

CEDAW and the Jurisprudence of UN Human Rights Mechanisms

Women's Human Rights in the Context of Religion and Culture

FRANCES RADAY

Cet article examine les problèmes inhérents au patriarcat religieux dans les régimes traditionnels, (le judaïsme, le christianisme, l'islamisme) qui posent face aux droits humains les défis idéologiques entre eux et les groupes internationaux qui font la promotion des droits humains laïcs (CEDEF et les autres). L'auteure admet que les mécanismes à l'intérieur des Nations Unies n'ont pas essayé de créer une synergie entre la liberté religieuse ou la croyance et l'égalité entre les hommes et les femmes. Ces deux domaines, souvent conflictuels rendent les femmes particulièrement vulnérables. L'auteure préconise un régime d'une "empathie normative universelle" qui sera réussi seulement si les droits humains laïcs seront alignés sur le progrès en herméneutique des femmes qui installeront l'égalité dans leur religion.

This article presents clear evidence of a developing policy in the UN human rights system that rejects deference to cultural or religious traditionalism where it discriminates against women. It shows that according to the proper and prevailing interpretation of the international human rights standards, freedom of religion or culture cannot justify derogation from States' obligation to guarantee women's right to equality and to eliminate discrimination against women, under international human rights norms and standards, including the international bill of rights, in general, and under the Convention to Eliminate All Forms of Discrimination Against Women (CEDAW) in particular. Pervasive patriarchy in traditionalist cultures and religions—excluding women from public power or free access to the public space and subjecting them to male domination in the family—denies individual women the right to choose their way of life from a basis of liberty and autonomy that is not inferior to that enjoyed by

men. State obligation under the human rights treaties requires the prevention of such forms of discrimination or oppression against women whether carried out by public or private agents. Furthermore freedom of religion combines with women's right to equality under the human rights regime to protect the right of women in religious minorities to choose to remain within the context of her religious beliefs and practices—provided these are not prohibited harmful practices—while carefully guarding her right to claim equality within her religious tradition and community, either by a civil right of exit from the religious community or by seeking the support of the state in claiming equality within it.

The Universal Declaration of Human Rights and CEDAW

The 1948 Universal Declaration of Human Rights, which has been transformed into a binding regime of international human rights law by nine human rights treaties, gave expression to the rights to which all human beings are inherently entitled (Morsink 33). These rights are universal and indivisible (Donnelly 1). In 1980, CEDAW further entrenched women's entitlement to equality in an international bill of women's human rights, requiring State Parties to ensure formal, substantive, and transformative equality for women in all aspects of their lives and mandating the modification of the traditional roles of men and women in order to achieve full equality between them. Thus, CEDAW took "an important place in bringing the female half of humanity into the focus of human rights concerns" (Raday "Gender" 512, 515).

The secular character of the normative system embod-

ied in human rights doctrine is essential to its comprehension. All its premises, values, concepts, and purposes relate to ways of thought freed from transcendentalist premises and from the jurisdiction of religious authority. This nexus between human rights and secularism applies at the State not individual level. The secular regime of human rights does not dictate a secular agenda for individual belief systems but rather sets a neutral normative context for the thriving of pluralistic beliefs within a state, based on the foundations of “dignity, liberty, equality,

choice is restricted by opposition to contraception, and women’s right to life, health, or choice are negated by strict prohibitions on abortion. Under Islam, women are not entitled to equal rights in terms of marriage age, polygamy, guardianship, and custody of children in remarriage (after divorce or widowhood). Furthermore, much harsher penalties are imposed on women than on men for adultery (*zina*). Men have had preferred rights under the inheritance laws of all three monotheisms (Raday *Culture, Religion, and Gender* 663). There are varied restrictions

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and brotherhood [sic],” and on the non-distinction principle which prohibits discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status (UDHR art. 2).

