

Canadian HIV/AIDS Legal Network:

Item 8 General Debate: Traditional Values resolution

- delivered by John Fisher, 16 June 2009

In two days, this Council will consider a resolution on traditional values. It is ironic that this resolution is being presented under item 8 (follow-up and implementation of the Vienna Declaration and Programme of Action), since para. 38 of the VDPA actually calls upon States to work towards the elimination of "the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremism".

The draft resolution completely fails to acknowledge that many "traditional values" are inconsistent with international human rights law, and that "tradition" and "culture" are frequently invoked to justify violations of human rights, particularly violations of the human rights of women.

It fails to acknowledge art. 2 of the Declaration on the Elimination of Violence against Women which recognizes that "traditional practices harmful to women" include battering, sexual abuse of female children in the household, dowry-related violence, marital rape, and female genital mutilation.

It fails to acknowledge resolutions on violence against women, which require States not to invoke tradition, custom or practice to avoid their obligations. It fails to acknowledge that the Beijing Declaration and Platform for Action recognizes that violence against women is "a manifestation of the historically unequal power relations between men and women" and flows from "the harmful effects of certain traditional or customary practices".

The draft resolution fails to acknowledge the positive obligation on States to eliminate traditional attitudes, values and practices inconsistent with human rights, as required by the Convention on the Elimination of all forms of Discrimination against Women, and the African Women's Protocol, which requires States to "eradicate elements in traditional and cultural beliefs, practices and stereotypes which legitimise and exacerbate the persistence and tolerance of violence against women".

Building on the work of the Special Rapporteur on harmful traditional practices and Special Rapporteur on Violence against Women, the OHCHR has

emphasized:

"Traditional cultural practices reflect values and beliefs held by members of a community for periods often spanning generations. Every social grouping in the world has specific traditional cultural practices and beliefs, some of which are beneficial to all members, while others are harmful to a specific group, such as women. These harmful traditional practices include female genital mutilation (FGM); forced feeding of women; early marriage; the various taboos or practices which prevent women from controlling their own fertility; nutritional taboos and traditional birth practices; son preference and its implications for the status of the girl child; female infanticide; early pregnancy; and dowry price. Despite their harmful nature and their violation of international human rights laws, such practices persist because they are not questioned and take on an aura of morality in the eyes of those practising them."

The draft resolution acknowledges the panel at the 7th session of the Human Rights Council on "Human Rights and Intercultural Dialogue", in which the Russian panellist criticised "noisy but well-organized minorities", denounced the secular State and the "strong influence of extreme feministic views and homosexual attitudes". Are these the values being advanced by the resolution?

This is not a Council of Tradition. It is a Council of Human Rights. Human rights are inherently forward-looking; tradition is inherently backward-looking. The standards by which we are guided are international human rights standards. It does not take a rocket scientist to foresee that if this resolution is passed unamended, States in future will invoke traditional values to justify violating the human rights of any group or minority which has faced historical persecution.

Russia assures States that there is no hidden agenda and that its only interest in presenting the resolution is to enhance respect for human rights. If this is true, then surely it should have no problem clarifying in the resolution that "traditional values" may never be invoked to justify human rights violations, and that the values being advanced are only those values which are consistent with international human rights law.