

7. The Role of Cultural Relativism in Shaping Perceptions of Women's and Children's Rights in India

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Abstract:

India, with its vast and diverse cultural landscape, presents a unique case in the global discourse surrounding human rights. Cultural relativism, which asserts that cultural practices should be understood from within their own context rather than from an external, universal perspective, plays a significant role in shaping societal attitudes toward women's and children's rights in the country. While the concept of cultural relativism aims to protect cultural diversity, it often complicates efforts to protect fundamental human rights, particularly those of women and children. This paper explores the dual nature of cultural relativism in India—how it can either defend cultural practices that perpetuate gender inequality and child exploitation, or how it can be employed to advocate for human rights through the respect for cultural diversity. By investigating how gender norms, child marriage, dowry systems, and other deeply ingrained cultural practices are both protected and challenged under the influence of cultural relativism, this paper critically examines the tension between cultural heritage and universal human rights. Ultimately, the paper proposes strategies for ensuring that women's and children's rights are safeguarded while respecting the cultural contexts in which these rights are understood.

7.1 Introduction:

India is a country characterized by deep social, cultural, and religious diversity. With over 2,000 ethnic groups and more than 1,600 languages spoken, the nation's diversity is mirrored in its complex social fabric. This pluralism, while enriching, also complicates the implementation and protection of universal human rights, especially when these rights come into conflict with traditional cultural practices. In particular, women and children in India are often subjected to practices that, while deeply embedded in cultural traditions, violate basic human rights principles. Cultural relativism, the belief that cultural practices should be judged relative to the cultural context from which they emerge, plays a significant role in both preserving these practices and challenging them.

Cultural relativism is a concept rooted in anthropology, used to promote tolerance for cultural diversity. However, it also raises significant ethical and practical dilemmas, especially in a country like India, where long-standing traditions can sometimes be seen as impeding the realization of fundamental human rights. This paper explores the delicate balance between respecting cultural practices and advocating for the universal rights of

women and children. In particular, it analyzes how cultural relativism influences perceptions of women's and children's rights in India, especially in relation to harmful practices like child marriage, dowry, gender-based violence, and the caste system. It critically evaluates whether cultural relativism serves to protect or hinder the progress of human rights in India and offers suggestions for moving toward a framework that respects both cultural diversity and universal human rights.

7.1.1 Research Methodology:

The doctrinal research methodology for the paper "*The Role of Cultural Relativism in Shaping Perceptions of Women's and Children's Rights in India*" will involve a detailed and systematic examination of legal frameworks, cultural practices, and human rights norms.

7.2 Theoretical Foundations of Cultural Relativism and Human Rights:

7.2.1 Defining Cultural Relativism:

Cultural relativism asserts that norms and values must be understood within the context of specific cultural systems. The anthropologist Franz Boas is often credited with developing the idea of cultural relativism, arguing that human societies should be studied on their own terms. Over time, this idea evolved into a more explicit political philosophy, emphasizing tolerance and the need to avoid imposing foreign value systems on indigenous cultures.¹

In practice, cultural relativism can lead to a form of moral relativism, where practices that violate individual rights are excused on the grounds of cultural tradition. This is particularly problematic when applied to issues such as women's rights, where practices like child marriage, female genital mutilation, or honour killings are defended as cultural practices. In India, the notion of cultural relativism is invoked to justify practices that are seen as part of the cultural heritage of certain communities, despite their clear violation of human rights.

However, cultural relativism should not be interpreted as a blanket justification for harmful practices. Rather, it should be used as a tool for understanding and critically engaging with cultural practices in a way that balances respect for tradition with the protection of individual freedoms.²

7.2.2 The Tension Between Universalism and Relativism:

The human rights discourse is fundamentally shaped by a core tension: the clash between universalism and cultural relativism. Universalism, exemplified by frameworks like the *Universal Declaration of Human Rights (UDHR)*, posits that certain rights 'such as freedom from violence, access to education, and the right to health' are inherent and inalienable for

¹ Clifford Geertz, *The Interpretation of Cultures* (Basic Books 1973).

