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INDIAN EXCEPTIONALISM: CULTURAL RIGHTS AND MINORITY PROTECTIONS IN A DIVERSE SOCIETY

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ABSTRACT

While sometimes overshadowed by civil, political, and economic rights, cultural rights are essential to human dignity and social justice. Article 29 of the Indian Constitution provides for the protection of cultural rights, particularly those of minorities. However, globalization has created both opportunities and challenges for protecting these rights. This research paper will investigate the unique position of cultural rights within India's legal framework, focusing on their relevance, problems, and shifting interpretations in the light of globalization.

The study will outline the historical and international perspective on cultural rights, emphasizing their marginalization in human rights rhetoric. It then looks into the Indian legal landscape, examining how constitutional provisions and court interpretations have influenced the protection of cultural identities. The paper will also compare India's approach to worldwide standards, answering questions about the adequacy of current regulations.

The study's main focus will be on the influence of globalization, which, while promoting cultural interaction and acknowledgment, also threatens local traditions through homogenization. The study critically assesses India's response to these concerns, focusing on historic cases and laws aimed at protecting cultural diversity. It also investigates how international human rights instruments like the ICCPR and ICESCR have influenced India's position on cultural rights.

The study aims to highlight the need for a more robust and adaptable legislative framework to balance modernization and cultural preservation. Recognizing cultural rights as "empowering rights," which are necessary for participation, identity, and self-expression, the report proposes for stronger enforcement mechanisms, policy reforms, and expanded worldwide collaboration. Finally, it emphasizes that defending cultural rights entails not only preserving traditions, but also building inclusive and peaceful societies in a moment of fast change.

Keywords– Cultural Rights, Minority Rights, Globalization and Culture, Fundamental Rights, Social Justice, Indian Constitution

INTRODUCTION

Cultural rights, though a vital element of the wider human rights framework, have long been categorized as an "underdeveloped class" whilst in comparison to civil, political, financial, and social rights. This perception isn't always correct but additionally misleading, as cultural rights are not new or nascent. Instead, they are often not noted, misunderstood, and handled as

secondary in both legal and social contexts. This perception became echoed in a 1991 seminar held at Fribourg University⁶⁵², in which professionals stressed that, despite being enshrined in worldwide covenants, the authentic scope, felony content material, and enforceability of cultural rights stay

⁶⁵²P. Meyer-Bisch (ed.), *Les Droits Culturels: Actes du VIII^{ème} Colloque Interdisciplinaire sur les Droits de l'Homme*, Editions Universitaire Fribourg Suisse (1993).

underexplored and undervalued⁶⁵³. As a result, cultural rights are frequently overshadowed with the aid of their more prominently discussed counterparts, receiving scant interest in academic discourse, state practice, and coverage development. The marginalization of cultural rights is obvious even within the interpretation and implementation of the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Although cultural rights are explicitly listed along monetary and social rights, they frequently acquire minimum consciousness in country reviews, instructional discussions, and worldwide coverage debates. This tendency can also be seen within the lack of devoted constitutional provisions for cultural rights⁶⁵⁴ in lots of countrywide contexts, where those rights are either vaguely referred to or completely absent. Typically, constitutions that are developed and are known give cultural rights simplest reference to them inside the context of education, ignoring the wider spectrum of cultural rights, together with the right to take part in cultural life, to get right of entry to cultural background, and to guard one's cultural identification. A deeper evaluation reveals that cultural rights are not inherently less crucial but are honestly misunderstood. The definition of "way of life" itself is large and incorporates an extensive variety of human activities, ideals, and identities, which complicates efforts to formulate a cohesive legal framework for these rights. The absence of a universally popular definition of lifestyle has ended in fragmented articulations and groupings of cultural rights in global gadgets. For instance, some files give cultural rights as a single, collective proper definition to "participate in cultural existence", while others undertake an extra particular approach, listing

"particular rights related to artistic expression, clinical progress, and protection of intangible background." This ambiguity has led to inconsistent applications of cultural rights and has contributed to their perceived lack of improvement. Additionally, the political sensitivities surrounding cultural rights, mainly concerning the popularity of minority and indigenous cultural identities, have created similar resistance. Many states worry that declaring the cultural rights of specific corporations should spread and fuel separatist moves and threaten countrywide harmony. This reluctance changed into evident as early as the drafting of the United Nations Charter, where cultural rights were intentionally excluded to keep away from controversies over minority popularity. Consequently, it turned out best with the adoption of Article 27 of the International Covenant on Civil and Political Rights (ICCPR)⁶⁵⁵ in 1966 that the cultural rights of minorities obtained formal acknowledgment. Such historic resistance has contributed to the slow development inside the complete popularity and implementation of cultural rights. However, international attitudes towards cultural rights are evolving.

