
HUMAN RIGHTS COUNCIL ADVISORY COMMITTEE

A focus on traditional values and the universality of human rights

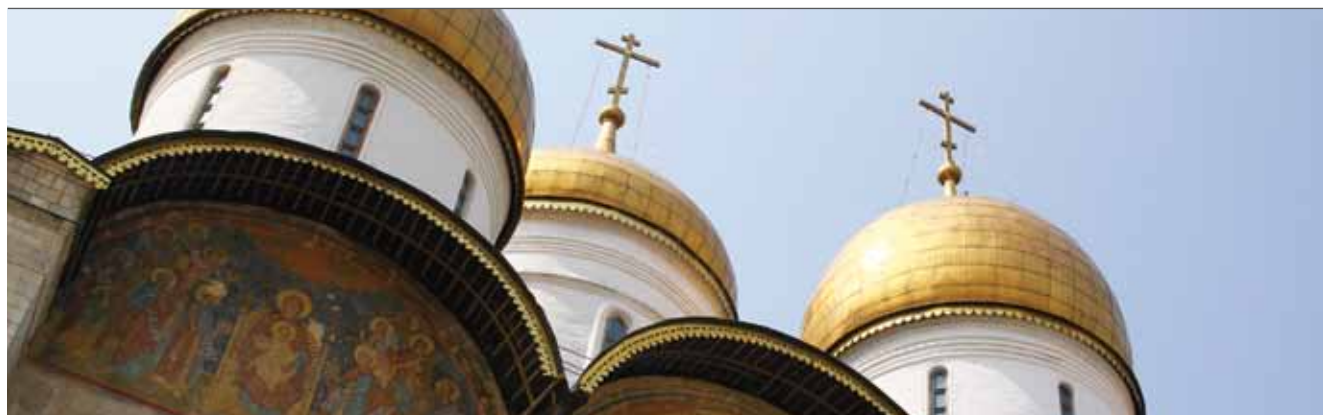


Photo: Caleb Starrenburg

Dormition Cathedral, Moscow. A resolution put forward by the Russian Federation requests the Advisory Committee to prepare a study on how traditional values can contribute to human rights.

The Advisory Committee of the Human Rights Council (the Committee) held its 7th meeting in Geneva from 8 to 12 August, 2011. In the role of Chair was Mr Latif Hüseyinov, who took over from Ms Purificacion V. Quisumbing. The Committee discussed several mandates given by the Human Rights Council (the Council) including the right of peoples to peace, the right to food, the enhancement of international cooperation in the field of human rights, and international solidarity.

Of particular interest was the Committee's discussion of its mandate under Resolution 16/3: 'Promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind.'¹ The resolution requests the Committee 'to prepare a study on how a better understanding and appreciation of traditional values of dignity, freedom and responsibility could contribute to the promotion and protection of human rights'.

Resolution 16/3 was presented to the Council in March 2011 by the Russian Federation. Despite concerns by human rights defenders and NGOs, and opposition from a sizeable number of States, it was adopted with 24 votes in favour, 14 against, and seven abstentions. The resolution marked another step in the Russian Federation's attempt to legitimise the concept of traditional values within the international human rights discourse.

INTERNATIONAL DEVELOPMENT OF TRADITIONAL VALUES

The relationship of 'tradition' and human rights became part of debates at the international level in connection with harmful traditional practices, such as female genital mutilation (FGM). From the late 1950s onwards, this and other practices harmful to women and girls gradually received increased attention, until the Commission on Human Rights (the Commission) established a Working Group on traditional practices affecting the health of women and children. The Working Group met three times in Geneva between 1985-1986. Based on its report, the Commission requested the Sub-Commission on the Promotion and Protection of Human Rights to consider measures to be taken nationally and internationally to eliminate such practices. Mrs Halima Warzazi – then member of the Sub-Commission and two decades later a member of the Advisory Committee – was appointed by the Sub-Commission as its special rapporteur on this issue.² She submitted a report in 1991, which focused on traditional practices that adversely impacted on the health of women and girls, such as FGM, early or forced marriage, and son preference.³

During the meeting of the Committee, the Russian delegation said it wished to remove the negative connotations of tradition through its initiative, and to highlight common values found in all cultures and traditions. The Russian Federation's efforts in this regard go back to October 2009, when it had sponsored Resolution 12/21 setting up a seminar on traditional values and human rights. The stated purpose of the seminar had been to explore how traditional values can contribute to the promotion

1 <http://bit.ly/naAhON>.

