Introduction

From female genital mutilation (FGM) to child marriage, some of the most egregious abuses of women's rights have been justified in the name of culture and tradition. As a result, culture is often framed as a threat to, rather than a vehicle for, women's rights. This attitude is reflected in Article 5(a) of the UN Convention on Elimination of Discrimination Against Women (CEDAW), urging states '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' that perpetuate gender hierarchies or stereotypes. Furthermore, women themselves may sometimes be ambivalent about how to reconcile the norms and beliefs of their community with feminism, leaving them uncertain about its possible role in their lives. So, given the apparently troubled relationship between them, can cultural practices be reconciled with women's rights?

Since CEDAW's adoption in 1979, there has been a definite shift in how gender and cultural rights intersect, with an increasing recognition that gender and cultural identity cannot be abstracted from one another, nor simply set in opposition. Rather, women are using feminist theories to question the relevance of particular cultural practices, actively engaging with, contesting and challenging their societies. In the words of Yakin Ertürk, former UN Special Rapporteur on violence against women, 'Human rights standards are not in contradiction with culture. They are in contradiction with patriarchal and misogynist interpretations of culture.'

Minority and indigenous women, in particular, have actively sought to harmonize their rights as women with their cultural identities. Far from being static, culture itself is a set of living practices and relationships that are continuously resisted and renegotiated. These remain central to the well-being of their communities, including women, who are not simply passive victims of these practices but often active creators of new meaning, values and interpretations.

Without a doubt, women within communities frequently find themselves on the wrong side of 'culture' – for example, patriarchal prescriptions on labour, dress codes, public participation and many other areas of their lives. In some cases, when these are in clear violation of international human rights norms – for example, with reported cases of FGM in the United Kingdom – official prohibitions are necessary to ensure the fundamental human rights of women are respected. Nevertheless, it is also the case that in many areas minority and indigenous women have been able to engage their cultural traditions positively to strengthen their own position, as well as challenge narrow or restrictive interpretations of their culture by others. These opportunities are explored in more detail in this chapter.

Gender and culture

How we understand gender is shaped by our culture. 'Culture' here refers broadly to systems of meaning that define, inform and structure our relationships with one another and with the outside world. Gender roles are therefore, whether at the level of the family, community or nation, highly subjective and can be more or less restrictive from one society to the next. Minority and indigenous communities are no exception, ranging from extreme patriarchies to egalitarian systems. This chapter does not seek to focus on these distinctions, but rather on how the denial of women's cultural rights impacts particularly on indigenous and minority women, and the ways they are reclaiming their cultural practices and their right to determine how these are defined.

Loss of and threats to cultural practices, and women's roles, responsibilities and statuses

The loss or erosion of cultural heritage can have specific impacts for women from indigenous and minority communities, including the disappearance or commodification of traditional customs, assimilation, displacement, poor health and diminished status within their own community. These circumstances are particularly true for indigenous peoples whose societies have suffered the upheaval of colonization and its continued legacy of discrimination – a situation that has left indigenous women in many countries disproportionately vulnerable to sexual abuse and exploitation. For minority communities, too, external threats to their identities and...
State assimilation

Despite the differences in how gender is understood within minority and indigenous communities, women’s roles and responsibilities are frequently tied to their experience of childbirth and child-rearing, as well as their designation as culture-bearers and keepers of traditional knowledge. Women, for example, play a distinct role in language transmission as the primary caregivers during infancy, imparting it with complex knowledge systems and identities. When language transmission is interrupted, however, women’s crucial cultural role in this process may also be compromised.

The traumatic history of Canada’s indigenous population in this regard has been well documented. In 2015, the Canadian Truth and Reconciliation Commission released its initial report exploring the impact of the residential school system on its indigenous peoples, which it declared amounted to ‘cultural genocide,’ whereby ‘families are disrupted to prevent the transmission of cultural values and identity from one generation to the next’. Children were removed from their homes and communities, often forcibly, and forbidden from speaking indigenous languages, severing a crucial link with their cultural identities and thus their ability to speak their mother tongue. The pre-1985 version of the Indian Act, in effect and arguably by design, severed women’s connections with their communities. Indigenous women were not permitted to remain in their on-reserve communities if they married non-indigenous men, yet the Act allowed indigenous men the right to bring non-indigenous women to live in the community. The effects of this were two-fold: in the words of author Sharon McVorie, ‘Indian communities suffered cultural loss when women were removed, and cultural dilution when non-Indian women were admitted.’ This provision was later removed in 1985 for its constraints imposed by patriarchies within their own way. This goes back to the discussion at the beginning of this chapter about the intersection between feminism and culture. Far from being a dichotomy between one or the other, many minority and indigenous women have found ways to retain their identity while challenging the constraints imposed by patriarchies within their own community or broader society.