The traditionalist regimes of orthodox religions pose an ideological challenge to the international human rights regime’s clear mandate of equality for women. State reservations to CEDAW have been focused on the refusal of states to apply women’s right to equality where it conflicts with religious norms, and have thus themselves identified religion as the core source of resistance, based on ideological patriarchy (Raday “Gender” 515-6).¹ These reservations have been entered on the basis of the three monotheisms: Judaism, Christianity, and Islam. These monotheistic religions contributed to the pre-history of human rights by recognizing the common core of spiritual humanity in all human beings, but they did not confer entitlement to equal treatment for women in religious or social institutions. All established, though with important variations on a theme, patriarchal regimes that disadvantage women in different ways. Traditionalist religious dogma designates women and men as complements whose duties, though different, are socially comparable (Raday *Culture, Religion, and Gender* 663). At best, they propagate compassion to women—certainly not equal entitlement.

The religious norms of all three monotheisms deny women equality in family law and relations. In Judaism, the consequences of a spouse’s refusal to agree to give a divorce are much more restrictive for a woman who wishes to establish a new family than for a man. In some branches of Christianity, women’s right to reproductive

on women’s participation in religious leadership, religious ceremony, or the public space. Some of these restrictions are rationalized as modesty rules, but these are gendered modesty rules that exclude women from public life (Raday “Modesty” 317).

Hermeneutic reform is possible, and, in each of the three religions, there are dissenting voices that claim equal religious personhood for women. In both Christianity and Judaism, there were reform movements in Europe at the time of the Enlightenment that tended to incorporate or assimilate human rights doctrine. Individual religious leaders have also issued hermeneutic interpretations of Catholicism (Pope John Paul II) and Islam (Nussbaum 86), which are more consonant with a human rights approach. However, this hermeneutical endeavour is, in the best of cases, far from complete, and it is demonstratively absent in those cases where the religious state or community is asserting exemption from human rights claims (Fenn 36).

Thus, notwithstanding their recognition of women’s creation in God’s image, as a spiritual matter, monotheistic religions have promulgated patriarchal gender relations (Amor). As Elizabeth Cady Stanton preached in a nineteenth-century Christian sermon, “To no form of religion is woman indebted for one impulse of freedom, as all alike have taught her inferiority and subjection” (213). This conceptualization of women’s role is in direct conflict with CEDAW’s requirement of formal and substantive equality for women on the same terms as men, as well as its call for transformative redistribution of resources and power between women and men.

Currently, at both the international and at the State political level, institutionalized religious orthodoxy

opposes women's modern right to equality and calls for the restoration of traditional patriarchal values, forming a hard core of political resistance to equality for women. In States that allow the application of patriarchal religious law, whether in hegemonic theocracies or in plural legal systems, women's right to equality is compromised, in both private (family) and public (political and economic) spheres. Patriarchy is not unique to religious traditions. I focus on religious traditionalism here because religion is a commonly recognized institutionalized belief system with a concentrated form of social and political power, enjoying a high level of deference in the international regime, as evidenced in a special standing in the UN of the Holy See and the Organisation of Islamic Cooperation, which is not enjoyed by other cultural norms or values.

Women's Human Right to Equality Prevails in the Clash with Religious Patriarchy

In international human rights instruments, including in the General Comments, General Recommendations and Concluding Observations of the treaty bodies, and in the reports of Special Procedures, it has been constantly reiterated that freedom of religion cannot be used to justify discrimination against women.

In 1993, the Vienna Declaration and Programme of Action prioritized and guaranteed women's universal right to equality:

While the significance of national and regional particularities and various historical, cultural, and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic, and cultural systems, to promote and protect all human rights and fundamental freedoms.... The human rights of women and the girl-child are an inalienable, integral, and indivisible part of universal human rights. The full and equal participation of women in political, civil, economic, social, and cultural life, at the national, regional, and international levels, and the eradication of all forms of discrimination on grounds of sex are priority objectives of the international community. (Vienna Declaration, art. 5, 18)

CEDAW Article 5(a) requires State Parties 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 prejudices 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. Religion is clearly included here within the purview of social and cultural

patterns of conduct (Raday *Culture, Religion, and Gender*). Furthermore, interpreting the International Covenant on Civil and Political Rights ICCPR, the Human Rights Committee has determined the following:

Inequality in the enjoyment of rights by women throughout the world is deeply embedded in tradition, history and culture, including religious attitudes.... 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.

