

# Building Human Rights through Popular Culture

By Mallika Dutt

*Breakthrough* is an international group that seeks to raise awareness about human rights through popular culture and education. We believe that it is important to reach out to a general public and begin a dialogue about violence against women and human rights. For example, by raising the issues of domestic violence through a music album and music videos, *Breakthrough* is able to reach millions of people across South Asia and other parts of the world.

*Mann ke Manjeere* (Rhythms of the Mind) is an award winning music video produced by *Breakthrough*. It narrates the exuberant journey of a woman who flees her abusive husband and becomes a truck driver. Women of all ages and backgrounds get a ride on this truck: dancing and rejoicing as they traverse an arid desert. It was nominated for an MTV award and won the National Screen Award in India.

What has been particularly heartening is the realization that music videos speak a universal language. Just as we have always insisted that violence against women is a global phenomenon that has culturally specific manifestations, we have found that the music video, although located in an Indian context, appeals to a global audience. We have linked the media product to our website, and we also use the video to conduct workshops on violence against women. In fact, groups around the world are using the video for public education on domestic violence, women's access to non-traditional occupations and public space.

At *Breakthrough* violence against women is a human rights issue; and for us, human rights are fundamentally about values of dignity, equality, and non-discrimination. Human rights provide a universal framework about justice and equality: violence against women is one of the areas where amongst the worst violations of these rights occur. With *Mann ke Manjeere*, we ask women to understand human rights not simply as a list of violations, but more importantly as a vision of where women want to go. *Breakthrough* is ultimately about building a human rights culture – a culture where respect for one another, the ability to live with dignity, food, shelter, and freedom from violence and discrimination is the ultimate goal.

In the anti-violence movement, we have often focused on the single issue of domestic violence without understanding its broader connections to social and economic issues, to class, religion and geography. We focus on providing better services to battered women rather than engaging in community education to end

violence. We hope that a human rights perspective will help connect our anti-violence struggle to a larger movement for social justice.

MALLIKA DUTT is the Executive Director of Breakthrough. Website: [www.breakthrough.tv](http://www.breakthrough.tv)

# Culture: What It Is, Who Owns It, Claims It, Changes It

By Sujata Warrior

## Understanding Culture

The term “culture” and culture itself have been studied for several centuries. Much of what we understand of the term comes from the formulations of Western colonialists and the participation of colonized people in accepting these formulations. As a result, we have come to understand cultures to be very stable patterns of beliefs, thoughts, traditions, values, and the things that are handed down from one generation to the next to ensure the continuity of these systems.

This understanding of culture has served the very purpose of the colonizers to “civilize” the “natives”. Colonial empires relied on distinctions about “the other” as did local cultures to justify the processes of marginalization and inclusion, in order to maintain political and social power. An example of colluding with colonial claims of the differences of the “other” was the Indian response – ‘yes we are different, we are spiritual. The East is more spiritual than the West, therefore we are better than you’.

Such reasoning does not get at what actually transpires in particular cultures, and permeates the ways in which we talk about culture. Often when we are invited to talk about who we are and what cultures we represent, the same collusion can be found behind the ways in which we understand who we are. We fail to look at the fact that cultures are not just stable patterns that are handed down from one generation to the other. When you look at and study different groups of people, what you see are ways in which these traditions actually shift and change under changing social and political landscapes. So when we talk about culture, we are not really talking about stable patterns. We are actually talking about ways in which our experience(s) shape our commonalities. For example, my Indian ethnicity is not the only thing that differentiates me and I include the way my religion does or does not shape me; the class that I come from; my age; my immigration status; if I am disabled or not; my sexual orientation, etc.

Understanding culture requires looking at how all these things come together and connect, not just for individuals but also for groups of people. There are times when I share my Indian characteristics or South Asian characteristics; however, I also share characteristics with other people either because of my class, or because of my religion, or if I am anti-religion, or through other means and other formulations. We must understand that these are not very stable things but rather they constantly shift and change, and our experiences and commonalities

also shift and change. Culture is inclusive of all of these things. It is not just about ethnicity.