The Mexico City Declaration on Cultural Policies (1982)⁶⁵⁶ marked a turning point by way of asserting that cultural identification is fundamental to individual and institution self-achievement. The declaration emphasized that cultural variety isn't a risk to cohesion but as a substitute a treasure that enriches humanity's potential for growth and mutual understanding. Similarly, current experiences in the past due 20th century, especially in conflict zones, have shown that the denial of cultural rights regularly leads to unrest and instability. Thus, the popularity and protection of cultural rights are now seen as essential additives of peace and social concord.

⁶⁵³ United Nations Educational, Scientific and Cultural Organization (UNESCO), CLT-98/CONF.210/CLD.6, H. Niec, Cultural Rights: At the End of the World Decade for Cultural Development, Intergovernmental Conference on Cultural Policies for Development, Stockholm, Sweden (Mar. 30–Apr. 2, 1998). See also Background Document - Preliminary Draft, 1.2 Cultural Rights, at 9–11.

⁶⁵⁴A. Eide, C. Krause & A. Rosas (eds.), *Economic, Social and Cultural Rights: A Textbook*, Martinus Nijhoff Publishers (1995). See *Cultural Rights as Individual Rights*, at 229 (listing textbooks that analyze the International Covenant on Economic, Social, and Cultural Rights but either omit cultural rights or present them fragmentarily).

⁶⁵⁵ Article 27 of the International Covenant on Civil and Political Rights (ICCPR), 1966 International Covenant on Civil and Political Rights art. 27, Dec. 16, 1966, 999 U.N.T.S. 171.

⁶⁵⁶ The Mexico City Declaration on Cultural Policies (1982) Mexico City Declaration on Cultural Policies, U.N.E.S.C.O., Aug. 6, 1982.

In this context, cultural rights are emerging as “empowering rights” which can be pivotal for human dignity and the total realization of different human rights. Without cultural rights, individuals can not absolutely specify their identities, get admission to training of their personal languages, or keep and proportion their heritage. These rights are quintessential for constructing democratic societies that admire pluralism and diversity. As we technique a more interconnected and globalized global, safeguarding cultural rights is not pretty much shielding traditions; it is approximately fostering inclusive, non violent, and thriving communities.

This research article pursuits to cope with those concerns via studying the effect of globalization on cultural rights, exploring their current reputes in countrywide and international frameworks, and featuring strategies to reinforce their implementation and popularity. Through a complete assessment of cultural rights, this will highlight the need for a more nuanced approach that not best recognizes the cost of cultural identification and history, but also empowers individuals and groups to completely exercise these rights in an era of rapid social and economic trade.

METHODOLOGY

This research will use the second data collection method. Secondary sources include online articles, journals, book reviews, reviews, newspapers, magazines and other publications. The advantage of secondary data is that it is easier to access than other methods. This allows for more information to be included in the study and for accurate information to be provided for educational purposes.

RESEARCH OBJECTIVES

1. To analyze the impact of globalization on cultural rights and customary practices in India.
2. To identify the challenges posed by globalization to the protection of cultural rights under Article 29.

3. To explore the opportunities globalization presents for enhancing cultural rights in India.
4. To assess the effectiveness of Article 29 in protecting cultural rights in the era of globalization.

RESEARCH QUESTIONS

1. What challenges does globalization pose to the protection of cultural rights under Article 29 of the Indian Constitution?
2. How effective has Article 29 been in safeguarding cultural rights in the context of globalization?
3. What opportunities does globalization present for the enhancement of cultural rights in India?

REVIEW OF LITERATURE

1. BHATIA, G. (2016). *Freedom from community. Individual rights, group life, state authority and religious freedom under the Indian Constitution. Global Constitutionalism,*

Gautam Bhatia’s article, “Freedom from Community: Individual Rights, Group Life, State Authority and Religious Freedom under the Indian Constitution,” delves into the tricky courting among personal rights, collective identities, and governmental power in relation to religious freedoms. He frames this dialogue inside the unique backdrop of India’s constitutional framework, exploring how the legal system attempts to stabilize the autonomy of religious groups with the fundamental rights of individuals within those groups.