The Human Rights Council's Special Rapporteur on freedom of religion and the Special Rapporteur in the field of cultural rights have repeatedly stated that freedom of religion cannot be invoked to justify discrimination against women. A former Special Rapporteur on freedom of religion, Abdelfattah Amor, identified the many ways in which religions rationalize and legitimize discrimination against women, remarking that "the longer we postpone tackling it the greater the risk of embedding gender inequalities in the field of human rights." He emphasized:

Women's rights, even when involving cultural and religious aspects, form part of the fundamental rights of the individual ... universality arises out of a concept which is at the very root of human rights: the substantial and inherent dignity of the person ... when women's dignity is infringed upon, there is no place for sovereignty or for cultural or religious distinctions. (para. 29)

Another former Special Rapporteur on freedom of religion, Hans Bielefeldt, highlights that gender-based discrimination has at least two distinct dimensions in the context of religion:

On the one hand, women belonging to discriminated communities often suffer at the same time from gender-based discrimination—for example if a woman is discriminated against in the labour market because she has decided, from a religious conviction, to wear a religious symbol. On the other hand, religious traditions or interpretations of religious doctrine sometimes appear to justify, or even call for, discrimination against women. In this context, the Special Rapporteur would like to reiterate that it can no longer be taboo to demand that women's rights take priority over intolerant beliefs that are used to justify gender discrimination. (Statement to the Third Committee para 16)

Nevertheless, many practices and norms that discriminate against women are justified by reference to culture, religion and tradition, leading experts to conclude that “no social group has suffered greater violation of its human rights in the name of culture than women” and that it is “inconceivable” that a number of such practices “would be justified if they were predicated upon another protected classification such as race” (Shaheed para. 3). Further, as Shaheed states, “the justification for direct discrimination against women by reference to culture or

Declaration of Human Rights.... In order to build consensus and ensure that a better understanding and appreciation of such traditional values can contribute to the promotion and protection of human rights, the distinctive features of different cultures and religions should be accorded respect, so long as these are consistent with international human rights standards. (paras. 76, 80)

Responding to the study, the International Commission

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religion—which, according to information provided to the Special Rapporteur, continues—should be eliminated” (para. 62). However, at the international level, a strong religious lobby directed an ideological challenge against the universality of international human rights. In 2011, the member states of the HRC voted by a majority to support a resolution proposed by Russia and the Organisation of the Islamic Conference² that called for the reinterpretation of human rights in accordance with traditional values (United Nations Promoting Human Rights). This resolution was strongly criticized as undermining women’s hard-won right to equality: Special Procedures mandate holders, treaty bodies, and the Office of the High Commissioner for Human Rights (OHCHR) have emphasized the importance of ensuring that “traditional values” are not elevated above universal human rights standards. They have highlighted the use of such terms to justify the marginalization of minority groups and to maintain gender-based inequalities, discrimination, and violence (HRC Advisory Committee para. 39). In 2012, the HRC Advisory Committee presented its preliminary study on promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind, and—in a way that clearly pre-empted a retrogressive application of traditional values to the human rights regime—the Committee asserted that

the international community has reached consensus that each and every person, regardless of that person’s socio-economic, cultural and personal identity, belief, political views or physical location is entitled to all the rights and freedoms recognized in the Universal

of Jurists and the International Service for Human Rights issued a joint statement:

While we believe that the revised report does an admirable job of responding to the mandate, we wish to reiterate our concern about Resolution 16/3. We believe that emphasising traditional values could lead to undermining the universality of human rights. International human rights law must take primacy over traditional values, and not the other way around. For these reasons, we believe that any future work on this issue should be recast as the implementation of human rights in diverse traditional and cultural contexts. (Jernow and Collister 1)

In 2014, the UN Human Rights Council convened a panel discussion on the protection of the family, “reaffirming that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State” (Raday “The Family Agenda” page number). The sponsors of the resolution expressed their cardinal motive as being the protection of the family so that it can fully assume its responsibilities within the community (UN Resolution 26/11). The concept note for the work of the panel emphasized the role that families play in development, expounding on the role of the family in “fostering social development, its strong force for social cohesion and integration, and... its primary responsibility for the nurturing, guidance, and protection of children.” However, the resolution and the concept note failed to cite women’s right to equality in the family, referring rather to women’s status within families. In the ensuing

