



CULTURAL RELATIVISM- THE DARK TALES OF UNHEARD CRY FOR AID IN THE VEIL OF CULTURE

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ABSTRACT

The "Universalism v. Cultural Relativism" a warfare dialogue has been highlighted ever since whereby the international human rights law powerfully needs the limelight of the essential fundamental principle of honest play and justice that overshadow culture, society and politics. The aim of this article is to acquire the facts and figures regarding human cultures, discriminatory traditions and cultural practices and overpowering the weaker section of the society.

The cultural differences have created havoc among the people of different countries around the world which lead to the rise of 'Ethnocentrism' and 'Xenophobia' which is still prevalent in present scenario. It has been witnessed about the everyday tragic story of women in this male dominating society whose rights are been violated at the extreme level wherein they are forced into prostitution involving physical and mental torture, human trafficking, gender inequality and endless crimes which is widely acceptable in a culture to make women feel inferior and use them as a means of living but takes the defence to ensure protection and safeguard against the evil society in the name of culture. The innocent children are

being brutally trapped in this dirty games of cultural relativism wherein they are sexually abused, gender swapping, child marriages and so on.

It is to acknowledge cultural relativism and social inclusiveness to overcome unfairness and prejudice in order to maintain peace and harmony and creating and developing a domain for healthy interactions between people, groups and different cultural communities all over the world.

Keywords: Human Rights, Universalism, Cultural Relativism, Ethnocentrism, Xenophobia, CEDAW, UNCRC

PROLOGUE

"Where after all, do human rights begin? In small places, close to home - so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighbourhood he lives in; the school or college he attends; the factory; farm or office where he works. Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity, without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world." - Eleanor Roosevelt

Human Rights are considered to be a set of principles which provide the basic rights to a human being by the virtue of his birth. These are the natural rights which never depend for their existence on legal basis. It gives human being the pleasure to live a dignified life with respect in the society



without any fear, harassment or discrimination on the grounds of religion, race, caste, sex or place of birth. Human rights are same for everyone living on this earth - men or women, rich or poor, young or old. Everyone should be set free to live their life peacefully regardless to what we think, where we live or what we believe. A creation of society which have respect for every human being and the acceptance of their culture and traditions what makes the human rights a universal.

Human rights have two opposing perceptions. The first perception forms a view that universalism is considered to be absolute moral structure which rests on the ideology that all humans deserves respect in society provided with their basic rights wherein the laws are universally applicable to everyone from which no one is exempt. The second perception regarding cultural relativism involves a right to exploit people in the name of culture wherein no one dares to raise their voice against anyone's culture which may lead to disharmony and destruction at the same time. It holds the conception that meaning of a right can be moulded from country to country, and culture to culture.¹

The Constitution of India secure the citizens of India with justice, liberty, equality and fraternity. It provides the basic fundamental rights which involves Right to Equality, Right to Freedom, Right to Life, Right

against Exploitation, Right to Freedom of Religion, Cultural and Educational Rights, Right to Constitutional Remedies.²

There are many Human Rights Conventions which have been adopted to promote and safeguard the protection of human rights including the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) adopted in 1979 for protecting women against the violation and sexual exploitation. Convention on the Prevention and Punishment of the Crime of Genocide (CPPCG) adopted in 1948 to eliminate the practice of genocide in order to protect the humanity. The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) adopted in (1965) to respect human beings and fundamental freedom without distinction on the basis of race, sex, language or religion. The Convention on the Rights of the Child (CRC) adopted in (1989) to safeguard children against dreadful and hazardous activities.³

UNIVERSALISM V. CULTURAL RELATIVISM : A CONFLICT

The discussion on human rights cannot be isolated from the issue of cultural relativism. Cultural Relativism is considered to be an excuse for the human rights violation and has a strong power over universalism.

There has always been a conflict between Universalism and Cultural Relativism. Universalism refers to the notion that laws

2. Acharya.91, *Can human rights be universal and have respect for cultural relativism?*, (Mar. 29, 2019, 8:48 PM), <http://www.legalservicesindia.com/article/381/Can-Human-Rights-be-Universal-&-Have-Respect-for-Cultural-Relativism?.html>.

3. https://www.india.gov.in/sites/upload_files/npi/files/c oi_part_full.pdf, (Mar. 29, 2019, 8:58 AM).

