girls are valued primarily for their reproductive capacity and hence their sexuality and chastity (virginity) has to be protected, where her virginity determines her worth and family honor at the time of marriage.

A woman's/girl's fertility is thus considered appropriate for regulation by families, religious institutions, and governmental authorities. Her reproductive capacity is not regarded as an

individual right protected by the Convention but her obligation to others to ensure the continuity of families, clans, and social groups.

4. Culturally-justified violence against women

Culturally-justified VAW are acts that are explicitly justified or condoned through the manipulation and misuse of cultural, religious, or traditional beliefs, values, and practices that are meant to impose patriarchal control over women and girls. This includes control over her body, her sexuality, who to love, who to marry, how to express herself, what to believe and exercise of her own free will. A number of forms of CVAW persist - and several are unfortunately on the rise - including sexual harassment, stoning, whipping/lashing, 'honor' killings, dowry-related killings, virginity tests, FGM, breast ironing, forced feeding, witch hunts and acid attacks.

Impact of RFs on International Law and Policy Spaces

RFs are manifesting in various, often subtle forms, and directly affect the international human rights system and the way Member States report to different Committees. It is in this context that the work of the Treaty Monitoring Bodies has been critical to continue expanding gender justice rather than restricting it. One key example is the joint General Recommendation by the CEDAW Committee and Committee on Rights of the Child on "Harmful Traditional Practices", which addressed the violations on women and girls in the name of tradition, such as Female Genital Mutilation (FGM) and child early and forced marriage (CEFM). The joint GR/GC provides a human rights framework under which everyone should look at harmful practices.

We can see that rhetoric on preserving "tradition and culture" takes the form of preserving a unitary and homogeneous religious identity, combined with a particular brand of nationalism - and this synthesis justifies and furthers diverse forms of violation. This rhetoric helps to create a culture of impunity for many abuses of sexual and reproductive rights², such as draconian laws criminalising homosexuality and adultery and high criminal sanctions for women seeking abortion services. It results in discrimination in many areas including inheritance, marriage, divorce and a gamut of personal/family laws, the discriminatory nature of which are always justified as a religious principle. Some other examples are also detailed above.

Yet the United Nations Human Rights Council continues to be a forum where Member States use the rhetoric of "traditional values"³ and "protection of the family" as tools to restrict SRHR. It would not be incorrect to say that these initiatives have the same objective - to redefine human

² Women's sexuality is often a site of control, especially within families. The stigma around expression of sexuality - normative and/or alternate - can be exacerbated by the blanket control of a "family unit" which invariably protects those with the power to make decisions.

³ The initiatives on traditional values also lost their momentum because of the pioneering work of the Treaty Bodies and Special Procedures, among others.

rights principles, particularly those protecting and fulfilling the rights of women, and reduce their scope. **Inter governmental mechanisms by their nature are politically charged, and in such politically charged situations, the standards laid down by the Committees on human rights are ever more critical to reign in backlash and RFs' influence.** The inputs of Committee members in defining the scope of human rights principles and their application are essential in these contexts.

The work of the Treaty Bodies and its significant import for WHRDs in their engagement with other human rights mechanisms is clear from the recent Human Rights Committee's day of general discussion on its upcoming General Comment on Article 6 ICCPR, where RF actors forwarded an agenda to claim woman's right to abortion as a site of violation of the human rights to life. The CEDAW Committee's assertion of the right to abortion in its General Comment 24 on Women's Health, regarding the refusal of a state party "to provide legally for the performance of certain reproductive health services for women" as constituting discrimination⁴ and further, the Committee's reaffirmation of the same in General Recommendations 19 and 23 provides a strong human rights basis to reaffirm this right.

Impact of RFs at national level

One of the most significant impacts of fundamentalisms is in their powerful impact on women and girls on the ground. RFs limit rights nationally and are often employed to sanction violence and discrimination. An early sign of emerging extremisms is often the enforcement of gender stereotyping, the curbing of dissent and targeting gender and sexual minorities and anyone who speaks against the language of a homogeneous and rather toxic nationalism.