² Smitu Kothari, *Human Rights, Cultural Practices, and the Role of International Law: A Relativist Perspective*, 6 *Indian J.L. & Soc'y* 34 (2010).

all individuals, transcending cultural, geographical, or societal boundaries. Advocates of universalism maintain that these rights must be upheld worldwide, even when they conflict with local traditions or cultural norms.³

Conversely, cultural relativism challenges this perspective, asserting that human rights cannot be universally applied across all cultures. Proponents argue that what is considered a right in one cultural context may not hold the same significance in another. For example, practices such as arranged marriages, dowry exchanges, and deeply ingrained gender roles are regarded as integral to cultural identity in many Indian communities. However, these practices are often viewed as infringements upon women's rights under international human rights norms. Cultural relativists contend that imposing universal standards risks eroding cultural diversity and disregarding the lived realities of local traditions.⁴

In India, this tension manifests in complex and profound ways. While the nation boasts a comprehensive legal framework promoting gender equality and the protection of children's rights, entrenched cultural practices persist. These practices are frequently defended as integral aspects of India's rich cultural heritage, creating a form of resistance to what is perceived as the external imposition of universal norms. For instance, child marriage and gender-based discrimination continue in certain regions, despite laws prohibiting them. Balancing these two perspectives requires careful navigation, emphasizing the importance of culturally sensitive human rights advocacy. Engaging local communities and fostering dialogue between traditional values and universal principles can help bridge the divide, ensuring that human rights resonate within their cultural context while promoting equality and dignity for all. This approach underscores the potential for culturally informed solutions that neither impose external norms nor compromise fundamental rights.⁵

7.2.3 Cultural Relativism and the Indian Context:

India's vast cultural and historical diversity provides a rich yet intricate backdrop for examining the tensions between cultural relativism and human rights. With its multitude of religions, languages, and ethnic groups, the country embodies a unique interplay of traditional norms and contemporary legal principles. While these traditions contribute to the cultural fabric of the nation, they can sometimes stand in opposition to the values enshrined in India's Constitution, which emphasizes equality, justice, and fundamental human rights for all citizens.⁶

One of the most striking examples of this tension is the persistence of child marriage, a practice deeply rooted in cultural and religious beliefs about the role of women in society. Despite the enactment of the *Prohibition of Child Marriage Act, 2006*, child marriages

³ Martha C. Nussbaum, *Women and Human Development: The Capabilities Approach* (Cambridge Univ. Press 2000).

⁴ Michael Goodhart, *Human Rights: Politics and Practice* (Oxford Univ. Press 2005).

⁵ Ananya Roy, *The Conundrum of Human Rights in Post-Colonial India*, 10 *Indian J. Hum. Rts.* 68 (2016).

⁶ Granville Austin, *Working a Democratic Constitution: The Indian Experience* (Oxford Univ. Press 2000).

continue to occur, particularly in rural and economically disadvantaged areas. Families often view such marriages as a means to ensure the economic security of daughters or to protect family honor. Yet, the practice poses significant threats to the rights of girls, including their right to education, health, and personal autonomy.

Similarly, caste-based discrimination remains a pervasive issue, despite being explicitly prohibited by law. Practices like untouchability and social exclusion are defended under the guise of tradition and cultural identity, perpetuating inequalities that marginalize entire communities. The dowry system is another deeply entrenched practice that illustrates the challenges of addressing cultural relativism in India. While legally banned, dowries are still widely demanded, often leading to financial stress, domestic violence, and even dowry-related deaths. These practices undermine gender equality and violate human rights, yet they persist due to societal acceptance and weak enforcement mechanisms.⁷

India's legal system, though progressive and robust in its articulation of rights, faces significant obstacles in combating such practices. The Constitution guarantees equal rights and protections, but implementing these protections in the face of deeply ingrained cultural norms is a formidable challenge. Law enforcement agencies often struggle with limited resources, corruption, and resistance from local communities. For example, community-led governance systems like *panchayats* frequently prioritize traditional norms over statutory laws, further complicating efforts to enforce legal protections.

Addressing these issues requires more than legal interventions; it necessitates a multidimensional approach that includes education, awareness campaigns, and grassroots activism. Empowering women and marginalized groups to challenge harmful traditions is crucial, as is engaging local leaders and stakeholders in conversations about human rights. Integrating human rights principles with cultural narratives can help demonstrate that these values are not inherently at odds with tradition but can coexist and evolve together.⁸

India's journey reflects the broader global challenge of balancing cultural relativism with universal human rights. By fostering dialogue, promoting education, and strengthening enforcement mechanisms, India can work towards harmonizing its rich cultural heritage with the protection of fundamental rights for all its citizens.