4. <https://www.un.org/en/sections/issues-depth/human-rights/>, (Mar. 29, 2019, 9:00 PM).



are universally applicable all over the world to every human being where as Cultural Relativists object and argue the notion that human rights depend on their cultures and that no moral, values and beliefs can be made applicable to all cultures, depriving themselves from following the concept of universalism and taking into consideration their own rules and regulations under the label of culture.

Like now, as the Cultural Relativism and Universalism has been elucidated, the question that arises based on these speculations. Whether the notion of universalism can co-exist in this multicultural world?⁴

A culture cannot be defined as to what is right or wrong but it is the mentality and cultural beliefs which decides the parameter for good and evil . A person's moral beliefs are solely dependent on the kind of environment he was born and grew up in. Living in this contemporary world, we engage in interacting with people from different cultures. As a result, we learnt to respect, accept and tolerate the cultural practices around the world.⁵ But only those cultural beliefs should be duly accepted having love and support for its people acting in good faith. Returning back to the roots of history, the Sati Pratha in Hindu communities in India involving the burning of a widow to death on her husband's funeral pyre was regarded as the most brutal form of human rights violation till date. Such cultural beliefs has been considered to be

horrific in nature and was later abolished by Commission of Sati (Prevention) Act 1987⁶. However, this kind of beliefs cannot be approved in this beautiful world of people.

It is true that some cultural practices imposes an obligation especially on a woman to dress in a decent manner without compromising with ethics for instance, the Muslim veil wherein they are asked to remain in their burkhas all the time and not to speak to men. This kind of practice is only valid within the boundaries of Muslim law. Contrary, the Female Genital Mutilation (FGM) practice which is found to be discriminatory and inhumane or degrading treatment of girls and women is accepted under the "so-called" moral principle that it is the duty to safeguard women of their society. In such cases, it is impossible to support culture relativism and defend human rights at a same pace.⁷

Different people have different ideologies living in the same world but the question is whether a culture will teach its people to violate human rights and behave discriminately against another person? Whether following such dreadful practices make everyone happy and contended? Whether the culture supports the notion of plucking away the freedom of choice from its people? Culture involves the teachings of life from holy books such as Bhagavat Gita, Ramayana, Bible, Gurugranth Sahib and Quran which indicate the love for humanity and society rests on the principle of divine justice without oppression of any kind.

5. <https://www.ukessays.com/essays/human-rights/the-issue-of-cultural-relativism-human-rights-essay.php>, (Mar. 29, 2019, 9:06 PM).

6. *Id* at 5.

7. <https://kashgar.com.au/blogs/history/the-practice-of-sati-widow-burning> (Mar. 29, 2019, 9:13 PM).

8. *Id* at 5.



Therefore, the reason why cultural relativism is deemed as violating and discriminatory is because the different cultures are kept into isolation from around the world neglecting the universal human rights where law and order maintains equality among the people as it is quite difficult to raise voice against anyone's culture until and unless the concerned victim takes the initiative for the same.

COMPLETE ABSTENTION FROM ETHNOCENTRISM - A POSSIBILITY OR A MYTH?

Ethnocentrism is an act of determining another culture based on their values, beliefs and standard of living. Ethnocentric behaviour is regarded as a harsh behaviour towards another culture in respect of their traditions, language, customs and religion and characterised as living in pride, vanity and having a feeling of superiority. It is believed to draw preconceptions about any culture making them feel inferior and divides the society into in-groups and out-groups.

The live example can be seen in today's era wherein foreign females consider themselves to be superior in comparison to Indian females who they consider who they consider to be inferior in terms of culture, traditions, education, job, dressing, freedom and marriage. The females living in foreign are having a better standard of living to live a dignified life.

Ethnocentrism is an old concept which was seen in the past history and even in modern-day society, here are instances to prove that how harsh ethnocentrism was until today.