Bhatia starts by reading a vital Supreme Court case that struck down a law in opposition to excommunication, which prohibited non secular groups from expelling members. This decision serves as a lens to recognize how the Indian Constitution navigates the intersection of group and individual rights. Through this case, he introduces the concept of an “anti-exclusion

principle.” This precept indicates that the Constitution permits group rights simplest if they do not exclude participants from getting access to basic public goods, together with education or livelihood, which can be vital for a dignified lifestyle. If a collection right results in social exclusion, it could be challenged. What makes Bhatia’s argument compelling is how he positions the Indian Constitution as supplying a pathway for individuals to assert their rights even against their own groups. This is specially good sized in a various and stratified society like India, where non secular identification regularly overlaps with social hierarchies. The Constitution’s technique, as Bhatia explains, isn’t to dismiss organization identities but to make sure that they do not end up as equipment of oppression. He shows that even as the regulation respects the collective rights of spiritual groups, it no longer permits those organizations to override personal rights of their individuals.

Bhatia’s work is grounded in a wealthy philosophical context, reflecting the Indian Constitution’s historic and social nuances. He draws parallels with the Western traditions and highlights the special nature of Indian constitutionalism. Unlike different international locations in which personal and group rights are often seen as collectively special, India’s framework strives for a center floor, aiming to maintain the honor of the person without undermining the material of network life.

2. Mahajan, Gurpreet, '13 Indian Exceptionalism or Indian Model: Negotiating Cultural Diversity and Minority Rights in a Democratic Nation-State', in Will Kymlicka, and Baogang He (eds), *Multiculturalism in Asia* (Oxford, 2005; online edn, Oxford Academic, 1 Feb. 2006).

Gurpreet Mahajan’s work, “Indian Exceptionalism or Indian Model: Negotiating Cultural Diversity and Minority Rights in a Democratic Nation-State,” gives a nuanced examination of ways India handles the complex

project of coping with its massive cultural variety at the same time as making sure minority rights. The chapter explores whether India’s unique technique is certainly a case of “exceptionalism,” something that works best inside the Indian context, or if it could function as a blueprint for different multicultural democracies globally. Mahajan argues that India has crafted a special framework that seeks to harmonize the want for countrywide harmony with the maintenance of cultural variety, as a result promoting a balanced coexistence of numerous communities beneath an unmarried democratic shape. The chapter takes a comparative appearance by means of setting the “Indian model” in opposition to Western notions of multiculturalism. In Western democracies, individual rights frequently take precedence over institutional identities, growing a specific type of multicultural dynamic. In comparison, India’s method emphasizes organization rights, permitting communities to hold their precise cultural identities whilst nonetheless being part of the countrywide framework. Author discusses how the Indian model is not always without its tensions, specifically in balancing institution autonomy and country intervention, as well as addressing demanding situations like social inequalities and political representation. Ultimately, Mahajan’s analysis highlights that India’s system is not just an exception however could probably offer treasured training for other diverse countries grappling with similar issues.

3. Janusz Symonides, 'Cultural Rights: A Neglected Category of Human Rights' (1998) 158 *International Social Science Journal* 559.

In his article, “Cultural Rights: A Neglected Category of Human Rights,” Janusz Symonides shines light on an often-not noted dimension of human and cultural rights. He argues that those rights, despite being crucial for the renovation of cultural identification and historical past, had been brushed aside in favor of other rights including civil, political, and financial rights. As a result, cultural rights stay underdeveloped each

legally and nearly, receiving little interest in worldwide human rights dialogues. Symonides points out that this overlook creates an opening in ensuring the comprehensive safety of human dignity and calls for a higher framework to articulate and guard cultural rights alongside other well-hooked up human rights classes. The article focuses on why cultural rights are crucial for retaining the identity and integrity of individuals and groups, in particular for minority and indigenous groups. For those businesses, their way of life isn't always just a lifestyle desire but an imperative part of their lifestyles and dignity. Symonides urges worldwide organizations like the United Nations and UNESCO to take a greater active role in safeguarding those rights. By advocating for extra reputation and clearer definitions, he argues that cultural rights must be handled as fundamental, in preference to elective, to social development. Such a shift, he believes, could bridge the existing gap between cultural historical past and modern human rights frameworks, ensuring that cultural rights are respected and preserved in this rapidly changing global space.