7.3 The Influence of Cultural Relativism on Women's Rights in India:

7.3.1 Gender Roles and Patriarchy:

In India, gender roles are often deeply entrenched, with societal norms and traditions reinforcing the subordination of women across various spheres of life. Patriarchal values pervade family structures, workplaces, religious practices, and even political systems, creating significant barriers for women in accessing education, employment opportunities,

⁷ Sujit Choudhry, *Constitutional Design for Divided Societies: Integration or Accommodation?* (Oxford Univ. Press 2011).

⁸ Shruti Iyer, *Cultural Relativism and the Politics of Identity in India*, 5 J. S. Asian Dev. 45 (2010).

and healthcare. Cultural relativism is frequently cited as a justification for these entrenched norms, arguing that they are intrinsic to India's cultural fabric and must be respected as part of the nation's heritage.

A notable example of this is the societal preference for sons over daughters, which remains prevalent, especially in rural communities. Sons are traditionally viewed as assets, carrying forward the family name and ensuring financial and social security for parents, while daughters are often seen as economic burdens due to practices like dowry. This preference has led to harmful practices such as female infanticide, sex-selective abortions, and the neglect of girls' health and education. These actions, while blatant violations of women's rights, are often rationalized under the guise of cultural traditions that prioritize male heirs.⁹

The impact of these norms extends beyond family dynamics, influencing broader societal attitudes and policies. Women's limited participation in decision-making processes—whether at home, in local governance, or at the national level—reflects the persistence of patriarchal structures. These restrictions perpetuate cycles of inequality, keeping women marginalized in both public and private spheres.

Efforts to address these issues, such as legal reforms and awareness campaigns, often face resistance due to the perceived conflict between human rights and cultural traditions. While the Indian Constitution enshrines gender equality and laws like the Prohibition of Child Marriage Act and the Pre-Conception and Pre-Natal Diagnostic Techniques Act aim to curb discriminatory practices, the enforcement of these laws remains inconsistent. This gap highlights the enduring influence of cultural relativism in shaping societal attitudes toward gender roles and women's rights.¹⁰

Ultimately, achieving gender equality in India requires a nuanced approach that respects cultural diversity while challenging oppressive practices. Initiatives to promote education and economic independence for women, combined with grassroots efforts to shift societal norms, can play a crucial role in dismantling the structures that perpetuate gender inequality.

7.3.2 Arranged Marriages and the Dowry System:

Arranged marriages are a long-standing tradition in India, deeply embedded in cultural practices and often seen as a way to maintain social order and strengthen familial ties. Cultural relativism defends arranged marriage as a cultural norm, but it often overlooks the harm that the dowry system causes, particularly for women. Despite being illegal, dowry continues to be a common practice in many parts of India. Families of brides are expected to give substantial gifts or money to the groom's family, often leading to financial strain and perpetuating gender inequality.

⁹ Naila Kabeer, *The Conditions and Consequences of Choice: Reflections on the Measurement of Women's Empowerment* (UNRISD 1999).

¹⁰ Anupama Rao, *Gender and Caste: Issues in Contemporary Indian Feminism* (Kali for Women 2006).

In many cases, dowry demands lead to violence and discrimination against women, with the pressure to meet dowry expectations resulting in physical abuse or even death. Cultural relativism may shield such practices, viewing them as a part of tradition, but the reality is that they contribute to the perpetuation of gender-based violence and discrimination.¹¹

7.3.3 Violence Against Women:

Violence against women, including domestic violence, rape, and honor killings, remains a pervasive problem in India. Cultural relativism is often used to explain or justify these practices, with the argument that such forms of violence are tied to local customs and family structures. For instance, honor killings, in which women are killed by family members for perceived violations of family honor, are sometimes defended as a traditional response to women perceived sexual autonomy.