Nazi Germany : This was the most extreme and tragic form of ethnocentrism. Hitler considered Jews and other communities to be inferior which did not match his ethnicity and does not deserve to live. He slaughtered thousands and thousands of innocent people in concentration camps because they were not of 'pure' race as Hitler considered him to be superior to all of them.⁸

Phoolan Devi Case : Phoolan Devi, popularly known as "Bandit Queen" belonged to a lower ranked Mallah caste and was married off to an older man at the age of 11. She was kidnapped, abused and was gang-raped by the high ranked Rajput men who were dacoits in the village of Uttar Pradesh. She was intentionally targeted to exploit her sexually and insult her caste system.⁹

Terrorism and Hate Crimes : Terrorism and Hate Crimes takes place when one religion or community consider themselves to be superior and powerful. Such outlook creates rift between different religions when others are being treated as inferior, bad and wrong, in such cases, the people begin to hate and disrespect other people's ethnicity which turns violent in the form of terrorism.¹⁰

Donald Trump : This is an excellent example of ethnocentrism says Kam, William R. Kenan, Jr. Professor of Political Science at Vanderbilt where he always speaks against others. For instance,

9. <https://opinionfront.com/examples-of-ethnocentrism> (Mar. 29, 2019, 11:08 PM).

10. Elliot Aronson, Timothy D. Wilson et al., *Social Psychology* 173 (9th ed. 2018).

11. *Id* at 9.



protecting his country against the Muslims, building wall between United States and Mexico.¹¹ The majorities having a feeling of hatred towards Muslim women wherein their hijabs were ripped off, black families waking up to their shock with the hate speech being spray-painted outside their houses, Middle-eastern people including men and women were being accused as terrorists and insulted in front of public. His supporters created countless videos have popped up showing delivery of hatred dialogues against minorities in the name of 'Trump'.¹²

However, it is not completely possible to abstain oneself from ethnocentrism because the discrimination always takes place on many aspects such as racial discrimination, sex, caste and religion. Furthermore, the most cruel discrimination fall out on the underdeveloped countries and uneducated families who are side kicked and considered to be inferior than those living in developed countries. Ethnocentrism not only talks about the superiority of one's own culture but it is the matter of thoughts, emotions and feelings inculcated in humans to think and make assumptions on their own. Once the perception is formulated against a particular community, that remains forever in the minds of people as a result of halo effect. Therefore, if the concept of ethnocentrism is to be dissolved then it is possible only by bringing change in our conceptualization and inculcating discipline in one's life in

12. <https://news.vanderbilt.edu/2016/05/26/trumps-ethnocentrism-will-bring-voters-to-the-polls-pro-and-con/> (Mar. 29, 2019, 11:14 PM).

13. <https://sites.psu.edu/global/2017/01/19/ethnocentrism-in-the-us/> (Mar. 29, 2019, 11:16 PM).

order to create a new world free from biasness and discrimination. The students in educational institutions all over the world should be taught about unity, brotherhood and respecting every religion and culture thereby living a peaceful life.

XENOPHOBIA - THE FEAR FROM HORRORS OF OUTSIDE WORLD

The expression "Xenophobia" has been split into two segments, 'xenos' meaning stranger and 'phobos' indicating fear. It mentions the intense and irrational fear that people have against people that is bizarre and weird especially the foreign nations or ethnic backgrounds. Xenophobia has been categorized into two kinds. The first classification involves cultural fear wherein the phobia is against the elements of a particular culture including language, clothing and religion. The second is against the members of the group who are been blacklisted from being a part of the society, that befall usually during a mass immigration which receives a strong reaction ranging from small scale to large executions of apartheid and genocides.¹³

Xenophobia is an intentional act involving violence, hostility, direct discrimination and incitement to hatred. Its main aim is to denigrate, humiliate and hurt the "connected" group of people.¹⁴

Article 2 of the Universal Declaration of Human Rights, 1948 clearly states that - "Everyone is entitled to all the rights and freedoms set forth in this Declaration,

14. <https://psychologenie.com/xenophobia-examples> (Mar. 29, 2019, 11:19 PM).

15. <https://nhri.ohchr.org/EN/Themes/Racial/Documents/Xenophobia.pdf> (Mar. 29, 2019, 11:20 PM).



without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".¹⁵

Xenophobia has always created terror in the intellect of people regarding various discriminations wherein it has greatly affected people in the course of human history.