Often in our conversations, assumptions are made, for example, that as Chinese Americans and as South Asians we have a much in common. Well, we do and we do not because there are numerous inter-ethnic diversities that make us different. Sometimes we do not recognize our diversities or we do not talk about them and how they can lead to contests within cultures. There are no clear-cut boundaries. Most boundaries are permeable and as Uma Narayan states there is no such thing as a “packaged picture of culture”.

Most of us have been asked to present what domestic violence looks like in a particular Asian community. We get up and give a nice list of what it looks like. We give people lists of what they can do if they have encountered a Chinese woman, or a Korean woman, or a Cambodian woman; and we go away feeling pleased. These are the rainbow-colored panels that we have all been a part of. That is not to say that these lists do not have some value. But we must critique our presentations, examine *our* assumptions, and not connect back into a totalizing notion of culture. These totalizing notions of culture are in fact idealized pictures of our traditions; and as we know, traditions have both nurturing as well as oppressive elements.

It is important to shift our understanding away from totalizing culture to illustrating its diversity, contradictions, contrasts, ambiguities, and the interconnections between various internal systems that structure power.

## Cultural Positions

The kind of cultural definitions we have been using puts us all in very problematic positions. Uma Narayan<sup>1</sup>, a Professor of Philosophy at Vassar College, outlines the different cultural roles that we often occupy. I outline them here so we can see the ways in which we have all occupied these positions:

**1. The Emissary Position** proclaims how wonderful each of our cultures and its traditions are. These claims are designed to counter either totalizing (how people lived, ate, thought, dressed, etc.) or negative (e.g., the status of women – issues such as veiling, female genital mutilation, domestic violence etc.) characterizations of culture by Western colonialists. The emissary position surfaces more so with migration; as immigrant communities hang on to cultural practices and traditions to preserve identity and resist homogenization. This

---

<sup>1</sup> Narayan, Uma 1977. *Dislocating Cultures: Identities, Traditions and Third World Feminisms*. New York: Routledge. Pp.121-157

portrayal of course denies the realities of oppression, of class and/or gender differences, how power is structured, and how privilege is conferred.

**2. The Mirror Position** This position also facilitates “Westerners” taking an interest in “our culture”. Here, we try to take how the West has looked at us, then turn it around and say, “Let’s look at how they are and show that they are a mirror image of what we are.” The most common example of this position is to claim that “this is the way most cultures operate, and you have the same forms of violence after all”. So, by pointing to the mirror image we become inadvertently trapped within the Western gaze, a defensive protectiveness of our own culture that inhibits discussions about what is happening within our communities. This differs from the previous position in that while the former is laudatory, this provides the mechanism to sustain and provide confirmation on the global predations of the West.

**3. The Authentic Insider** Finally, in this position, we can claim knowledge about our culture, offer explanations, critique traditions, and engage in struggles for change. While this position has merit, it is problematic when there is no reflection. For example, who invites us in as an authentic insider and for what purposes? Where are we seen as authentic insiders? Are we crafting and defining policies, say on child welfare, or are we just commenting on API perspectives? We are asked to come in and fit into a picture that already exists rather than being invited to shift the picture and to engage in a dialog that examines the ways in which violence against women may be expressed in different communities. Furthermore, it is often a single voice that is representative of a diverse whole. The contradictions, conflicts, disagreements in our cultures are not allowed to surface because there is no space in which to discuss these differences. “We” then appear monolithic and seamless. Additionally, limits are also placed on what we can talk about. For example, when called to a meeting on child welfare we are only asked to talk about Asian and Pacific Islander issues and any critique or reflection of the child welfare system as a whole is understood to be outside the bounds of what we have been invited to speak on. The other difficulty with this position is that we are invited to introduce and enhance the notion of “difference” which means that we have to be a “true native” and fit into the picture of “difference” that already exists.