Case Study: The Philippines

The influence of the Catholic Church in the Philippines on the citizenry and government has resulted in regulations that have impacted the wellbeing of women, risking their health and position within family and society. The Constitution of the Philippines has a clear separation of State and Church. Despite this, Catholic religious doctrines influence public health policies and programmes, especially those focusing on reproductive health.

The Responsible Parenthood and Reproductive Health Act of 2012 serves as a good example of this trend. The Law guarantees universal access to methods of contraception, fertility control, sexuality education, and maternal care and is a means to ensuring women's rights. The passage of the Reproductive Health Law took fourteen years, however, because of the opposition of Catholic hierarchy and pro-life groups, and these groups continue to challenge the implementation of the law. The Supreme Court delayed implementation because of these challenges in 2013 but in 2014, upheld it albeit striking down eight provisions partially or in full.

⁴ Paragraph 11, General Recommendation 24, Committee on the Elimination of All Forms of Discrimination Against Women (1999).

The Law would enable easier access to family planning such as contraception and sterilisation, providing universal access through government funding. The Catholic hierarchy also used the strategy of ensuring that the bill was regarded inaccurately as an “abortion bill”.^[i]

Many advocates of the Law fear that it will remain useless until its implementing rules and regulations are fully enforced. The Catholic fundamentalist teachings in the Philippines advocate protection of the unborn over the rights of women and their choices, prohibiting sex before marriage and protecting the institution of marriage. Contraception and abortion are also prohibited on grounds of encouraging infidelity and limiting rights of the unborn.

Case Study: Morocco

A leading cause of the high ratio of maternal deaths in Morocco is unsafe abortion, despite the implementation of a national programme for safe motherhood. At present, abortion is illegal in Morocco unless a woman’s life is threatened. Rape, incest, foetal impairment, social and economic reasons, or the woman’s personal choice are still not considered valid reasons to seek an abortion in Morocco.

The main religion in Morocco, Islam, plays a significant role in affecting decisions about the legal provision of these services. Islamic texts and teachings of the Prophet are referred to to justify the ban, although the notions of beginnings of life and reference to the soul entering the body, disregard the rights aspect and the conditions in which women seek abortions. Improving service provision and access to services for pregnant women should be considered independent of religious interpretation.

Case Study: Pakistan

Increasing Islamic fundamentalism or ‘Talibanisation’ has developed unchecked in Pakistan in recent years due to State leniency and inaction, citing that hindrances are experienced mostly due to local customs and other cultural practices. Child marriage, which has the highest concentration in South Asia, is useful to illustrate these points.

In April 2014 in Pakistan, the Sindh Assembly, taking the lead over other provinces, unanimously passed the Sindh Child Marriage Restraint Bill 2013 prohibiting marriage of children below 18 years; a historical achievement in the provincial assembly. The law bans child marriages with legislation. The new law states that “Whoever, being a male above 18 years of age, contracts a child marriage shall be punished with rigorous imprisonment...” The law has punitive conditions for whoever performs, conducts, directs, brings about or in any way facilitates any child marriage with rigorous imprisonment of three years, unless he can prove that he had reason to believe that the marriage was not a child marriage. While clearly the passing of such laws requires the commitment and support of state officials, the implementation of such laws is as critical to have impact. Additionally, knowledge of the existence of such laws is another critical factor for success.

Case Study: Malaysia

Malaysia has an increasing prevalence of child and early marriages, most of them approved by the Syariah Courts. The general legal age of marriage is 18 years, but for Muslim girls it is 16, who are permitted to marry with the permission of the court. The increase in the incidence of child marriages amongst the mostly Malay Muslim community has been linked to the rise of religious fundamentalism and conservatism amongst this population. Tradition, religion and poverty continue to fuel the practice of child marriage, despite its strong association with adverse reproductive health outcomes and the lack of education of girls.

Case Study: Indonesia

Indonesia also has high rates of child marriage. These conditions are not always or solely impacted by socio-economic conditions, but are rather traditional practices influenced by interpretations of religion. Conservative religious teaching and interpretation is an influencing factor in this harmful practice.