Brown v. Board of Education of Topeka¹⁶

Oliver and other plaintiffs who were African-Americans were denied admission into a public school attended by white children based on laws allowing public education to be segregated by race. The following case concerns the application of the equal protection clause to the right of education. The US Supreme Court decided that the existence of schools segregated according to racial criteria amounted to a breach of the equal protection clause, and ordered that the school system be overhauled in accordance with the ruling.¹⁷

Ku Klux Klan : This clan was formed by the soldiers of the confederate army of civil war. The main objective was of spreading all-whites supremacy across the United States. They targeted freed slaves through threat and violence. Its members were convicted of murdering civil rights workers and black families. In present situation, many people consider this group as a

terrorist organization wherein their ideologies matches the xenophobic nature.¹⁸

Human Zoos : The xenophobic tendencies were shown in the early Europe wherein people from Africa, Philippines and other tribes around the world were trapped and displayed in the zoo with exotic animals. Nowadays, xenophobic policy has been increasing in many parts of the European countries where anti-Jews and anti-Muslim runs epidemic.¹⁹

Rape of Nanking : During the Second World War, when the Japanese invaded China wherein the Chinese people to their shock witnessed the rape of Nanking which included torture, rape, deaths of babies and women.²⁰

Kanto Earthquake : Koreans in large number were convicted and imprisoned and were later killed due to the suspicion of poisoning the water supply after the Kanto earthquake. The xenophobia is still prevalent today as the law regards the ethnic matters with low-priority in the legislative procedure.²¹

Apartheid : Until Nelson Mandela and African National Party passed anti-Apartheid legislation, Indian history witnessed extremely lasting impression in South Africa wherein Blacks were denied citizenship, healthcare facilities and basic facilities that were required in the daily lives.²²

16. <http://www.un.org/en/universal-declaration-human-rights/> (Mar. 29, 2019, 11:21 PM).

17. *Brown v. Board of Education of Topeka*, 347 U.S.483, 74 S. Ct. 686, 98 L. Ed. 873, 1954 U.S. 2094.

18. <http://www.bloomberglaw.com/document/x5C2S6?jcsearch=347U.S.> (Mar. 29, 2019, 11:30 PM).

19. *supra* note 14.

20. *Id.* at 19.

21. *Id.* at 19.

22. *Id.* at 19.

23. *Id.* at 19.



Rwanda's Genocide : The rift between majority Hutus and minority Tutsi began with civil war and political competitiveness wherein several Tutsis were murdered within a period of hundred days. A method of 'ethnic cleansing' deemed as a form of genocide was adopted where numerous Tutsi women were raped in full public view. The media and channels like Radio Rwanda were accused of propagating anti - Tutsi sentiment in that period and also the listeners were provoked and motivated to kill 'Tutsi Cockroaches'.²³

Indian Caste System : The caste system in India which is categorized into several levels of caste divisions involving Schedule Caste, Schedule Tribe, Other Backward Classes. The discrimination with Dalits, lower caste Hindus regarded as the poorest section of the society are treated inhumanly.²⁴ However, the after effects of Xenophobia are extremely serious and tragic. It is now a high time that appropriate measures are taken by the government, media and the general public on grass-root levels to curb such practices growing out of prejudice and fear.

VIOLENCE AGAINST WOMEN IN THE NAME OF 'CULTURE' IS PANDEMIC

In our Hindu mythology, we witnessed how women were sexually assaulted and harassed in those times. In *Ramayana*, when Sita was abducted by Ravana wherein she was forcefully made to stay in the Ashoka Vatika in order to marry her and aftermath

Lord Rama asked Sita to give a fire test (*Agnipariksha*) to prove her purity publicly. Similarly, in *Mahabharata* when Pandavas lost a dice game to Kauravas wherein they had put at stake all their properties even their wife Draupadi. In the later part, Kauravas tried to insult Draupadi in open court by disrobing her sari (*Cheer Haran*) wherein she was protected by Lord Krishna. In many cultures, we observe that gender injustice has always been an issue since ages as most of them considers men superior and women inferior. Women has always been considered as a puppet wherein the strings are controlled according to the culprits and the pain and suffering are carried by the female victims. Although, these cultural practices allaims at protecting women from evil eye, they fail to differentiate between right and wrong.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) defines the rights of women to be free from discrimination and sets the core principles to ensure women have equal access and equal opportunities in public and private life. The CEDAW convention carries with it the obligation that are legally binding on states while also establishing a monitoring mechanism for individual state parties as well as the possibility for individuals to lodge a complaint to the CEDAW committee. Customs and Culture often override considerations of state obligations under CEDAW.²⁵

A large number of cultural practices are harmful to the individuals involving women and children wherein they are harmed either

24. *supra* note 14.

25. *Id* at 24.