4. Rehan Abeyratne, *Cultural Rights in the Indian Constitution and Case Law* (Cambridge Core).

Prof. Rehan Abeyratne's work on cultural rights within the Indian Constitution provides an in-depth exploration of the complexities of constitutional provisions, in particular inside the context of Article 29. He argues that cultural rights are intrinsically connected to organization identification and are important for the protection of minority communities. Through landmark cases like *The Commissioner, Hindu Religious Endowments, Madras v Lakshmindra Swamiar* (1954 SCR 1005)⁶⁵⁷ and *Ratilal Panachand Gandhi v State of Bombay* (1954 SCR 1035)⁶⁵⁸, Abeyratne highlights how courts have regularly struggled to balance cultural rights with broader individual freedoms. His

analysis reviews the Indian judiciary's approach to cultural and religious rights, suggesting that it frequently affects inconsistencies and an overemphasis on defining what constitutes "crucial practices." Furthermore, Abeyratne delves into comparative views by means of referencing international cases, consisting of *Wisconsin v Yoder*⁶⁵⁹, which treated the anxiety between man or woman rights and network values inside the US, and *Leyla Sahin v Turkey*⁶⁶⁰, specializing in spiritual freedom in Europe. This comparative lens allows a nuanced information of how India's cultural rights framework stands vis-à-vis international requirements. The paper indicates that whilst the Indian Constitution aims to be inclusive, its application via judicial interpretation every now and then risks undermining the very rights it seeks to shield.

CHAPTERIZATION

1. Cultural Rights – A Global Perspective

1.1 International Framework of Cultural Rights

1.1.1. Universal Declaration of Human Rights (UDHR), 1948-

The Universal Declaration of Human Rights (UDHR), followed with the aid of the United Nations General Assembly on December 10, 1948, mounted the foundational international popularity of cultural rights. Article 27⁶⁶¹ asserts that: "Everyone has the right to freely participate inside the cultural lifestyles of the community, to revel in the humanities, and to contribute to scientific development and its benefits." This provision also extends to safeguarding the moral and cloth pastimes as a result of any medical, literary, or artistic advent of which a person is the author. Additionally, Article 22 of the UDHR underscores that: "Everyone, through country wide efforts and global cooperation, has the right to recognize the cultural rights important for their dignity and the free development in their personality."

⁶⁵⁷The Commissioner, Hindu Religious Endowments, Madras v. Lakshmindra Swamiar, (1954) SCR 1005 (India).

⁶⁵⁸Ratilal Panachand Gandhi v. State of Bombay, (1954) SCR 1035 (India).

⁶⁵⁹ Wisconsin v. Yoder, 406 U.S. 205 (1972).

⁶⁶⁰ Leyla Şahin v. Turkey, App. No. 44774/98, 2005-XI Eur. Ct. H.R.

⁶⁶¹ Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/810 (Dec. 10, 1948).

1.1.2. International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966- The International Covenant on Economic, Social and Cultural Rights (ICESCR) in addition elaborates cultural rights in Article 15⁶⁶² with the aid of affirming that each individual has the right to: - Engage in cultural life. - Benefit from clinical development and its programs. - Have their ethical and fabric hobbies covered from any literary, medical, or inventive paintings of which they are the creators. The ICESCR encourages states to take steps to sell, keep, and disseminate technological know-how and lifestyle, even as respecting the freedom crucial for medical research and innovative expression.

1.1.3. International Covenant on Civil and Political Rights (ICCPR), 1966- Article 27⁶⁶³ of the International Covenant on Civil and Political Rights (ICCPR) extends cultural rights mainly to minorities, making sure that ethnic, non-secular, or linguistic organizations have the proper to: "Enjoy their own lifestyle, profess and practice their personal religion, and use their very own language"⁶⁶⁴.

1.1.4. UNESCO's Role in Promoting Cultural Rights- The United Nations Educational, Scientific and Cultural Organization (UNESCO) has performed a pivotal role in promoting cultural rights via various conventions, declarations, and recommendations. Key instruments consist of: - Convention against Discrimination in Education, 1960⁶⁶⁵, Universal Copyright Convention, 1952⁶⁶⁶, (revised in 1971), Convention for the Protection of the World Cultural and Natural Heritage, 1972⁶⁶⁷.