## Conclusion

I am not pointing this out to say that all of these positions are bad. Instead, to show that we have all occupied them. Sometimes we have even praised traditions in our own communities that we know are detrimental to women because we are put in particular positions or there is a particular reason why we are doing what we are doing. What is important is to understand why we are presenting a particular picture of culture in a certain way; to what audience; for

what purpose; and to know what are the ways in which these three positions connect with each other.

I want to end with a quote by Himani Bannerji in her book *Returning the Gaze*<sup>2</sup>. “The struggle is for a fundamental change in social relationships rather than a per community quota for representation in the parliament of racism and ethnicity. We are engaged in politics—linking theory to practice, examining ideologies through our lives, and our own lives through revolutionary ideas. We are not shopping in the market of cultural differences.”

SUJATA WARRIER serves on the Steering Committee of the Asian & Pacific Islander Institute on Domestic Violence. She is the Director of Health Care Bureau, State of New York, Office for the Prevention of Domestic Violence.

---

<sup>2</sup>Bannerji, Himani. 1993. *Returning the Gaze: An Introduction*. Toronto: Sister Vision

# Colonization and Violence against Women

By Val Kalei Kanuha

## Introduction

Hawaii is an island nation that was colonized by the United States in 1893. It was not until the very end of the 20<sup>th</sup> century that then President Bill Clinton apologized to the Hawaiian people, but given the damage that has been done, it was a little late. My comments are based on my understanding of the institution of colonization as it has occurred in the Hawaiian nation and in the Hawaiian Islands. Most of us, especially as Asians and Pacific Islanders, have experienced or know about the effects of colonization in our countries of origin. In this discussion of colonization, I would like us to think in terms of the domination of a particular nation, community, society or peoples by a foreign or outside nation, society, force or country. To have been colonized is to have been dominated, to have been taken over systematically, institutionally, historically, and politically as a nation of people by another nation of people, usually from the outside but not always.

Let us examine what happens culturally in a colonized nation. Local people are romanticized: this was especially true of Hawaiians and Pacific Islanders, seen as inhabitants of a tropical “hula” nation. Women are exoticized: the colonizer’s gaze is directed at local women rendering them beautiful, sexual, etc. These constructions are applied then to the entire place, resulting in the feminization of a country. This is what happened to our people. Colonizers portrayed our entire country as a stereotypical Pacific Islander woman: bare breasted, feeding men, having sex with them, etc., and overlooking how everyday life was lived by men and women in order to privilege notions of native women acting in the service of foreign colonizing men.

In our own cultures, pre-colonial life is idealized, and its disruption blamed as a cause of violence against women. We cannot agree to the notion that our colonized countries were mythically ideal until the bad invaders came in from the outside. We, meaning the anti-domestic violence movement, have to reject the explanation of colonial history as the cause of violence against women. To accept it is to admit we have become part of the colonized mind. Furthermore, we cannot characterize all colonizers as “westerners”. I am part Japanese American and we know that the Japanese certainly have a history of colonization, reminding us that many of our own people, not just Westerners, or Europeans, or white people, are colonizers.

## Myths about Asian and Pacific Cultures

We all know the myths and stories that are told about what our societies were like before the big bad colonizers came in. We need to challenge whether or not these claims are made to justify violence against women. Is it really true that we were all peaceful, loving people until the colonizers came upon us? I don't think so. Who then is going to take the lead in casting a serious critical gaze at this question and challenging the usual answers? It has to be done by us because we do not want people from the outside to come in and say to us: "You know what, you guys have just as many problems as the rest of us; so don't use this colonization excuse to say you were all perfect until we came along and colonized you". Let us then embark on our critique by examining myths that idealize our cultures.

The first myth is that many of our cultures were matrilineal and therefore, before colonization, all of us respected, loved and had a very important place for women in our society. There is a simple retort to that. Just because a society is matrilineal does not mean it is not patriarchal. Matrilineal structures decide only how inheritance rights, land and other forms of wealth are passed on within the family. They do not say anything about who really controls the status of those women's positions in inheritance, in history, and in politics. By saying we are matrilineal, we are somehow equating it with being a society that reveres women, and places them above men. If you really think about it, many of our societies are matrilineal; however, many of our societies are still very oppressive to women and have always been so. Hence, it is not a very good argument.