Case Study: India

There has been a resurgence of Hindu extremism in India. It has manifested in attempts to create a Hindu identity for the nation on the one hand, to the playing out of anti-Hindu sentiments on the ground. There have also been calls for greater “cultural purity” and “religious values” with regard to relationships between men and women, and strict enforcement of population control policies.

Certain practices such as child marriages and forced marriage practices are linked to Hindu traditions. Religious sentiments influence SRH service provision for young people. There is limited understanding of the need for Comprehensive Sexuality Education among policy makers, educationists, teachers and administrators and as a result any attempts to formally introduce these programmes in schools are met with opposition, stating that they go against religion and culture. Yet at the same time, young people receive incorrect and incomplete information on sexuality from the internet, mass media and through their peers. Conservative views and the religious beliefs of state and non-state decision makers also impede the implementation of woman-friendly policies. Discussing matters related to sex and sexuality is still considered a taboo in Indian society, and even more so when it involves adolescents.

Relevant Standards Under the CEDAW Convention

As outlined above, extreme interpretations of religion are used to justify violations of a number of rights under the CEDAW Convention. Through its Concluding Observations and General Recommendations, the CEDAW Committee has taken valuable steps in terms of providing

substantive guidance on the impact of arguments based on tradition, culture and religion on women's rights.

Focusing on gender-based violence, the Committee noted that traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices such as forced marriage, dowry deaths, acid attacks and FGM, and that such prejudices and practices may justify GBV as a form of protection or control of women (General Recommendation 19). The Committee further noted that there exist traditional practices perpetuated by culture and tradition in some States, that are harmful to the health of women and children (also including dietary restrictions for pregnant women, and preference for male children).

In their interpretation of article 12 on women and health, the Committee highlighted that as GBV is a critical health issue for women, under General Recommendation 24 States parties are required to ensure the enactment and effective enforcement of laws prohibiting FGM and early and child marriage. Further, the Committee noted that harmful practices, including polygamy and marital rape, may also expose girls and women to the risk of contracting HIV/AIDS and other sexually-transmitted diseases.

With respect to family law and family life, interpreting article 16 of the Convention, the Committee has specified that inequality in the family is often justified in the name of ideology, tradition and culture (General Recommendation 29). The Committee also expressed its concern that identity-based personal status laws and customs perpetuate discrimination against women, and declared that all constitutional and legal frameworks that provide that personal status laws are exempt from constitutional provisions prohibiting discrimination on the basis of gender are in violation of the Convention.

Together with the Committee on the Rights of the Child, the Committee has further noted that harmful practices are grounded in discrimination, including gender-based discrimination, and that they have been justified by invoking religious customs and values (General Recommendation 31). The Committee called for States parties to provide for the means of prevention of harmful practices and combat their impunity, and stated that efforts to change these practices must address the underlying systemic and structural causes. Prevention, the Committee flagged, can best be achieved through a rights-based approach to changing cultural and social norms. The Committee also indicated that dowry-related violence, the defence of 'honor' as an exculpatory or mitigating factor for crimes committed against women and girls, and situations in which the perpetrator escapes sanction by marrying the victim are additional harmful practices contrary to State obligations under the Convention, and that states must repeal all legislation that condones, allows or leads to harmful practices, including traditional, customary or religious laws.

Further to religious or customary laws, the Committee has noted that in states parties with plural legal systems, even where some laws explicitly prohibit harmful practices, the existence of these traditional laws can mediate against effective enforcement as they sometimes support

such practices (General Recommendation 31). Additionally, it drew attention to situations in which prejudices in addressing the rights of women and children among judges in religious or customary courts and adjudication mechanisms, and the belief that matters falling within the purview of these bodies should not be subject to scrutiny by the state deny access to justice of victims of harmful practices.

The Committee has also made some mention of fundamentalism in its Concluding Observations, as for instance in the case of Indonesia (2007), where it decried the “rise of religious fundamentalist groups advocating restrictive interpretations of sharia law, which discriminate against women,” and in Pakistan (2007), where the Committee criticized the prevailing “trends of fundamentalism, intimidation and violence incited by non-state actors” which are “seriously undermining women’s enjoyment of their human rights in name of religion.”