1.2 Regional Cultural Rights Instruments

1.2.1. American Declaration of the Rights and Duties of Man, 1948- The American Declaration of the Rights and Duties of Man became the

primary regional tool to articulate cultural rights. Article XIII of the announcement states: "Every person has the proper to participate within the cultural existence of the network, to revel in the arts, and to gain from highbrow development, specifically medical discoveries."⁶⁶⁸

1.2.2. Additional Protocol to the American Convention on Human Rights, 1988- The Protocol of San Salvador, an extra protocol to the American Convention on Human Rights, emphasises the freedom essential for clinical studies and innovative expression.

1.2.3. African Charter on Human and Peoples' Rights, 1981- The African Charter on Human and Peoples' Rights ensures each man or woman and collective rights to take part freely within the cultural lifestyles of the network. Article 17⁶⁶⁹ of the Charter obliges people to uphold and promote nice African cultural values.

1.3. Four European Instruments- The Council of Europe has developed several units to shield cultural rights, along with: European Social Charter, 1961⁶⁷⁰, Convention for the Protection of Cultural Heritage, 1985⁶⁷¹, European Charter for Regional or Minority Languages, 1992⁶⁷².

2. The Collective Dimension of Cultural Rights

2.1. Cultural Rights as Collective Rights

While cultural rights are frequently regarded as individual rights, they regularly require a collective technique, especially for minority and indigenous agencies. This collective size is explicitly diagnosed in Article 27 of the ICCPR, which states: "In the ones States wherein ethnic, non secular, or linguistic minorities exist, persons belonging to such minorities shall no longer be denied the proper, in community with other individuals of their group, to enjoy their

⁶⁶² International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3.

⁶⁶³ International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171.

⁶⁶⁴ International Covenant on Civil and Political Rights, art. 27, Dec. 16, 1966, 999 U.N.T.S. 171.

⁶⁶⁵ Convention Against Discrimination in Education, Dec. 14, 1960, 429 U.N.T.S. 93.

⁶⁶⁶ Universal Copyright Convention, Sept. 6, 1952, 216 U.N.T.S. 132.

⁶⁶⁷ Convention for the Protection of the World Cultural and Natural Heritage, Nov. 16, 1972, 1037 U.N.T.S. 151.

⁶⁶⁸ American Declaration of the Rights and Duties of Man, O.A.S. Res. XXX, Ninth Int'l Conf. of Am. States (1948), reprinted in Hum. Rts.: A Compilation of Int'l Instruments, Vol. II, Regional Instruments, U.N., N.Y./Geneva, 1997.

⁶⁶⁹ African Charter on Human and Peoples' Rights, June 27, 1981, 1520 U.N.T.S. 217.

⁶⁷⁰ European Social Charter, Oct. 18, 1961, 529 U.N.T.S. 89.

⁶⁷¹ European Charter for Regional or Minority Languages, Nov. 5, 1992, Eur. T.S. No. 148.

⁶⁷² European Charter for Regional or Minority Languages, 1992

own tradition, to profess and exercise their personal religion, or to use their personal language.”⁶⁷³

2.2. Protection of Minority Rights

The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 1992⁶⁷⁴ adopted via the UN General Assembly, mandates that states have to take appropriate measures to shield the identity and life of minorities within their territories.

2.3. European Framework for the Protection of Minorities

The Framework Convention for the Protection of National Minorities, 1995, set up by using the Council of Europe, alongside the European Charter for Regional or Minority Languages, 1992 highlights the importance of safeguarding the cultural identification of minorities and supports the rights of individuals to preserve their linguistic and cultural heritage.

3. Cultural Rights in the Indian Constitution

India won independence from British rule in 1947 and formally followed its Constitution in 1950 after sizable deliberations in the Constituent Assembly. The framers of the Constitution engaged in several debates over which rights should be made justiciable (enforceable by using courts) and which have to continue to be aspirational. This chapter examines the constitutional framework surrounding cultural rights in India, their placement within essential rights and directive principles, and relevant judicial interpretations.