Land displacement

‘Indigenous women are the guardians of knowledge, wisdom and experience in relation to environment. We have an integral role in the transmission of this knowledge, wisdom and experience to the younger generations.’

The Manukan Declaration of the Indigenous Women’s Biodiversity Network

In many indigenous communities, women are primarily responsible for retaining and transmitting traditional knowledge, particularly regarding management of forest resources and food production. For example, throughout the world, indigenous women retain extensive knowledge on plant species, including medicinal plant selection, and serve as custodians of biodiversity. In India, for example, Khadi women have multiple uses for the Mahua tree, as food, oil and also medicine. The tree also holds spiritual importance for the women, who are its stewards and keepers.

When access to their livelihoods, land or resources is compromised, however, through land grabbing, militarization, in-migration and misplaced state conservation or development, women’s rights to their traditional knowledge are threatened. Maasai women in Tanzania, for example, have been dispossessed from their lands by the government for purposes of tourism, cutting them off from pasture to graze their animals, as well as their ability to pass on the practices tied to these resources. As the main holders of agricultural knowledge and the spiritual traditions associated with sacred sites, this material disenfranchisement also devalues their roles as teachers and, by extension, their status within the community.

So too in south-central Laos, ethnic minority villages faced relocation as part of the government’s efforts to ostensibly bring them closer to health and education services. Thereafter, they were relocated again to make way for Sepon gold and copper mines in the mid 2000s. Some men and younger single women have benefited from wage labour, but older and married women in particular have not secured such positions for various reasons, including their lower education and limited majoritarian language proficiency. Being forcibly relocated has removed them from the territories that form the basis of their cultural practices, particularly their roles surrounding food and non-timber forest product collection, leaving them without a cash income.

Commodification of gendered cultural practices and objects

‘I’ve heard it said many times that my people are like exhibits in a human zoo, but this makes me sad. We are just doing our best to make a living.’

Ma Nu, Palaung woman in Thailand

Tourism can be both a boon and a curse for minority and indigenous women, at times providing a sustainable income but frequently at the expense of control over their cultural traditions, products and dress. The benefits typically depend on whether women themselves are in charge of producing, selling and marketing their goods or at the mercy of powerful middlemen. All too often, tourism marketing uses representations of indigenous women’s bodies that are objectified for commercial exploitation.

Intellectual property violations

‘We are art. It’s not folklore. It’s an art that our grandmothers have blessed us with, we’ve inherited it from them and we have to preserve this heritage. We cannot lose it.’

Miroslabia Dick, indigenous Kuna woman and President of the GaluDugbis company

Minority and indigenous women have developed specialized knowledge surrounding the creation of...
Minority and indigenous women’s right to culture

State of the World’s Minorities and Indigenous Peoples 2016

42 years later, after much lobbying by indigenous groups, the legislation did not protect intellectual property rights. Fifteen years later, rebelling molas was a common response to minority and indigenous women’s resistance to change, reinforcement of restrictive gender boundaries and tighter control of women’s conduct. As the then Special Rapporteur on cultural rights explained in a 2002 report, ‘Cultural markers should not have to choose between different aspects of their identities in order to enjoy their human rights.’

Linda L. Veazey, in A Women’s Right to Culture: An Argument for Gendered Cultural Rights

Minority and indigenous women asserting their cultural rights

The reproduction and selling of such items has raised issues of women’s right to their cultural products, vis-à-vis both the larger society and the men in their community. Without proper legal protections that include a gender perspective, the intellectual property rights of minority and indigenous women can easily be violated. In Panama, indigenous Kuna women are known for their mola production, namely handmade appliqué panels worn on traditional blouses with intricate geometric patterns that are deeply tied to Kuna people’s history and identity. While being the main form of Kuna artistic expression, the molas are also a key source of income. In the 1980s, however, commercial imitation molas by non-indigenous makers began to appear, threatening the Kuna women’s right to their art. In response, a law was passed in 1984 prohibiting the import of fake molas, but it did not protect intellectual property rights. Fifteen years later, after much lobbying by indigenous representatives, including indigenous women’s groups, Law 20 was passed, bestowing intellectual property rights to indigenous cultural production, including the mola, on the Kuna community. Moreover, in 2002, the Kuna community established the GaluDugbis trademark and logo (depicting the sacred place from which mola designs are believed to emanate), as a sign of authenticity. The law fell short however, as it did not consider the specific rights of indigenous women to their own cultural production. A Kuna General Congress (KGC), composed of men, was in charge of representing the Kuna in Law 20 disputes. When it was discovered that Kuna women were teaching their craft to non-indigenous people and producing molas for cheap sale in surrounding countries, the KGC prohibited Kuna women from doing so, despite the fact that they were its sole producers and were themselves making the choice to do so. Since then a General Congress of Kuna Women has been created to more fairly address the issue of women’s representation and hopefully strike a balance between issues of intellectual property rights and the economic needs of Kuna women.