The second myth is that we did not have domestic violence, or violence against women, until we were colonized. If you listen to the stories that many advocates and others talk about today concerning the different forms of violence against women that occur in our society, my guess is you will find that many of these forms of violence against women existed before outsiders came into our societies. If we look at our old texts, our legends, our own myths, histories, our writings, our art forms, and music, you will find them filled with oppressive, denigrating images of violence against women—images that pre-date any kind of contact from the outside. It is hard to argue that most societies were just wonderful toward women before they were colonized.

The third myth is that colonization is at the root of violence against women and in a hierarchy of oppressions, colonization is the most important form of oppression. Furthermore, that sexism, classism, homophobia and other kinds of oppression are not as critical or as harmful as the oppression of colonization. This third myth claims that the most important kind of oppression is colonization for us as people of color. There is another simple retort to this point. If, in fact, we believe that colonization really is at the root of violence, how then

do we explain that colonized women are not violent against men since all of us were, after all, colonized together? Why are there still a disproportionate number of men of color—men in our communities—who are violent against our women? Hawaiian women were dragged to the docks to serve British soldiers and sailors and all the whaling ships that came into our ports. Women were victims of colonization. But, somehow, Hawaiian women do not abuse Hawaiian men at the same rate that they (Hawaiian men) abuse us. Perhaps we can say that colonization had different effects on women versus men but that is not an adequate explanation for men’s violence against women.

### **Colonization and Patriarchy**

Geraldine Moane, an Irish political scientist and sociologist who writes on gender and colonization<sup>3</sup>, points out that systems of oppression and domination that colonize states, nations and people are identical to the strategies men use to dominate women. Here are a few examples.

The first one is the strategy of claiming ethno-cultural superiority, historically used by colonizers to justify domination because their intelligence, their gods, their way of life and rationality was superior. This strategy has really done a good job of keeping us in our place. Male superiority is used in exactly the same way. Men’s ways of thinking; men’s ways of knowing; men’s drive toward autonomy versus women’s wimpy ways of wanting to be in relationships—these ways of ‘superiority’ are what men use to oppress women.

The second strategy of colonization is differentiating “the other.” One of the ways colonizers keep us in our place is to say they are the center of the universe and all the rest of us as people of color are “the other”. If you think about what happens with women and men, you will see that men use this very notion of women as “the other” to keep women marginalized and to keep themselves at the center.

A third strategy of colonization is the use of all forms of violence—physical, emotional, psychological, and spiritual - by the colonizer against the colonized. Many of us were, and some still are, forbidden to use our native languages; told not to pray in a certain way; told not to study; and told not to be in families in a certain way. These are ways that colonizers kept families separated from themselves, from other families, and from their cultures. Here again, the parallels of male domination through multiple forms of violence against women obtain.

---

<sup>3</sup> Moane, Geraldine (1966). *Gender and colonialism: A psychological analysis of oppression and liberation*. New York: St. Martin’s Press.

A fourth strategy is the seizure and control of economic resources. The taking of land—a very important part of who we are as a people—the using of land, and the misuse of land and natural resources by the colonizers is one of the ways in which the colonizers remove our people from the things that are most sacred to them. So economic exploitation and capital accumulation go hand in hand. Historically, In Hawaii, we did not understand the notion of land ownership: we lived on the land but we did not own it; we did not think it should be owned. So Hawaiians, like other colonized peoples lost their lands. Similarly, abusive men control women's economic resources and constrain them from access to their social and familial resources. Women too, may unwittingly give up their wealth, or their familial and community ties because they miscalculate the importance of holding on to them.