25. <https://www.un.org/womenwatch/daw/cedaw/> (Mar. 31, 2019, 10:25 AM).



through unendurable physical pain while others are subject to humiliating and degrading treatment. Such horrendous traditional implementations emanate from deeply rooted discriminating views and beliefs about the role and position of women in our society. The gender differentiation in the society relegate women to remain inferior throughout their lives and maintain the position of subordination which is been legitimized and sustained with the gender-based violence. Women are being physically, mentally, emotionally and economically ill-treated and tortured by the people of their society.²⁶

For instance, in the countries like South Africa, Lesotho and Swaziland, there is an outlandish belief that of any male engages in a sexual intercourse with a young virgin girl, he would be able to cure HIV and AIDS which lead to the increasing sexual offences against girls resulting in psychological scars on their heart and mind.²⁷

Khap Panchayat : The "Honour Killing" is very popular among villages in India as a young couple being in a relationship is regarded as bringing shame and dishonour to the family. The inter-caste marriages, love marriages or a marriage of a higher-caste girl and lower-caste boy has not been sanctioned by the traditional caste norms. If such circumstances arises, then Khap Panchayat takes a strict action against the couple and they are put to death or if any

family member gives approval to such marriage would also be punished by the caste panchayat and resulting in social boycott.²⁸

Sexual abuse in Turkey : In Turkey, the Syrian women migrated to turkey face many forms of violence such as sexual harassment, forced marriages and trafficking by soldiers and border officers.²⁹

Hudood Ordinance in Pakistan : It is not always the cultural communities involved in violating women rights but several times it is the legislation that is acting against the interest of the women. The Hudood ordinance of Pakistan held that women convicted of extra marital offence would be publicly whipped and stoned to death.³⁰

In Brazil, the criminal law defines crime from the perspective of culture. The offended party, a women, if she makes an accusation she has to come within the category of a 'Pure and Honest' women, otherwise the case is unlikely to be investigated.³¹

"Lotus feet" in China : Foot binding or "lotus feet" is a cruel ritual in China that begins once a girl is aged five or six years recent. The first step in the procedure

27. <http://krepublishers.com/02-Journals/T-Anth/Anth-13-0-000-11-Web/Anth-13-2-000-11-Abst-Pdf/Anth-13-2-121-11-720-Wadesango-N/Anth-13-2-121-11-720-Wadesango-N-Tt.pdf> (Mar. 29, 2019, 11:35 PM).

28. *Id* at 27.

29. Elliot Aronson, Timothy D. Wilson et al., *Social Psychology* 198-199 (9th ed. 2018).

30.

<https://www.opendemocracy.net/en/5050/dangerous-journeys-women-migrants-in-turkey/> (Mar. 29, 2019, 11:54 PM).

31. <https://www.hrw.org/news/2006/09/06/pakistan-proposed-reforms-hudood-laws-fall-short> (Mar. 29, 2019 11:58 PM).

32.

<https://www.hrw.org/sites/default/files/reports/BRAZIL910.PDF> (Mar. 30, 2019, 12:10 AM).



involves wherein her feet are plunged in hot water and her toe nails are trimmed. Secondly, the toes were massaged and oiled and then broken and bound flat against the sole, which takes the shape of a triangle. Thirdly, the feet would be bent double and then bound using a silk strip. After the gut-wrenching process, in order to break the arches of the feet and crush their little feet, the girls were forced to walk long miles.³² The inappropriate reasoning behind such practice was that a girl with small feet were regarded as beautiful that was a sign of wealth and marriage eligibility.³³

Jirga System in Pakistan : Jirga system has been formulated in Pakistan wherein the members consists of all male council of the village. The purpose of forming this system was to punish females if the male family member commits any crime which is derogatory in respect of traditional customs of the village.³⁴ In the **Mukhtar Mai Case**, the brother of Mukhtar Mai had fallen in love with a woman who was elder to him, this was against the culture of the village and to inflict a punishment on the victim, she was gang-raped in open public view in order to take revenge from her brother.³⁵