2 See Mrs Warzazi's long history with the Sub-Commission at <http://bit.ly/nrk3fk>.

3 'Son preference' refers to a range of values and attitudes manifested in many different practices, the common feature of which is a preference for the male child. Neglect of the girl child is the rule, but in some cases it can lead to selective abortion or female infanticide.

of human rights. However, the discussion during the seminar in October 2010 was divided between two main groups; those who argued that values rooted within traditions and cultures are not given sufficient recognition in the human rights framework, and those who warned about any legitimacy being given to alternative value systems that are not consonant with international human rights norms. Several NGO participants at the time expressed concern about the invocation of tradition and culture to justify human rights violations.

The Independent Expert on cultural rights, Ms Farida Shaheed, had also addressed the seminar. Her mandate was established in 2009, at least in part to address the often negative framing of tradition and culture at the international level, and to find ways of protecting cultural rights. The resolution establishing the mandate also notes 'that no one may invoke cultural diversity to infringe upon human rights guaranteed by international law, nor to limit their scope'.⁴ Addressing the seminar, Ms Shaheed reiterated that traditional values should never be allowed to undermine human rights. It was in follow-up to this seminar that the Russian Federation presented Resolution 16/3 to the Council in March 2011, tasking the Advisory Committee to study the issue.

DISCUSSION AT THE 7TH SESSION

The Advisory Committee held two meetings to discuss its mandate from the Council; one as part of the official agenda, and one with NGOs.

In setting out the intentions behind its initiative, the Russian delegation explained to the Committee that the aim was not to undermine the universality of human rights or to introduce cultural relativism. It argued that it wanted to contribute to the promotion of human rights and to provide them with 'additional legitimacy'. The delegation stated it wanted to 'bridge the gap between the existence of human rights standards and their implementation', a task made difficult because human rights were often 'understood as a western concept', and not seen as 'relevant to the context of non-western communities'. The Russian delegation argued that using traditional values as a vehicle to promote human rights would be a way to bridge this gap. The particular traditional values the Committee is asked to focus on in this regard are those of dignity, freedom, and responsibility.

This understanding of the mandate was picked up on by several Committee members, including Ms Mona Zulficar, Mr Ahmer Bilal Soofi, Mr Obiora Chinedu Okafor, and Ms Anantonia Reyes Prado, who saw the purpose of the mandate as being to focus on how traditional values could promote human rights, and support the implementation of universal human rights standards. As long as those universal standards are placed at the forefront, they argued, there can be no danger of undermining them.

This argument assumes, however, that there is no disagreement about what universal human rights standards consist of. Particularly within debates at the Human Rights Council, those standards have often been questioned, if not undermined by some States. For instance, during explanations of vote on the resolution entitled 'Human rights, sexual orientation, and gender identity'⁵ at the 17th session of the Council, it was evident that several States have a limited interpretation of the universality of human rights. For these States, it is not clear that the universality of human rights means that human rights apply to all people, regardless of their sexual orientation or gender identity. For example, according to Pakistan (speaking on behalf of the Organization of the Islamic Conference), the resolution attempts to establish new rights by misinterpreting the *Universal Declaration of Human Rights*. Echoing the point, Nigeria said the resolution fell outside of international human rights principles. According to the limited understanding of universality voiced by these States, promotion of human rights would not include a requirement to ensure non-discrimination on the grounds of sexual orientation or gender identity.

In this light, it is crucial that the Committee sets out clearly what it means by 'universality of human rights'. Failing that, there is a risk the report produced could legitimise the concept of traditional values, without ensuring that traditional values cannot be used to undermine universal human rights standards.

The focus of Resolution 16/3 on the so-called traditional values of dignity, freedom, and responsibility also points to the possibility of such an outcome. Several members of the Committee⁶ noted that there is no agreed understanding of these values. Mr Wolfgang Stefan Heinz and Mr Shigeki Sakamoto referenced two written NGO statements, setting out different interpretations of these values between different cultures. Dignity, for example, is often traditionally linked to perceptions of gender roles in a society; in some contexts placing the dignity of a woman in her role as wife and mother. The lack of a common understanding of those values means Committee members need to be exceptionally clear in how they define these values.

The particular emphasis that has been placed on the notion of 'family' as a vehicle for promoting traditional values is also worrying. The resolution setting up the Advisory Committee mandate 'notes the important role of family, community, society and educational institutions in upholding and transmitting these values (...) and calls upon all States to strengthen this role through appropriate positive measures'. In the meeting of the Advisory Committee, Mr Vladimir Kartashkin described this paragraph as one of the most important points of the resolution. Mr Dheerujall Seetulsingh raised the question as to whether the report should contain a section on this issue, saying family is important 'even in the west' and it is a misconception to think otherwise. Attempts to note the

4 <http://bit.ly/nLpHjT>.