The legal system in India has made significant strides in addressing violence against women, but cultural norms still play a powerful role in perpetuating these practices. Legal reforms must contend with deeply ingrained patriarchal values and the influence of cultural relativism that may shield perpetrators from accountability.¹²

7.4 The Impact of Cultural Relativism on Children's Rights in India:

7.4.1 Child Marriage and Its Consequences:

Child marriage is a significant concern in India, with millions of girls married before the age of 18. Despite being illegal, this practice remains widespread, particularly in rural and marginalized communities. Cultural relativism often defends child marriage as part of tradition, viewing it as a rite of passage that ensures the continuity of social norms and family honour. However, child marriage violates several fundamental rights of girls, including the right to education, health, and protection from exploitation. Early marriage exposes girls to early pregnancies, domestic violence, and a lifetime of economic dependence. Cultural relativism shields these practices by framing them as integral to local customs, despite their clear harm to children's well-being.¹³

7.4.2 Child Labor and Exploitation:

Child labor is another major issue in India, with millions of children working in agriculture, factories, and domestic service. While Indian law prohibits child labor, cultural relativism is often used to justify the practice as a form of economic survival for poor families. Children are seen as contributors to the family's income, and their labor is often accepted

¹¹ Vikram Patel & Gary Belkin, *Domestic Violence in India: A Review of the Literature, Violence Against Women*, 10 (2004).

¹² Sabarwal, P., Gender-Based Violence in India: Challenges and Strategies for Intervention, 8 *Indian J. Hum. Rts.* 50 (2012).

¹³ Neera Desai, Child Marriage and the Challenges of Social Change in India, 14 *Indian J. Women's Stud.* 56 (2010).

as part of cultural norms. However, child labor is a clear violation of children's rights to education and protection from exploitation. The persistence of child labor in India underscores the tension between cultural practices and international human rights standards, highlighting the need for cultural sensitivity in efforts to eradicate child labor while respecting family dynamics.¹⁴

7.5 Strategies for Addressing Cultural Relativism in Women's and Children's Rights:

7.5.1 Promoting Education and Awareness:

Education is one of the most effective tools for challenging harmful cultural practices. By raising awareness about human rights and the impact of cultural norms on women and children, education can empower communities to question and change harmful traditions. Schools, community centers, and media can serve as platforms for disseminating knowledge about human rights and promoting dialogue about cultural practices that harm women and children.

It is an effort to promote education should be culturally sensitive and include discussions about the benefits of gender equality and children's rights in the local context. Community leaders, religious figures, and activists must be involved in these efforts to ensure that educational campaigns are effective.

7.5.2 Strengthening Legal Protections:

India has enacted numerous laws to protect women's and children's rights, including the Prohibition of Child Marriage Act, the Protection of Women from Domestic Violence Act, and the Juvenile Justice (Care and Protection of Children) Act. However, these laws are often poorly enforced, and cultural norms frequently undermine their implementation.

It is an effort to strengthen legal protections should focus on improving the effectiveness of law enforcement, enhancing public awareness of legal rights, and providing legal support for victims. Additionally, laws should be tailored to accommodate India's diverse cultural contexts while ensuring that women and children are not subjected to harmful practices under the guise of tradition.

7.6 Conclusion:

Cultural relativism significantly influences perceptions of women's and children's rights in India. It often serves as both a justification for harmful cultural practices and a means of promoting change. While respecting cultural diversity is important, it is equally vital to uphold the universal rights of women and children. Practices that perpetuate inequality or harm under the guise of tradition must be critically examined and addressed. Promoting

¹⁴ Aarti Pande, *Child Labor and the Challenge of Economic Development in India* (Cambridge Univ. Press 2009).

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education is a key tool for challenging harmful practices and empowering communities to advocate for equality. Strengthening legal frameworks is also essential to ensure that the rights of women and children are safeguarded and that perpetrators of violence or discrimination are held accountable. Furthermore, fostering cultural dialogue can bridge the gap between traditional values and modern human rights principles, encouraging communities to adapt without feeling their identities are being erased.

Achieving this balance requires collaboration across all sectors of society, including government, civil society, and local communities. By working together to promote awareness, enforce laws, and engage in meaningful discussions, India can move towards a future where the rights of women and children are protected while honoring its rich cultural heritage. This effort demands persistence, sensitivity, and a shared commitment to justice and equality.