A fifth strategy is the control of culture- it involves patrolling the boundaries of the colonialists' culture and defining what is acceptable/exotic about the invaded culture. The same thing happens for us as women. Men control almost all the images of women in the media, the ways that we learn about ourselves through education, culture or politics. Our culture is dominated by male images of women and male images of what a society is supposed to be.

The last strategy is the exclusion of native people from access to power. For many of us as Asians and Pacific Islanders and for many of us as people of color, we know who occupies the leadership and positions of power. It is usually not us. If you look at what happens in relationships between men and women and who is in power, it is mainly men and not women.

These notions and strategies of colonial domination are used by patriarchy to continue male dominance over women. We need to counter claims that colonization has led to violence against women, by pointing out that there is in fact a tight connection between colonization and patriarchy. Some would even say that you could not have colonization without patriarchy. Who after all were the colonizers? They were mostly men (that is not to say women cannot be colonizers). The institutions of colonization rely on political power, access to resources, strategies of oppression and mobility—all the things men seem to have. Therefore, we cannot say it is because of what white people have done to us that there is violence against women in our cultures. Patriarchy and colonization go hand in hand and it is this nexus that keeps the structures of gender violence so well entrenched.

## **Conclusion**

As I look around at the audience, I see it is composed primarily of women and it occurs to me that most of us are not excusing male violence because of colonization. In fact, it is the men in our communities who use this argument in

their own defense: because they cannot, or will not, or feel threatened about, taking responsibility for their violence against women. So, they resort to blaming the white colonizers. We must take a strong and active position and not allow that analysis to dominate. We must resist the ways that our own communities—led largely by men—force us to silence, hurt, oppress, and disrespect the voices of women we live and work with; and all of our mothers who came before us; and all of our children who will come after us. It is up to us to push against the notion that colonization is at the root of violence against women, it is up to us to ensure that women’s suffering, struggles and strengths are not dishonored.

**VAL KALEI KANUHA** is Assistant Professor, University of Hawai'i at Manoa, School of Social Work.

# Cultural Defenses in the Criminal Legal System

By Leti Volpp

## Culture and the Legal System

The context in which many of us may have interacted with the legal system around the question of culture may have to do with questions of child welfare and with immigration. For example, we may have filled out affidavits on behalf of battered women concerning cancellation or removal. We may have helped with visa petitions. Affidavits may have been written for women who are seeking gender based asylum or asylum for other reasons. Affidavits may have also been written on behalf of women fleeing persecution in other countries. We also are interacting with the legal system around criminal cases and cases involving inter-personal violence.

There are two main types of cases where questions of culture have emerged around inter-personal violence. (1) The first type involves male violence against women—when a man kills, rapes or assaults a woman. (2) The second type involves attempted parent-child suicide—where a mother kills or tries to kill her children and then is unsuccessful in actually killing herself. It becomes attempted parent-child homicide when the mother survives and she is prosecuted for either killing or attempting to kill her children.

What occurs in both types of cases is that criminal charges are brought and the defendant then tries to use culture to explain his or her behavior and says, “I should be treated more leniently. Consider what was going on in my head when I committed these acts. There is something about my cultural background that had an influence on my behavior.” Advocates against allowing cultural defenses say the acts are completely inexcusable and they do not want to let any information into the courtroom that would call this behavior cultural. They want to ban culture from the courtroom and not have any consideration of culture there.

These questions are actually more complicated than that kind of analysis permits. Basically, our legal system provides particular rights for criminal defendants. For example, someone who is facing an indictment and possibly will be convicted of a particular crime is provided with an attorney by the government at no cost to the defendant. This is very different, for example, from the immigration system where, if you appear in immigration court, you have to pay for your own attorney. The rationale for this is that the consequences of being a criminal defendant are so severe that we want to try and provide some protection for people. (We could argue that deportation is a very severe consequence but there is a lot of bad law that says deportation is not punishment

so you do not get a free attorney.) Another of the rights you get as a criminal defendant aside from an attorney provided by the state is the right to admit evidence in your defense that is considered relevant—meaning information that is potentially useful. So long as information is relevant, its probative value outweighs its prejudicial effect and does not have the tendency to mislead the jury, it will be admitted as evidence. The threshold for admitting evidence into a case is very low. One kind of evidence that can be admitted into a criminal case is the defendant’s beliefs and values that influenced his or her behavior, when his or her mental state is at issue in the case. Legal arguments that incorporate the defendant’s beliefs and values in this manner are referred to as cultural defenses (it is more accurate to talk about cultural defenses as opposed to a single cultural defense).