Human Rights Council panel, the key messages indicated acceptance that diversity of families should be respected, and that violence within the family should be countered (OHCHR). However, the right of women to equality in the family was still not mentioned. In a statement in response, the HRC Special Procedures Coordinating Committee expressed concern on behalf of its independent experts, calling on the Human Rights Council to ensure that, in all future resolutions, concept notes, and reports on the issue of the family, the right to equality between women and men—as well as between girls and boys—within the family must be explicitly included as a fundamental human right (Raday “The Family Agenda”). In June 2015, the issue was again raised in the Council, and, after heated debate amongst member states, a mention of women’s equality in the family—but falling short of the reassertion of the right to equality for women in all aspects of family life—was included in Article 9, in which the Council

urges Member States to create a conducive environment to strengthen and support all families, recognizing that equality between women and men and respect for all the human rights and fundamental freedoms of all family members are essential to family well-being and to society at large, noting the importance of reconciliation of work and family life and recognizing the principle of shared parental responsibility for the upbringing and development of the child. (United Nations Protection of the Family).

In the same session, the Human Rights Council adopted a resolution in which it noted the Report of the Expert Working Group on Discrimination against Women (WGDAW) on the theme of cultural and family life and called upon states to ensure women’s equal enjoyment of all human rights by, *inter alia*, “promoting the equal and full access, participation, and contribution of women and girls in all aspects of life, including in cultural and family life” (United Nations Protection of the Family paras. 1, 3(b)). The Council also called upon the States to take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations, and to guarantee women’s equality in law and in practice in family life, in accordance with their respective international obligations and commitments by, among other things:

- (a) Recognizing the equality of all family members before the law;
- (b) Opposing all forms of marriage that constitute a violation of women’s and girls’ rights, well-being and dignity;
- (c) Ensuring that men and women have the same

right freely to choose a spouse, to enter into marriage only with their free and full consent and the same rights and responsibilities during marriage and at its dissolution;

(d) Ensuring the same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property;

(e) Ensuring the same rights and responsibilities with regard to guardianship, wardship, trusteeship and the adoption of children, or similar institutions where these concepts exist in national legislation; in all the cases, the interest of the children shall be paramount. (para 6).

The Human Rights Council did not adopt the call of WGDAW to enshrine in constitutions and laws (whether in secular, plural, or religious family law systems) women’s right to equality—which should apply in all areas of life and have primacy over all religious, customary, and Indigenous laws, norms, codes, and rules (United Nations Elimination of Discrimination; WGDAW Report of the Working Group para 73(a)(ii)). Nor did the Council resolution incorporate WGDAW’s call for elimination of early, forced, polygamous, and temporary marriages, or its call to eliminate laws that condone the patriarchal oppression of women in families (such as laws that exclude marital rape from the crime of rape or that criminalize adultery) (United Nations Elimination; WGDAW Report paras. 73(c)(ii), 73(c)(v)). While adopting the CEDAW provision on equality for both spouses in all aspects of ownership and management of property (United Nations Elimination para. 6(d)), it did not adopt the WGDAW’s detailed recommendations regarding the family as an economic unit, which, citing CEDAW GR 29, call *inter alia* for equal division of family property in the event of divorce or widowhood and for equality for women and girls in inheritance rights (WGDAW Report para. 73(d)).

Although not incorporating all the recommendations of the WGDAW, the resolution of the Council on discrimination against women went much further towards the goal of guaranteeing women’s right to equality in all aspects of family and cultural life than did its resolution on the protection of the family. This discrepancy is a reflection of the volatility of the Council on women’s human rights, in the context of religious patriarchal opposition.