3.1. Constitutional Framework for Cultural Rights in India

The Indian Constitution, finalized after nearly 3 years of deliberation, divided rights into two broad categories: Fundamental Rights (Part III) and Directive Principles of State Policy (DPSPs)

(Part IV). The debates inside the Constituent Assembly reflected differing viewpoints. For instance, K.M. Munshi's draft on “Rights of Workers” and “Social Rights” emphasized dwelling wages and protections for prone companies, at the same time as Dr. B.R. Ambedkar, Chairman of the Drafting Committee, endorsed for nationalizing most important industries ten years after the Constitution's adoption. Ultimately, the adopted framework protected provisions on social and economic justice however labeled them as DPSPs, not enforceable rights, unlike civil and political rights positioned underneath Fundamental Rights. Fundamental Rights (Part III): Article 29(1) of the Indian Constitution guarantees any segment of citizens with a distinct language, script, or tradition the right to preserve it. This provision is vital for the safety and protection of minority cultures. Article 29(2) prohibits discrimination based on faith, race, caste, language, or some other criteria, ensuring equality for all residents. Directive Principles of State Policy (Part IV): Article 43 imposes an obligation on the State to ensure that each one resident has an entry to social and cultural possibilities, much like the concepts enshrined within the Universal Declaration of Human Rights (UDHR). Article 51A(f), placed in the Fundamental Duties segment, places a duty on each citizen to keep and price the composite culture and background of India, emphasizing shared responsibility between the State and its human beings. The placement of cultural rights in each Parts III and IV of the Constitution displays the complexity of these rights, encompassing elements of civil, political, and socio-economic dimensions. Cultural rights are diagnosed globally below the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), representing both character and collective rights.

3.2. Indian Case Law on Cultural Rights

The Indian judiciary has regularly grappled with balancing cultural rights with other

⁶⁷³ International Covenant on Civil and Political Rights, Dec. 16, 1966, art. 27, 999 U.N.T.S. 171.

⁶⁷⁴ Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, G.A. Res. 47/135, U.N. Doc. A/RES/47/135 (Dec. 18, 1992).

constitutional ensures. The following sections delve into judicial interpretations surrounding minority rights in academic establishments and cultural practices.

3.2.1. Cultural Rights in Higher Education

The landmark case of *Dayanand Anglo Vedic College v. State of Punjab* (1971)⁶⁷⁵ worried several faculties inside the Dayanand Anglo Vedic (DAV) institution difficult provisions of the Guru Nanak University Act, 1969, which mandated association to a newly hooked up college. The DAV colleges argued that the Act violated their rights beneath Articles 29(1) and 30(1), as the targets of Guru Nanak University contradicted their own mission to sell Arya Samaj principles and the Vedic way of existence. The Supreme Court cited that while Article 29(1) guarantees the safety of cultural rights for all residents, Article 30(1) mainly addresses the rights of minorities to set up and administer academic institutions. The Court installed a take a look at for outlining 'minority' popularity based at the population within individual states in preference to on the national level. In this case, the Arya Samaj became diagnosed as a spiritual minority in Punjab, as Hindus shaped a minority in a predominantly Sikh state. The Court ruled that the pressured association violated the cultural rights of the petitioners, emphasizing that institutions cannot be compelled to associate with entities that contradict their cultural and non-secular goals.

4. Globalization and Cultural Rights

4.1. Globalization's Dual Impact on Cultural Rights

The cultural size of globalization has been at least as vast as its economic counterpart. While globalization fosters go-cultural interactions, it also threatens local identities and cultural traditions. The emergence of a "worldwide culture" frequently dilutes the uniqueness of national and indigenous cultures.

⁶⁷⁵ *Dayanand Anglo Vedic Coll. v. State of Punjab*, (1971) 1 SCC 284 (India).

4.2. Legal Responses to Cultural Globalization

International contraptions which include the UNESCO Declaration of Cultural Diversity (2001)⁶⁷⁶ and the Convention for the Safeguarding of the Intangible Cultural Heritage (2003)⁶⁷⁷ highlights the want for a nuanced method to protect cultural rights within the context of globalization. These gadgets are named for collaborative efforts to maintain cultural diversity even as selling intercultural speak.

5. Strengthening Cultural Rights: Overcoming Overlooks and Ensuring Implementation

The problem of safeguarding and consolidating cultural rights has been an ongoing global challenge. Efforts to address violations and provide better protection for these rights have led to a sequence of projects, coverage frameworks, and institutional setups at both countrywide and global levels. Various bodies like the United Nations and UNESCO have taken the lead in shaping the discourse on cultural rights, emphasizing the need for an extra-dependent approach to their recognition and implementation.