### **Cultural Evidence in the Courtroom**

Some people have argued that keeping cultural evidence from entering a criminal case is problematic because it discriminates against people of color. For example, if mainstream culture is already present in the courtroom and it is invisible in the ways that we have talked about, if we do not let cultural evidence into the courtroom, it could be considered racial discrimination. The system is set up so there are basically three parties that are potential lever points, who play roles in these cases.

(1) The first are defense attorneys who represent the defendant and who are ethically mandated to represent their clients zealously. They are supposed to do everything they can to get their client a better deal or to get them less time in prison. Generally the culture of criminal defense attorneys is that they do not focus on the broader questions that we are struggling with. Their sole ethical obligation is to one person. Community groups and people who work with battered women may have more leverage with the other two parties, namely prosecutors and judges. (Although there are cases where we may work more closely with a defense attorney when the case involves a defendant we are actually trying to assist—for example, in a parent-child suicide case.)

(2) In terms of judges, there is a lot of work that people have already done in terms of their education. Once evidence is admitted as relevant, which is often in the form of expert testimony, the judge has to decide how much weight to give to the testimony. The Family Violence Prevention Fund has put out a book called *Cultural Considerations in Cases of Domestic Violence*, which was specifically written for judges to help them think about questions raised here.

(3) Lastly, there are prosecutors, the individuals who are working for the state and who are prosecuting crimes. We have an important role in educating them, through our serving as experts, and in pressuring them to rebut the problematic way that defense attorneys are presenting depictions of culture. For example, if a defense attorney is presenting a story that an individual said: “My culture made

me do this because I come from “X” culture and everybody knows that “X” culture condones domestic violence”; it is very important for prosecutors to step in and say: “Here I have an expert from “X” women’s shelter who is asserting that in the “X” community there is in fact a lot of opposition to these practices as manifested by the very existence of the shelter”.

## Cultural Defenses

Cultural defenses have been used in the two kinds of cases I mentioned, and there has been a lot of publicity around a handful of cases the media has chosen to cover. They are very interesting to the public and we have a situation where politically expedient stereotypes as to culture have been forwarded by attorneys on behalf of defendants, which play into already existing notions of how barbaric a lot of the cultures we come from are. Perhaps the most notorious case of this sort took place in New York City in 1987 when a Chinese immigrant beat his wife to death with a claw hammer and his attorney put on the stand a professor from Hunter College, named Burton Pasternak, who testified that because the defendant, Dong Lu Chen, thought his wife was having an affair, it was not surprising that he would react in this way because a Chinese man would react in a more volatile way than an average, meaning white, American. (Parenthetically, we do not know if it is true if the wife was having an affair because we only know the facts from the husband.) The judge, presumably attempting to be sensitive, sentenced the defendant only to probation. The prosecutor only weakly tried to dispute the evidence and failed to provide any rebuttal testimony by an expert who could have contested the idea that this was an accurate representation of Chinese culture.

The second kind of case, involves a Sikh woman from India, Narinder Virk, who tried to drown her two children and herself a couple of years ago. She is being tried right now (June 2002) in Ventura County, California. The previous attorney who represented her spoke with the media a couple of years ago when she was first arrested. The description of what that attorney planned to present was quite stark where basically she said that the defense theory she would use is to show Narinder Virk is from a culture that values complete subordination of women, as evidenced by arranged marriages, dowry deaths, bride burnings, and female infanticide, and that Virk’s culture drove her to madness.<sup>4</sup>

---

<sup>4</sup> In September 2002, Narinder Virk was found guilty of attempted murder but legally insane at the time of the crime, sparing her a prison sentence. Jurors interviewed in the press reported that the testimony of experts, including on cultural evidence, was persuasive.