Similar problems in the field of music and arts have been experienced by Afro-Brazilian women, who continue to struggle to secure commercial or popular success for their creative output, while white performers have been able to capitalize on or appropriate these cultural productions themselves. The modern case of Brazilian Axé music is illustrative. Originating in the majority Afro-descendant city of Salvador, in the state of Bahia in north-eastern Brazil, its rhythms and lyrics are decidedly African-influenced: Axé is itself a greeting used in the Candomblé religious tradition, practised mainly by Afro-Brazilians. However, although Afro-Brazilians pioneered this sound, it was white artists who took it to the mainstream while black female stars of the genre have largely remained on the margins. This reflects the continued discrimination of a music industry that is willing to exploit black cultural heritage but sidelines the Afro-Brazilian women responsible for its production.

Minority and indigenous women asserting their cultural rights

Women should not have to choose between different aspects of their identities in order to enjoy their human rights.

Linda L. Veazey, in A Women’s Right to Culture: An Argument for Gendered Cultural Rights

Because of their special role in transmitting important cultural ideas and practices, women’s conduct and dress is often taken to reflect the morals and standards of their community. While gender control and repression remain potent issues in most majority societies, their dynamic in minority and indigenous communities is distinct due to the pressures they face from society at large – leading in some cases to community resistance to change, reinforcement of restrictive gender boundaries and tighter control of women’s conduct. As the then Special Rapporteur on violence against women Radhika Coomaraswamy explained in a 2002 report, ‘Cultural markers and cultural identity that allow a group to stand united against the oppression and discrimination of a more powerful ethnic or political majority often entail restrictions on the rights of women.’

Hasidic Jews, for example, are very concerned with maintaining women’s modesty within the community. Smaller Hasidic sects such as the Satmar are extremely self-contained and form group cohesion through limited contact with the wider society, as well as controls on women’s movement and dress, requiring the use of head coverings and long, high-necked dresses. In Williamsburg, Brooklyn, where Satmar Hasidic Jews are relatively densely concentrated, male members of the community, including community leaders as well as apparently unauthorized groups functioning as ‘modesty committees’, are reportedly policing the dress and behaviour of women. For a community that struggles to maintain strict social rules and boundaries, particularly in the face of the wider American secular culture, seemingly uncontrolled women’s bodies threaten morals within the community, as well as the cohesiveness of the group’s boundaries.

But, as has been seen with the debate over the wearing of the hijab in many western countries, banning modes of dress that are often associated with profound gender inequalities can also amount to infringement on women’s cultural rights. Instead, creating space for women to have the right to choose what they want to wear is a more effective realization of their cultural rights than an outright ban – though this can prove deeply challenging when these restrictive practices are widely enforced by society at large or within a particular group. Indeed, when minority and indigenous peoples’ rights activists seek from within to change practices that restrict or violate the rights of women, they can be accused of undermining their community’s cultural order and even face ostracization. This, for instance, is the case for members of the Tamil Nadu Muslim Women’s Jaamat (STEPS), a women’s organization formed to protect the rights of Muslim women in India both within and outside their own community. Their work, including the creation of a mosque for women, has led to stigmatization, abuse and even death threats from within the community. Such a hostile reaction is a common response to minority and indigenous
women claiming their right to participate in and reform customs in their communities.

Culture for resistance

Despite the very real dangers for those who challenge narrow and patriarchal interpretations of a particular identity, faith or tradition, minority and indigenous women throughout the world are nevertheless taking steps to define their own sense of belonging — including the right to question and reinterpret their community’s cultural practices and their relevance in their own lives. It is this spirit of exploration that drives the work of Zoulikha Bouabdellah, a renowned visual artist whose work has been featured in galleries throughout the world. Raised in Algeria until the outbreak of the civil war, she then settled in France with her family in 1993, at the age of 16. Her art teases out questions surrounding the control and creation of meaning, especially around identity, gender and religion. As she explains, ‘With regard to my Arab-Muslim origins and the fact of being a woman, I cannot dissociate my work from the question of feminism and cultural belonging.’

