

community. Culture in practice is fluid and even contradictory, but when culture clashes with women's rights, culture is defended as 'fixed and sacred'.<sup>98</sup> Strong arguments emerge against the universality of rights as ideas imposed by the West, even today. What is astonishing about this is that all of the Member States of the United Nations declared at the World Conference on Human Rights (1993) that:

"All human rights are universal, interrelated, interdependent and indivisible."

And

"It is the duty of States, regardless of their economic, political and cultural systems to promote and protect all human rights and fundamental."<sup>99</sup>

Regardless of agreements at the international level, it is obvious that there is a constant power struggle at the national level between those who wish to retain power and privilege and those challenging the systems that deny them dignity and redress for grievances.<sup>100</sup>

The State, as the arbiter of contested claims within a country, is not neutral in its decisions on claims challenging "traditional" systems. Who represents the community and is successful in promoting a certain form of culture is determined by who has the power to demand the attention of the State.

The lesson for advocates of women's rights to equality is to have a cohesive strategy for legitimizing international human rights agreements and the principle of the universality of rights as well as to obtain legitimacy for widening the sources of rights. For this consensus has to be obtained among those holding differing views to be committed to the human rights concerned by developing cogent arguments that demystify the rationale behind the cultural value or practice.<sup>101</sup> To achieve this, a broad political support for the State to effect social change in the face of conflict with culture or religion is essential. Women's groups who are significant stake holders in such a project need to be well organized and able to mobilize political support for bringing about social change.<sup>102</sup>

### The Promise of CEDAW

CEDAW is the international human rights instrument that provides a theoretical framework as a counter to the limitations of formal equality and to the vagaries of the application of the law, as well as the social and cultural underpinnings that prevent women from exercising their right to equality. CEDAW requires the equal valuing of all individuals and groups as required by formal equality, but CEDAW emphasizes that all women are entitled to the benefits of equality and not just to have their right to equality in the law. CEDAW is therefore not aspirational. Its aim is to abolish status hierarchy, and in Article 2, it enjoins all States' parties to pursue without delay a policy for the realization of women's rights by enshrining these policies in national constitutions and other national legislation. In the legal framework it prescribes,

98. Mehra, M., 'Women's Equality and Culture in the Context of Identity Politics,' *Journal of Comparative Law*, Volume 2.2, 2007

99. United Nations General Assembly, 'The Vienna Declaration and Platform for Action,' 1993 Paragraph 5.

100. An-Na'im, A., 'State Responsibility to change Religious and Customary Laws,' in *Human Rights of Women: National and International Perspectives*, Rebecca Cook, ed., University of Pennsylvania Press, 1994.

101. Abdulah Ahmed An-Na'im. Ibid

102. An-Na'im, A., Ibid