## Issues of Cultural Stereotypes

This raises some difficult questions for us. What do we do about this? What do we do about the descriptions that get invoked in these two different kinds of cases? I would ask us to think about what we want to accomplish in these situations and I want to present five issues that we might think about in considering these questions:

The first issue we face is the strong tension between helping an individual person and the broader effects of employing stereotypes. That is very apparent in the Virk case as the information was depicted by the media two years ago. In other words, we might decide we actually want to use stereotypes on behalf of an individual. But we should think about what the effects will be. There may be women like Narinder Virk in the context of an apparent child suicide case that we want to help. Also there may be cases where we are actually writing affidavits to explain why a woman is trying to leave a particular situation. We may argue, for example, that she is fleeing certain cultural traditions in her home country in the context of an asylum case. We also may argue that somebody did not flee her situation because she is passive, and because she comes from a particular culture. We may argue that she behaved in a way that seems irrational, but she did so because she comes from this particular culture. These are interesting and troubling questions concerning the role of culture in explaining acts that are shaped by historical ideas about culture and humanity in the United States and Europe. The idea of what it means to be human developed largely around the idea of people who had the capacity to reason; who could think rationally; or with the development of psychoanalysis, if you did not act rationally, it was because you had a psychological problem. However, there is an assertion that there is a whole other group of people in the world, who if they do not act rationally it is because of their culture.

What do we do then if we want to help an individual woman? Do we want to say that her horrific barbaric culture that condones these practices from which she has absolutely no escape, led to these bad acts or led to her being trapped, or led to her not fleeing? Are we using racism to get rid of sexism? Is there a way in which we are relying on certain kinds of problematic descriptions that buy into already existing preconceptions about our communities to help individual women? We know there are broader stereotypes out there and that is why we think they work and that is why we might use them. We need to consider these implications.

The second issue is that even if we decide it is worth it to stereotype in order to help a particular woman, we should consider that it might mean we are actually creating frozen descriptions of what a woman from a particular culture is, and therefore, other women who come along may not benefit from those frozen

descriptions. Let me give three examples. (a) There are women in the criminal context who have not be able to get access to cultural evidence because the judge says, “Well, only traditional people who have traditional beliefs, which are “X”, “Y” and “Z”, should be able to use this cultural information to explain their behavior. (b) Are the affidavits written on behalf of South Asian women that describe them in terms of being passive, victims, helpless, and virginal before marriage, come to bite us in the back in the context of a spate of cases of South Asian woman who have murdered their partners?<sup>5</sup> Is the fact that they are considered so unlike this prevalent stereotype of South Asian woman involved in their getting severe punishment? (c) A third example is to look at women who fit assumptions about what a bad woman is, who may not get access to cultural evidence. If we create these frozen notions of what someone is so they can get access to cultural evidence, we may be creating difficulties for ourselves. Part of the problem is that the legal system really likes fixed categories. They want to slot people into something and they do not like things that are contextual and complicated. We may have assisted in creating a system where the focus sometimes becomes more on someone’s identity than on their acts.

The third issue concerns whether it is ever correct to use stereotypes on behalf of a woman. When we use cultural terms to explain a particular individual’s behavior, what falls out of the picture? We know how culture is popularly conceived for people of color, for Asian Americans, for Asians, for Pacific Islanders. Mainstream culture is considered invisible unless it is ‘high’ culture (like opera) or ‘civilized’ culture, in contrast to minority communities that are presumed to be motivated by cultural dictates. As Sujata Warrier said, culture is thought of as a series of homogenous, unchanging practices that have gone on for millennia. We are all familiar with the ideas that Asian culture is “X”, even though we when one speaks of Asia, we are not talking about a single nation but a huge region with fifty percent of the world’s population. Asian culture is “X”, Pacific Islander culture is “Y”. These massive generalizations do not even begin to deal with internal contradictions, nor with the different ways people are located within communities, and how this shapes their experiences. Culture for Asians and Pacific Islanders is also talked about in terms of rituals, traditions and practices—very anthropological terms that suggest we are always objects of anthropological study. If culture is not seen as unchanging rituals, traditions and practices that have been handed down for millennia, what might we instead see? Here are some examples of stereotypes: (a) She comes from a passive culture; she did not call the police. What is missing from this portrayal? It could be that the police do not speak her language; or she has witnessed police brutality; or she knows that the police do not pick up people from her community. She could know that the police are racist against people from her community; or her