With regard to particular laws and practices, the Committee has described dress codes, which disproportionately impact women, as local “laws that discriminate against women in the name of religion” (Concluding Observations, Indonesia). The concept of male guardianship over women (mehrem) was also addressed in a Concluding Observation (Saudi Arabia), in which the Committee stated that it contributes to the “prevalence of a patriarchal ideology with stereotypes and the persistence of deep-rooted cultural norms, customs and traditions that discriminate against women.” The Committee has further criticized “deep-rooted adverse cultural norms, customs and traditions,” including degrading widowhood practices, force-feeding, levirate and sororate marriages, in its Observations (eg Mali).

When speaking of FGM, the Committee in its Concluding Observations has also highlighted that the practice has no basis in religion or is not sanctioned by religion (eg Brunei, Indonesia). Finally, on women’s and girls’ rights to reproductive and sexual health and rights, the Committee stated its concern about the persistence of discriminatory traditional attitudes and the “prevailing negative influence of some manifestations of religious beliefs” that hamper the full implementation of the Convention with respect to SRHR (Paraguay, 2011).

The standards and steps articulated above represent major advances in women’s rights under the Convention and an understanding of the barriers brought forward by culture, tradition and religion to the achievement of women’s human rights and gender justice. However, despite this, women’s rights, including sexual and reproductive health and rights, are still increasingly threatened and violated in the context of religious fundamentalisms and extreme interpretations of religion and a stark gap exists between human rights standards and their implementation on the ground. As such, further work is still required to examine and better articulate the links between these socio-political phenomena and forces and women’s rights to non-discrimination and equality, and to infuse analysis and recommendations with a deeper and broader understanding of the effects of RFs on women’s rights throughout the lifecycle.

The CEDAW Committee is a critical ally and strategic mechanism to support such an intersectional, nuanced and holistic analysis of women’s human rights that is alive to structural power dynamics and the co-optation of religion.

RECOMMENDATIONS

1. Emphasize the specific impacts of RFs and regressive interpretations of religion to discriminate against women and girls as an undercutting theme, and the violation of a wide range of rights under CEDAW (including rights to work, nationality, education, etc) through State and non-State actors' employment of the political use of religion, within General Recommendations and Concluding Observations, and in questions to State Parties during their review. This could include specific measures that States must consider to harmonize their customs, laws and policies with article 5 CEDAW so as to prevent such violations of women's human rights, and promote accountability for ongoing violations.
2. The CEDAW Committee's upcoming General Recommendation updating GR 19 represents an important opportunity to raise and address these issues and develop a framework that furthers an understanding of the effects of RFs and anti-rights interpretations of religion on gender-based violence and supports more effective mechanisms to hold States accountable for ongoing violence against women and girls justified by the manipulation of religion (i.e. culturally-justified violence against women).
3. Articulate clearly and holistically the influence extreme and regressive interpretations of religion and RFs can have on women's and girls' access to health and ensuring the right to health under article 12 in General Recommendations and Concluding Observations. Consider including the Committee's ongoing and expanding analysis into a new General Recommendation on article 12, following up General Recommendation 24, which highlights RFs' impact as a cross-cutting issue.
4. Emphasize in Concluding Observations and General Recommendations the obligations of States parties to take all appropriate measures to eliminate discrimination against women and girls in all areas of social and cultural life to ensure, on a basis of equality, the right to participate in all aspects of cultural life under article 13 CEDAW. This should include an understanding of women's right to participate in all aspects of cultural life on an equal basis as inclusive of the right to actively engage in identifying and interpreting their cultural heritage and deciding which cultural traditions, values or practices are to be kept, modified or discarded.
5. Continue to articulate the ways in which RFs and extreme interpretations of religion are used to justify discrimination against women and girls under CEDAW and consider incorporating the Committee's ongoing and expanding analysis into a new General Recommendation that focuses on this issue, in order to further visibilize these forms of discrimination, highlight the importance of State accountability in preventing and addressing such violations to prevent violent extremism, and support more effective mechanisms to hold state accountable for related violations. As a first step, the Committee could consider issuing a statement on the use of religion and culture to justify discrimination against women and girls.