5 A/HRC/17/L.9/Rev.1 available at <http://bit.ly/rqSK9k>.

6 Mr Seetulsingh, Mr Heinz and Mr Sakamoto.

plurality of forms that family can take on were unsuccessful during negotiations on the resolution. However, Ms Laurence Boisson de Chazournes sounded the only note of caution on this issue during the Advisory Committee meeting. She noted the definition of family is plural and varies across cultures, which should be respected.

It was also worrying that several members of the Committee took the mandate to require a focus on only positive traditional values.⁷ For example, Ms Zulficar pointed out that Resolution 16/3 focuses on those traditional values that promote human rights, and indeed it explicitly rules out using traditional values to justify harmful practices that undermine universal human rights norms and standards. While she noted that there were negative values that undermined the rights of women, she also added that since these values do not promote human rights, they would not fall within the mandate of the study.

However, other members showed some awareness of the dangers of the mandate and the need to spell out the negative impact of some traditional values and practices. Mr Obiora Chinedu Okafor said the report should not give comfort to those who would use the concept of traditional values to impair human rights coverage of disadvantaged groups. Mr Heinz argued for an approach that includes consideration of the rights of different minorities and vulnerable groups, and how they are impacted by traditional values.

CONCLUSION AND NEXT STEPS

The Committee has set up a ten-member drafting group to work on the report.⁸ The drafting group is chaired by Mr Soofi, with Mr Kartashkin as rapporteur.⁹ Mr Kartashkin said the group intends to have an interim draft of the report completed by mid-February and a final draft prepared by August, in time for presentation at the 21st session of the Council in September 2012. The drafting group also welcomes input by NGOs.¹⁰

With as fundamental a concept as the universality of human rights at stake, it is crucial that the Working Group produces a report that avoids any possibility that traditional values could be used to undermine the universality of human rights. A report that does not do this could have long-term implications for the rights of those groups whose equal position in society is less widely accepted, most especially those of minority sexual orientations or non-standard gender identities. The run up to the Committee's next meeting in mid-February, when it will

present the first draft of the report, marks the best point to engage with the Committee to reiterate these dangers. After the first draft is prepared it will become progressively harder to make any significant changes to the report.

Other developments

The Committee adopted four other recommendations as follows.

First, the Committee has been tasked under Resolution 15/13 to prepare input to the work being carried out by the Independent Expert on human rights and international solidarity, on drafting a declaration on the right of peoples and individuals to international solidarity. Mr Chen Shiqiu presented an outline of the work carried out to date by the drafting group set up under this mandate. The Committee requested the group to work closely with the Independent Expert and to submit the final outcome to the 8th session of the Committee, in mid-February 2012.

Under Resolution 17/6, the Committee is also mandated to develop a draft declaration on the right of peoples to peace. It has been requested to report on its progress at the Council's 20th session. At this session, the Committee received a progress report from the drafting group working on the declaration, including information about responses to a questionnaire devised by the group. The Committee expects to receive a draft of the declaration at its 8th session.

The third additional mandate from the Council is on the right to food. This is a long-standing mandate, and the Committee has already drafted preliminary studies covering various aspects of this right, including on the advancement of the rights of peasants and other people working in rural areas, and on severe malnutrition and childhood diseases. Both of the studies are to be completed by the Committee for submission to the Council at its 19th session. Under Resolution 16/27, the drafting group is preparing to draft a study on the human rights of the urban poor, and on rural women and their enjoyment of the right to food. A draft of the former is to be presented to the 8th session of the Committee, and the latter to the 9th session.

Finally, the Committee is working on a mandate on the enhancement of international cooperation in the field of human rights. It is requested to submit proposals to the 19th session of the Council on ways and means to enhance such cooperation. The Chairperson of the drafting group has devised a questionnaire to seek views from States and other stakeholders to assist in preparing the proposals. The group is requested to submit these proposals for consideration at the 8th session of the Committee. ■

7 Mr Okafor, Mr Soofi, Ms Reyes Prado, and Ms Zulficar.

8 <http://bit.ly/qUyEB8>.

9 Although Mr Kartashkin expressed a willingness to serve as both Chair and rapporteur, he agreed to uphold the previous practice of the Committee, whereby these roles are shared.

10 There is no formal process in place for such engagement, so NGOs and other members of civil society should send materials to the Committee Secretariat at hrcadvisorycommittee@ohchr.org. It is also possible to email ARC International at tradval@arc-international.net regarding the process.