Prohibition of Cultural and Religious Practices that Discriminate Against Women and Girls

The international human rights Treaty Bodies, UNWomen, the special procedures mandates such as WGDAW,

and hundreds of civil society organizations worldwide have called for the elimination of cultural practices that discriminate against women and girls—whether based on religious belief or not—and have asked governments to take measures to prevent such practices. The practices that are defended in the name of religious or cultural freedom and that have been condemned in international human rights mechanisms include child marriage; forced marriage; punishment, including by stoning or lashing for adultery (WGDaw “Adultery”); polygamy (CEDAW

violence against women in law and in practice (WGDaw “Adultery”). The call by the Group is path-breaking. In a significant number of countries, adultery continues to be a crime punishable by severe penalties, especially for women, including fines, arbitrary detention, imprisonment, flogging, and, in the most extreme instances, death sentences by stoning. These have usually been drafted and are almost always implemented in a manner prejudicial to women. Maintaining adultery as a criminal offence—even when, on the face of it, it applies to both women and

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General Recommendation 21); unequal rights to divorce or remarry; inequality in property rights during a marriage or after its dissolution; unequal rights of inheritance; discrimination against widows; prohibition of contraception; severely restrictive prohibitions of abortion; female genital mutilation; and restrictions on freedom of movement or freedom of occupation. Progress is steadily being made at the international level in recognizing the urgency of eliminating these practices, which make any prospect of equality, in the communities in which they are tolerated, illusory for women or girls.

There is an ever-growing policy of zero tolerance for such practices in the UN human rights mechanisms. The UN Human Rights Council Resolution on Child, Early, and Forced Marriage, a landmark resolution calling for a ban on child marriage, was adopted in 2014. This resolution marked a major breakthrough in the Stop Child Marriage Campaign, which is being led by a global partnership of over four hundred civil society organizations. Every year, an estimated fifteen million girls under eighteen are married worldwide. In the developing world, one in nine girls is married before her fifteenth birthday, and some child brides are as young as eight or nine. These girls are robbed of their childhood, deprived of their right to education, at great risk of domestic violence and marital rape, and also exposed to the problem of early pregnancy with its threat to their health or life. Indeed, child marriage can often operate as a shield behind which slavery and slavery-like practices occur with apparent impunity.

The WGDaw issued a call to Governments to repeal laws criminalizing adultery. The Group notes that the enforcement of such laws leads to discrimination and

men—means in practice that women will, given ongoing discrimination and inequalities faced by women, continue to face extreme vulnerabilities and violation of their human rights to dignity, privacy, and equality. The Group recognised that adultery may constitute a matrimonial offence bearing legal consequences in divorce cases, the custody of children, or the denial of alimony, amongst others. However, it should not be a criminal offence and must not be punishable by fine, imprisonment, or of course by death.³

The CEDAW Committee has long held that polygamous marriage contravenes a woman’s right to equality with men and can have such serious emotional and financial consequences for her and her dependents that such marriages ought to be discouraged and prohibited (CEDAW Committee General Recommendation 21 para. 14; CEDAW Committee General Recommendation on Article 16 para. 27). In 2015, the Indian Supreme Court, reversing earlier rulings, held that a Muslim’s fundamental right to profess Islam did not include practicing polygamy, as the practice of polygamy did not acquire sanction of religion simply because it was permitted and hence monogamy reforms by the State did not violate freedom of religion (Choudhary).

Women’s rights to equality in property, including matrimonial property, land rights, and inheritance, have been propounded in recent recommendations of UN expert bodies. The CEDAW Committee in their General Recommendation on Article 16 laid down the right of women to equality in property rights for the duration of marriage and after its dissolution and also, although CEDAW Article 16 did not expressly refer to inheritance

rights, in intestate succession (paras. 38, 47, 53). In an extensive report in 2013, UN Women documented the way in which deprivation of the right to land ownership in some legal or customary systems has resulted in the denial of sustenance for women and their children and exposure to extreme poverty (Para. 3).

There is growing pressure by international human rights experts to recognize that criminalisation of contraception or abortion amounts to a violation of women's human rights. In some countries, access to abortion is absolutely prohibited, even where there is a threat to the life or health of the pregnant woman or girl, the pregnancy resulted from rape, or the fetus is not viable or has a lethal defect (WGDAW "Women's Autonomy" 7). In Ireland, the state denied an abortion to a pregnant woman who was raped and suicidal. In El Salvador, tens of women have been imprisoned for up to thirty years for having "unexplained" miscarriages or taking the abortion pill (WGDAW "Women's Autonomy" 3).