Mohammedan Laws : The personal laws of Muslim community has been showcased as the most terrible form of laws which violates women rights such as **Triple Talaq** wherein

a husband has a right to divorce her wife at any point of time just by uttering the three words "*Talaq, Talaq, Talaq*" either through face-to-face, or by an e-mail or through a telephonic conversation or at any other place. The another violating law to be known as **Muta Marriage** which is quite prevalent in Dubai and Iraq. The literal meaning of Muta marriage means "marriage for pleasure" wherein the marriage could be of one day, one week or one year as an intriguing way of relieving sexual frustration and the bride gets a sum of money in exchange. The third right infringing law which is popularly known as **Halala Nikaah** wherein if a husband divorce his wife and if both of them want to reconcile then a condition applies to the woman that she have to marry another man consummate her marriage with him and then she is permitted to return to her first husband. Lastly, Muslim laws has given a privilege to men that they can marry more than one woman at the same time committing the offence of **Bigamy and Polygamy**.³⁶

Force-Feeding Young Girls : A horrid turn in every girl's life in North Africa's Mauritania, a practice called "*leblouh or gavage*" wherein young girls are forced to fed on an unhealthy diet and high calorie diets reason being to get an appealing suitors for such girls. The young girls aged six are sent to special "fattening camps" where they are forced to have at least two kilograms of millet, litres of milk and two cups of butter every day taking around 16,000 calories and if they don't comply with such practice they

33. <https://metro.co.uk/2015/11/24/chinese-foot-binding-wasnt-just-about-sexual-oppression-it-was-the-sexy-walk-5518820/> (Mar. 30, 2019, 12:12 AM).

34. <https://www.thedailybeast.com/chinas-last-foot-binding-survivors> (Mar. 30, 2019, 12:14 AM).

35. <https://www.mangobaaz.com/jirga-system-in-pakistan> (Mar. 30, 2019, 12:21 AM).

36. <https://tribune.com.pk/story/154316/mukhtaran-mai-a-story-of-extraordinary-courage/> (Mar. 30, 2019, 12:24 AM).

37. <http://ijlls.in/wp-content/uploads/2016/02/18.pdf> (Mar. 30, 2019, 12:27 AM).



are punished and if they throw up then they are sometimes forced to ingest their vomit.³⁷

Menstruating Women Removed to Cattle Sheds : The practice of "*Chhaupadi*" in the parts of Nepal is a tradition wherein a menstruating women are isolated and removed to cattle sheds. They have to sleep, eat and remain among the cows and buffaloes and they are forbidden to enter their houses and touch anything till their duration of menstrual period is completed because she is considered as 'impure' during their periods, and if anybody touches her would have to undergo through rituals and customs to purify themselves.³⁸

Finger Amputation To Mourn Death : In Papua, Indonesia, the members of Dani tribe have an usual belief that if a death takes place in the family, they cut-off the top part of their fingers to mourn death as a sign of grief. Although, death has a huge affect on everyone equally, but only women is entitled to this torturous ritual. Sometime before the part of the finger is cut, it is tightly tied with a string to let it go numb and after the amputation the finger tips are sanitized. It has been believed that death being a permanent loss, the grief of emotional pain manifests into visible physical distress. This practice has been banned, but we can find the older women with chopped finger tips.³⁹

Lip Plating : In Ethiopia, women belonging to Mursi and Surma tribes has a tradition of wearing large circular wooden or clay discs

on their lips marked as a status of being beautiful. A hole is made into the lip along with the removal of two or four lower teeth. It is believed that the larger the disc is inserted, the larger amount of dowry is received by the girl on her wedding. The purpose of this ritual has not been originated as a beauty enhancement mastery but the intended disfigurement is meant to keep the slave traders at bay.⁴⁰

'Sexual Cleansing' of Widows : In the parts of Tanzania and Kenya, the custom dictates that women have to undergo a ritual of 'sexual cleansing' wherein they are forced to have sex with one of her brothers-in law to exorcise the spirit of her dead spouse, then only their are inherited by the in-laws family. In such a case, women's chances of getting the risk of contracting sexually-transmitted diseases increases. Taking into consideration such a risk, male relatives refuses to have sex with the widow due to HIV epidemic. For this purpose, professional cleansers are hired to perform his job using condom as a taboo. It is considered that only cleanser's sperm has the power to 'cleanse and purify' the widow.⁴¹

Witch Branding in India : Women in the villages of India are regarded as witches if they bring bad omen to the family or village for instance, the death of a child, a meagre harvest, a deadliest disease outbreak in the village or bad weather. They are accused of sorcery and if they found to be guilty they branded as witches and hunted. Later on,

38. <https://www.youthkiawaaz.com/2017/01/nine-customs-that-demean-women/> (Mar. 30, 2019, 12:42 AM).