Her use of Islamic symbols in her work has drawn both criticism and praise. In one particular installation entitled ‘Silence’, displayed early in 2015 at Pavillon Vendôme in Clichy, she gathered 24 prayer rugs and then placed 24 pairs of women’s high-heeled shoes on them. Even though the work had been exhibited elsewhere without any problems, the curators were informed of a warning from a federation of Muslim citizens that the work might provoke violence, leading to Zoulikha and the curators removing the installation. ‘I am of Muslim heritage,’ the artist said in response, ‘my intention is not to shock, nor provoke but rather to propose a vision that will lead to dialogue.’ Her work, she explained, aimed to navigate ‘the place of women on the threshold of two worlds – because here the modernity of women is reconcilable with Islam, under the condition that the latter is not perverted to become an instrument of domination.’

As Zoulikha later reflected, ‘Art is exceptional, as it appeals to one’s reason and to one’s sensibilities. It does not have to be a tool of assimilation or erosion. Bedouin women have traditionally practised handmade beaded embroidery, but by the 1990s it was dying out. Following an EU-funded project in 1996 to preserve the craft for posterity, Selmia Gabaly, a Bedouin woman involved in the project, wanted to create income opportunities for Bedouin Jabaliya women in the Sinai peninsula and restore their handicrafts as a living art. She founded FanSina, a handicraft business with a focus on training and social empowerment that draws directly on this Bedouin heritage, particularly that of the Jabaliya tribe, whose motifs are drawn from local flowers and fauna rather than the more widely used geometric shapes. ‘In the old days,’ as described by Gabaly, ‘the Bedouin shepherdesses would wander the mountains with a sack where she kept her food … She would see an almond tree, and she would embroider it on her bag according to her vision.’ The project provided an opportunity to revitalise this tradition. ‘We were worried that over time these things would become forgotten or extinct… So the idea was to take traditional motifs … and use them on new items like a cushion cover or a bag.’ Today, FanSina employs 430 Bedouin women. According to Gabaly:

‘Our main goal is to generate a source of income for the women living in the mountains. Because of the environment and her occupation, she was denied her basic rights, her education. The second goal is to preserve our heritage and use it to benefit our lives. How can we keep up with these new times, how can a Bedouin woman get an education? Not only to learn how to make handicrafts, but to learn many things in life.’

Though the recent upheaval in Egypt has disrupted FanSina’s market, the initiative shows how a community can use their cultural products to support women-led initiatives. ‘Traditional’ practices may be adapted, in this case making designs appealing to a tourist market but which, crucially, are still controlled by the women who have the rights over the production.
The ‘green revolution’ of the 1960s made modern farming techniques – dependent on large machinery, fertilizers, pesticides and monoculture hybrid varieties – available to those who could access loans, mostly upper-caste men. At the time, Dalit women were unable to access such schemes – an injustice that later turned out to have positive benefits. Beginning in the early 1990s, a local grassroots organization called the Deccan Development Society (DDS) became aware that local plant varieties and associated knowledge were rapidly disappearing. DDS therefore created local cooperatives comprising mostly Dalit women to support sharing of local seed varieties. In this way, they were able to revive and disseminate Dalit women’s traditional seed knowledge, as well as local biodiversity, in dozens of villages, in the face of droughts and food insecurity. Through loans and cultivation of small plots, Dalit families began to support themselves through high-producing traditional crops, instead of working as day-labourers on the lands of upper-caste masters. Reviving women’s role as seed keepers, combined with their knowledge of diverse local crops, has not only helped these women improve their food security but also strengthened their voices in their communities.

Culture for resilience

‘When I talk about culture, I talk about the country. The country is alive. The river, the land, they’re all an energy system. I think all of us, whether we are young or old, need to connect with nature and the environment because it helps build our resilience. It’s alive. The country is alive. The river, the land, they’re all an energy system. I think all of us, whether we are young or old, need to connect with nature and the environment because it helps build our resilience. It’s alive. The river, the land, they’re all an energy system.