Though the human rights treaties have incorporated women's right to health care without discrimination and to family planning, which clearly includes contraception, they do not explicitly refer to abortion (ICESCR art. 12; CEDAW arts. 12, 16). However, in Cairo in 1994, the International Conference on Population and Development recommended the following: "Governments are encouraged to remove legal barriers preventing women and adolescent girls from access to safe abortion, including revising restrictions within existing abortion laws" (UN-CPD Framework of Action para. 81). The Committee against Torture has repeatedly expressed concerns about restrictions on access to abortion and about absolute bans on abortion as violating the prohibition of torture and ill treatment (see, e.g., CAT, para. 23). The former Special Rapporteur on violence against women has emphasized that acts deliberately restraining women from using contraception or from having an abortion constitute violence against women by subjecting women to excessive pregnancies and childbearing against their will, resulting in increased and preventable risks of maternal mortality and morbidity (Coomaraswamy paras. 57, 66). Additionally, the former Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health stated that the criminalization of sexual and reproductive health services for women generates and perpetuates stigma; restricts their ability to make full use of available sexual and reproductive health-care goods, services and information; denies their full participation in society; hinders their access to healthcare services; and disempowers them (Grover). The WGDAW—in its reports on country visits to Chile and Peru, as well as in communications to El Salvador, Paraguay, and Spain—

made strong recommendations to allow women access to abortion at least in cases of threat to life or health of the pregnant woman or girl, rape, teenage pregnancy, and pregnancy with a non-viable fetus (WGDAW "Women's Autonomy" 3).⁴

The growing urgency of ending practices endorsed by cultural or religious traditions that are harmful to women and girls was highlighted for the first time in 2014. Two UN human rights expert committees, CEDAW and CRC, joined forces to issue a comprehensive interpretation of the obligations of states to prevent and eliminate harmful practices imposed on women and girls by family members, community members, or society at large, regardless of whether the victim provides, or is able to provide, full, free, and informed consent:

Harmful practices are therefore grounded in discrimination based on sex, gender, and age, among other things, and have often been justified by invoking sociocultural and religious customs and values, in addition to misconceptions relating to some disadvantaged groups of women and children. Overall, harmful practices are often associated with serious forms of violence or are themselves a form of violence against women and children. (CEDAW and CRC para. 7).⁵

Concluding Reflection

There is clear evidence of a developing policy in the UN human rights system rejects deference to cultural or religious traditionalism where it discriminates against women. This approach occasioned the then Special Rapporteur on Freedom of Religion, Hans Bielefeldt, to state: Unfortunately, the impression that freedom of religion or belief and equality between men and women allegedly constitute two essentially contradictory human rights norms seems to be widely shared. This can cause serious protection gaps. For instance, efforts to explore and create synergies between freedom of religion or belief and gender equality are sometimes ignored or even openly discouraged. Moreover, the abstractly antagonistic misconstruction of the relationship between freedom of religion or belief and equality between men and women fails to do justice to the life situation of many millions of individuals whose specific needs, wishes, claims, experiences and vulnerabilities fall into the intersection of both human rights, a problem disproportionately affecting women from religious minorities.

—Bielefeldt Interim Report (2)⁶

There is a growing body of feminist thought within religions

that demands redefinition and reconstruction of religious hierarchies in order to secure equality for religious women within their religions. A woman's claim to equality within her religion may be through internal hermeneutics, or it may be by constitutional claim against the state, in which the state may be asked to refrain from supporting, either directly or indirectly, the implementation of patriarchal edicts of a religion even against its own members (Brugger and Karayanni 255). While hermeneutic change to bring about women's equality under religious precepts is to be welcomed, this will require a transformative change in the dogma and the practices of each of the Abrahamic religions. In the interim, until this is achieved, States must provide access to justice for women who seek their right to equality, in all spheres of life, without the barriers created by religious and cultural patriarchy. Women's right to equal personhood in the leadership roles, functions, and rituals of their religious communities should also be recognised and encouraged by the state.