39. *Id* at 38.

39. *supra* note 38.

40. *Id* at 40.

41. *Id* at 40.



they are hanged to a Peepal tree and are either stoned to death or burned alive.⁴²

However, these cultural practices proved to be a disaster for every woman around the world wherein their growth and development has been terminated since past scenario and are lacking behind on various aspects such as education, freedom, healthcare facilities etc. which is a necessity for females to survive.

INDIGNITY OF WOMEN: WHERE PROSTITUTION IS A TAINTED TRADITION

Prostitution is considered to be a tradition in some parts of India for violation of women rights and dignity. There are many small clusters in the urban areas of India, wherein the entire place is known as "red light area" which has been inhabited only by the prostitutes. No girl or woman would like to choose her profession as a prostitute until and unless they feel helpless and have no option but to accept the reality. Many poor families in certain scenarios force their girl children and women to enter into the prostitution as a means for their living.⁴³ There are many small towns and villages where the prostitution is treated as a traditional practice.

Nats Purva Village : Nats Purva, a small village in Uttar Pradesh regards prostitution as a traditional practice and basically a trade which is passed from generation to

generation where in their culture girls and women are considered superior than men as they are sole breadwinners for their living.⁴⁴

Bachara Tribe : It is located in the west of Madhya Pradesh, where prostitution is treated as a famous tradition. In the Bachara Tribe, the eldest daughter of the family enters into the world of prostitution for the sake of her family as a means of living. Once the eldest daughter gets older, the younger daughter takes her place. The only way to get rid of this distress life for a woman is when the suitor agrees to pay an expensive sum of dowry to her parents according to their demands.⁴⁵

Bedia Community : It is located in Madhya Pradesh wherein culturally, women earn living through prostitution and the entire house is run by women only.⁴⁶

Devadasi System : A Devadasi literally means "God's Female Servant". Devadasi System has been turned down from a religious custom to a women's exploitation. Girls were married off to the 'local' God even when they did not hit the age of puberty. Such women would enjoy high status in their society when they were married to kings living a luxurious life and avoiding participation in domestic chores. Even in today's era, where this tradition had been abolished long back is still prevalent wherein women are forced into prostitution in the parts of Andhra Pradesh, Maharashtra, Gujarat, Tamil Nadu and Karnataka. Now

⁴² . <https://pulitzercenter.org/projects/witch-hunts-india> (Mar. 30, 2019, 12:48 AM).

⁴³ . <https://www.vagabomb.com/Prostitution-Is-Considered-a-Tradition-in-Some-Parts-of-India/> (Mar. 30, 2019, 12:53 AM).

⁴⁵ . <http://www.indianwomenblog.org/these-four-places-in-india-have-active-prostitution-in-the-name-of-tradition/> (Mar. 30, 2019, 12:54 AM).

⁴⁶ . *Id* at 45.

⁴⁷ . *Id* at 45.



the situation had become adverse, when a woman is married off to anybody who bids the highest on her virginity thus, her sexual exploitation.⁴⁷

Wadia Village : Wadia Village is located in North Gujarat where this area is famous for prostitution as the birth of a girl is celebrated like a festival because they get a breadwinner for their family. The girls born in this village are groomed to be a prostitute beginning at the age of 12 and boys are trained to be as pimps. Men travel to Wadia from far places like Mumbai, Rajasthan, Ahmadabad and even Pakistan to buy sex with rates ranging between INR 500 to 10,000.⁴⁸

Hence, women and girls are kept in a dark corner of this awful world of prostitution wherein their profession is decided even before their birth, living a life of a prostitute to support her family financially.

VIOLATION OF CHILDREN'S RIGHTS : MALEVOLENT PRACTICES BASED ON CULTURE, TRADITION, RELIGION OR SUPERSTITION

The trend of using young children and infants in the malefic practices subject to culture, religion, tradition or superstition has been at its peak as they clearly lack the capacity to give consent or refuse to consent themselves. Being small kids they do not have the understanding of worldliness. The "Parental Powers or Rights" over their children allows the perpetuation of these detrimental practices by the parents directly

48. *Id* at 45.