---

<sup>5</sup> Shamita Das Dasgupta was credited with providing this example.

partner is a police officer. There are certain ways in which we may make assumptions about why somebody did something if we rely on certain kinds of notions of culture. (b) A second example: Asian American and Pacific Islander women face cultural barriers in accessing services. What falls out in this description? Mainstream shelters may not provide culturally appropriate services; they may not have people who speak various languages; they may not have staff with Asian or Pacific Islander backgrounds; and their materials may not be translated into Asian languages. What falls out when we use these certain very limited notions of culture is the power system that's involved. Power affects the ways that as minority communities within a mainstream community our existences in this country are shaped by the latter.

These ideas about rituals, traditions, practices, etc. are an incomplete way of describing what influences a woman's life. Because these stereotypes are so dominant, other factors become invisible. The problem is this reduces the possibility for social change. If you think of something like violence as the effect of time honored practices within communities or the reason why someone cannot access services is because she comes from a culture that has been passive for generations, the solutions that you look for are going to be limited. The notion of culture becomes de-politicized when stripped of its economic and political implications. It is necessary to assert the economic and political realities of racial and gendered power when talking about culture.

The fourth issue is: What narratives or descriptions about culture work? What do people believe? What has traction? This is germane to the Narinder Virk case where Inderpal Grewal is supposed to testify as an expert witness to assist the defense. We were struggling with the question concerning what kinds of information should Grewal provide: should she try to explain why Narinder Virk did this; and how to conceptualize it. What if Grewal says she [Virk] was very marginalized; she spoke no English; she was starving; she was dumpster diving; or six months of the year there was no support by the state or by the community or by her family for her or her children. Her family owed his family money. She felt she could not return to India. Her husband was a police officer. Her husband was with other women. She had nowhere to turn and that is why she felt like she had to do this. There also is the question of what the attorney was asking Grewal to testify about: that in India they have arranged marriages and dowry deaths and Sati; and given that the Virk family is a traditional Indian family; a traditional Punjabi family; and a traditional Sikh family, they expect complete female subservience. Part of what we are struggling with is that we are reinforcing popular stereotypes, which actually will work in Virk's defense. If this is what people believe explains the experience of every single Indian woman on this planet, will that actually be the winning narrative to use to help her get

the better deal? We do not know what the answer is but it is a work in progress and we muddle forward.

The fifth and last issue is: What do we do about the fact that these ways that we think about cultural practices are not just mainstream assumptions, this is also how culture is talked about within our own communities? The women we work with use particular stereotypical descriptions of the cultures we feel various affiliations with. These are descriptions that have traction, that they feel to be real. We need language to describe cultural specificity. Not all violence is the same. We use a lot of universalizing language. It is like we are coming to the universal from our particular. There is a particular demonstrated by the ways that violence is experienced, is practiced, and the kinds of contexts we come from. It is not completely identical in every particular context. There is something very specific. It is not just about ethnicity but also our class background; are we disabled; what is our immigrant status; what is the role of the state; what is our particular history; our family; etc. There must be a way that we can talk about particular experiences and deal with social practices. There must be a language that grapples with these problems. In all of this, there are no answers. We need to think about this with more consciousness and consider the ramifications of what we are doing.

LETI VOLPP is an Associate Professor of Law at American University, Washington, D.C. She has published extensively on cultural defenses and domestic violence.