Secular human rights are not, as has been claimed, a fighting creed, but rather a neutral facilitator of pluralistic life choices, which impose an obligation recognize the equal entitlement for all members of society to fulfil their potential without barriers based on their identity, including race or sex (Taylor; Horowitz). This is a regime of universal normative empathy, beyond that required by any one religion. Women are at the hub both of the transformative concept of the human rights regime and of the ideological backlash emanating from cultural or religious traditionalism. The recognition of women's right to equality under the human rights regime represents a shift of perception. Its implementation as the ruling paradigm can be achieved only through the international law and constitutional entrenchment of secular human rights, alongside the hermeneutic progress that women can make in securing transformative equality within their religions.

Frances Raday has combines academic research and teaching with human rights activism. She is a professor of law, Director of the Concord Center for International Human Rights Law at COLLMAN, Professor Emerita, Hebrew University, Lieberman Chair for Labour Law; Honorary Professor, University College London; and Doctor Honoris, University of Copenhagen. From 2000 to 2013, she was a member of the CEDAW Committee and from 2011 to 2018 a Special Rapporteur for the Human Rights Council. She has litigated cutting-edge human rights cases, including on issues of women's right to equality in political, economic and religious contexts; TU freedoms; migrant and OPT workers' rights; human rights education; the right to abortion; and, employee-inventor's patent rights. Raday is the author of numerous books and articles, in the academic and the popular press.

Endnotes

¹CEDAW GC 29 adds that reservations to Article 16, whether lodged for national, traditional, religious, or cultural reasons, are incompatible with the Convention and cannot justify violations of women's right to equality.

²Association of 56 Islamic states promoting Muslim solidarity in economic, social, and political affairs.

³There have been some constitutional court decisions which struck down the penal code's punishment of marital infidelity or adultery on the basis both of the constitution's equality guarantees and human rights treaties, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW): 1996, the Guatemalan Constitutional Court; 2007, the Ugandan Constitutional Court; 2015 the South Korea Supreme Court (reversing its previous rulings). It should be added that European countries have all decriminalized adultery.

⁴For example, see the end of mission statements on country visits to Peru and Chile, September 2014. These reports were cited by Amnesty International in a 2015 statement to the HRC urging that there be no barriers for girls and women to access safe and affordable sexual and reproductive health services.

⁵Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices.

⁶It should be noted that this conciliatory approach is not new nor is it confined to the feminist issue. This call echoes attacks on secular human rights as a "fighting creed" and for accommodation and support for religious values (Horowitz; Rosenfeld; Gray; Taylor. See, further, Raday "Secular Constitutionalism Vindicated."

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KATERINA FRETWELL

Housekeeping History

Servants found real jobs, home-mistress
mangled hands in wringer. Riveter
Rosie welded wartime USA solid.

Uncle Sam's pinkie pointed at
me, *We want YOU, enlist.*
Rosie's postwar reward, *Go home*

to Frigidaire, booted to 'burbs.
Dust-motes fled to '60s shag0rugs,
avocado-appliances.

'70s shredded aprons, *Real Women*
in cling-film greeted hubby.
Pierre Eliot Trudeau's staff served

Sara Lee to Barbra Streisand;
*PET*¹ permissive parenting preceded
*PETA*² workers rescuing

assembly-line Airedales.
Chatelaine no chatelaine, Doris
Anderson fed young moms politics.

Frances Gabe made housework extinct,
fans sloughed mops for tomes,
expanded minds, not Venetian blinds.

Now, widow seventy plus,
I shucked my stuff, recycled
canvases & clothes, clean scant décor

for guests, like Frances—platinum time
to absorb woodland calm, but unlike her
not in the buff, chilly up north.

*Katerina Vaughan Fretwell's ninth poetry book, which
includes her artwork, We Are Malala, will be published
by Inanna Publications in 2018. She lives in Seguin,
Ontario.*

¹parent effective training

²animal rights activists