Dr Anne Poelina, Aboriginal woman from Western Australia

Participation and engagement in cultural heritage can serve as a resource for emotional and physical health, bolstering the well-being of entire communities. There is much research to support this claim, particularly regarding indigenous peoples from Canada and Australia. ‘Cultural resilience’ is a term used to describe ‘the role that culture may play as a resource for resilience in the individual’,1 that is, the presence of personality characteristics, such as empathy and positive outlook, that enable one to negotiate difficult situations, and the absence of self-destructive behaviours such as substance abuse. For many indigenous and minority communities, cultural resilience includes engaging with the community and transmitting cultural practices throughout the generations.

In Australia, suicide rates among indigenous youth have reached epidemic levels and are among the highest in the world, a phenomenon reportedly not seen even a generation ago. According to the Australian Department of Health, for Aboriginal and Torres Strait Islander women and girls, the highest suicide rate was for ages 20–24, 21.8 deaths per 100,000, five times the non-indigenous female rate for that age group. This situation spurred indigenous elders into action. In a report entitled The Elders’ Report, indigenous elders reflect on the causes of indigenous youth suicide rates and the available solutions. The Elders’ Report made recommendations on culturally tailored programmes, specifically those that bring the youth back to their ‘homelands’.

One such programme is the Yirimian Project, which has a specific component for girls and young women to take trips to indigenous lands with women elders to learn songs, dances and stories based on one of four language groups, as well as to visit sacred women’s sites. Women elders also teach weaving and plant identification. An Australian government report acknowledged the Yirimian Project’s success as it builds young people’s confidence and improves their self-worth, and is considered to have helped curb suicide, self-harm and substance abuse in the participating communities. For the young Aboriginal girls and women who participate, the Yirimian Project prioritizes the importance of cultural engagement, in the process building up an important social and psychological resource to strengthen their resilience and sense of self-respect.

Conclusions and ways forward

Women from minority and indigenous communities are asserting the equal realization of their cultural rights and using them to benefit themselves and their communities. As the then Special Rapporteur in the field of cultural rights, Farida Shaheed, says in a report from 2012:

‘To enjoy equal cultural rights, women must become equal participants and decision-makers in all the cultural affairs of their own specific communities, and in the wider “general” society. In this sense, cultural rights are empowering, for they provide individuals with control over the course of their lives, facilitating the enjoyment of other rights. A large part of the transformative aspect of cultural rights is being able to overturn pressured female and male characteristics and capabilities.’

So it is not simply that minority and indigenous women’s cultural expressions must be protected; rather, it is their right to full ownership and autonomy over their cultural practices, to be embraced or rejected, reformed or renegotiated, reconstructed and embracing change, where they see fit.

In the same report, Farida Shaheed went on to outline three key components underpinning the realization of cultural rights, all of which have particular importance for minority and indigenous women:

- **Participation:** the right of women to participate in or reject any cultural practice or belief of their choosing, the freedom to join or leave any community, to create new communities on any shared identities and reshape ideas of gender and cultural norms.

- **Access:** the right of women to know, understand and benefit from their cultural traditions as well as those of other communities, to engage with ideas and notions, both from within their societies and without.

- **Contribution:** the right to contribute to cultural life, including using one’s imagination and intellect to engage with and create artistic expression and other creative works, as well as engaging critically in cultural values and norms.

Thus realizing women’s cultural rights is dependent on other civil and political rights, but also the reverse is true. Full and free cultural participation enables minority and indigenous women to engage with entrenched gender hierarchies, resist cultural essentialism (particularly regarding harmful practices justified as ‘tradition’) and sustain multiple identities that allow them to be active members of their communities without subscribing to narrow prescriptions of who they should be. Minority and indigenous women have been using their cultural rights to do just that, realizing the potential of their knowledge and traditions to achieve economic prosperity and spiritual, mental and physical health for themselves and their communities.

This process of adaptation, creative reinvention and renewal that women are undertaking in their negotiation with cultural practices and heritage underscores the essentially dynamic nature of culture. While forces of change can be damaging or disruptive, they impel us to realize that change is inevitable. Communities facing the rapid effects of urbanization and migration, not to mention technological advancements such as the internet, will inevitably be propelled to engage with new cultural influences. But this then is the function of cultural rights for minority and indigenous women: to protect their right to maintain traditions while challenging their narrow interpretation, to engage in dynamic processes of adaptation to challenge restrictive interpretations of their identity, to participate and indeed not to participate, depending on their perspective.

Endnotes


2 Namis, M.J., *The role of First Nations women in language continuity and revitalization*, in *ibid*.