49. *Id* at 45.

or by some other individuals obtaining parental concern either assumed or actual. The UN Convention on the Rights of Child (CRC) has been ratified by almost every state, and has made the most vital replacement of the words wherein parental "rights" has been swapped with parental "responsibilities" as it is the duty of the parents to corroborate the best interest of their child and this should be their basic concern.⁴⁹

There are many malefic practices that are gross and unlawful wherein the rights of children are been violated and put to test. Such practices may include :

Bacha Posh : In Afghanistan, there is a disreputable practice known as "Bacha Posh" wherein a girl is required to dress up and disguise as a boy. This tradition has been accepted by almost every girl as they get all the freedom as given to a boy to live a happy life such as right to education, stepping out of the house and playing with friends, permitted to do a job and so on. There are many interviews taken of the girls been targeted to become bacha posh which had been uploaded on the website of bacha posh wherein they communicated that they are living a happy life as a boy. One of the stories portray that a girl agreed for the acceptance of bacha posh so that after becoming a boy she can support her ill mother financially. Although, these girls

50.

<https://www.crin.org/en/library/publications/violating-childrens-rights-harmful-practices-based-tradition-culture-religion> (Mar. 30, 2019, 12:56 AM).



accepted their life as bach posh but still it is discriminatory on the ground of gender.⁵⁰

Bacha Bazi: The "Bacha Bazi" is an ancient tradition in Afghanistan wherein a boy who is either orphan or belonging to a poor family is forced to dress up like a girl and used as sex slaves by the wealthy men in the community. The boys are trained to dance and sing in front of wealthy landlords in cheap parties as a means of entertainment wherein they are sexually abused.⁵¹

Child Soldiers : Children are abducted and recruited by force to become soldiers in armed conflicts at a very young age serving in government forces and armed opposition groups. They are assigned with malefic jobs such as fighting on the frontline, participating in suicide missions and acting as spies or messengers. Many girls are used as a sex slave in such situation.⁵²

Kamalari System : In Nepal, many girls belonging to poor families are denied the right to education and acceptable standard of living and are forced to work as domestic help in wealthy homes wherein they are physically and sexually exploited.⁵³

Ritual Killings : In many countries like India and Africa, there is a superstition in respect of children wherein they are tortured, murdered and sacrifice their life to

spirits to cure disease, obtain wealth or increase superstitious powers.⁵⁴

With a speedy increase of heinous crimes against children, this issue has to be addressed at high levels through comprehensive programmes. In order to expose this light of crime, grass-root level of work has been taken in hand by the NGO'S like Save the Children, CRY and many more to educate both children and adults to rescue children from living a life of suffering.

EPILOGUE

Culture creates a beautiful framework of traditions, customs, rituals, language, dress, faith, religion, food, art, music, dramatics etc. which allows its people to enjoy the freedom of practicing them. It sets certain principles for its members which helps them to differentiate between right and wrong and inculcate goodness in oneself. Cultural Relativism cannot be completely abstained from its people and declared as a method of human rights violation just because these traditional practices have been wilfully accepted by the individuals of their respective states as nobody wishes to stand against their culture. The reason to follow such practices may include family reputation, a peaceful life to avoid conflicts, considers their culture to be right and superior etc. Everyone have their own perception regarding different cultures one may see it as acceptable the other may criticize the same as being a violation of human rights. The weaker section of the society that is women and children are regarded as the most targeted group for creating terror and disaster leaving psychological scars in their life. All the

51. <http://bachaposh.com/bacha-posh-2/> (Mar. 30, 2019, 12:57 AM).

52.

https://www.crin.org/en/docs/InCo_Report_15Oct.pdf (Mar. 30, 2019, 12:58 AM).

53. <https://www.hrw.org/topic/childrens-rights/child-soldiers> (Mar. 30, 2019, 12:59 AM).

54. *Id* at 52.

55. *Id*. at 52.



women around the world speaks one single language - the language of silence as they are the neglected group of society. Everyone deserves their rights and freedom and to ensure this it is very essential to enforce fundamental doctrines to be made universal. Not every cultural or traditional practice could be disconnected from its people but the most grievous forms of practices such as slavery, physical torture, sexism, xenophobia, female genital mutilation, ethnocentrism, infanticide must be dragged to universal standards.

A person if full heartedly respects his culture are the values that are been taught to him but to emotionally attach oneself and flow with the sentiments consolidated with religion, caste, traditions and rituals to the point that fair play, truth and justice becomes peripheral, then such education, knowledge and wisdom are fruitless.

TORTURE AS OFFENCE, CULTURE AS DEFENCE!!!