5.1. Global Efforts for Strengthening Cultural Rights

One significant global effort to address the problem of cultural rights became the record titled "Our Creative Diversity"⁶⁷⁸ posted via the World Commission on Culture and Development. It advocated a comprehensive set of steps to make certain better safety of cultural rights. These tips included: Establishment of an entire stock of cultural rights. Development of an International Code of Conduct on cultural rights. Creation of an International Office of the Ombudsperson for Cultural Rights. Setting up an International Court to adjudicate instances related to cultural rights violations. The motive of those guidelines is to

⁶⁷⁶ UNESCO Declaration on Cultural Diversity, U.N. Educ., Sci. & Cultural Org., Nov. 2, 2001.

⁶⁷⁷ Convention for the Safeguarding of the Intangible Cultural Heritage, adopted Oct. 17, 2003, 2368 U.N.T.S. 1.

⁶⁷⁸ World Commission on Culture and Development, *Our Creative Diversity* (U.N. Educ., Sci. & Cultural Org. 1996).

bolster the global framework for cultural rights by supplying clarity and enforcement mechanisms for states and people.

5.2. Codification and Clarification of Cultural Rights

While various international contraptions recognize the significance of cultural rights, there's nevertheless ambiguity around their scope and definitions. This necessitates a codification of current cultural rights to offer a clean and comprehensive expertise. The absence of universally generic definitions for terms like "lifestyle" and "cultural identity" has created gaps in enforcement. The United Nations Educational, Scientific and Cultural Organization (UNESCO) has been a pioneer in this regard. Several projects below its auspices have centred on drafting well known-placing devices. For example, the Programme and Budget for 1994-1995 explored the possibility of creating a legally binding report on cultural rights, whilst the subsequent Programme and Budget for 1998-1999 endured those efforts by drafting an assertion on cultural rights led by means of the Fribourg Group. The Fribourg Declaration defined lifestyle as: "The values, beliefs, languages, arts and sciences, traditions, institutions, and methods of life by means of which individuals and communities specific themselves and increase." The declaration covered diverse cultural rights which includes: Right to Cultural Identity. Right to Participate in Cultural Life. Right to Education and Training. Right to Cultural Heritage. Right to Freedom of Research, Artistic Creation, and Intellectual Property. Although this declaration has no longer yet been followed officially by UNESCO, it has considerably contributed to the continuing worldwide debate on cultural rights.

5.3. Monitoring and Implementation

The Role of Global Mechanisms International mechanisms for monitoring the implementation of cultural rights are still underdeveloped. Although States are expected to submit periodic reports on the popularity of cultural rights, this technique has numerous boundaries.

The UNESCO Complaint Mechanism, which allows people to document violations of cultural rights, is underutilized. One step forward could be the adoption of an Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights (ICESCR), which might set up a more formal verbal exchange mechanism for cultural rights complaints.

5.4. The Role of Indicators in Assessing Cultural Rights

To correctly implement and screen cultural rights, the use of signs is important. Indicators can: Measure the volume to which cultural rights are found out. Highlight difficulties confronted by States of their implementation. Compare the overall performance of different international locations. By supplying quantifiable information, these signs make it viable to song the development of cultural rights and discover regions that require improvement.

5.5. Promoting Awareness and Understanding of Cultural Rights

A vital aspect of strengthening cultural rights is consciousness. Dissemination of existing contraptions, both via formal and non-formal training, and engagement of the mass media and non-governmental corporations (NGOs) can notably beautify the understanding and attractiveness of cultural rights. Clarifying key terms which include "cultural identity" will further strengthen the framework for those rights. The United Nations and UNESCO play an essential function by supplying information and consultation to States. At the countrywide degree, States can combine cultural rights into their prison frameworks via constitutional amendments and legislative reforms.

5.6. Cultural Rights inside the Broader Human Rights Context

The strengthening of cultural rights is part of a broader initiative to decorate all categories of financial, social, and cultural rights. The Vienna

Declaration and Programme of Action (1993)⁶⁷⁹ emphasized the interdependence of all human rights and referred to as for a unified approach to their implementation. This assertion marked a big shift in the understanding of human rights, now not categorizing them one at a time however imparting them as a cohesive complete. The 50th anniversary of the Universal Declaration of Human Rights in addition bolstered this information, imparting a platform for a crucial mirrored image on the demanding situations and possibilities for advancing cultural rights.

6.8 The Future of Cultural Rights

The commemoration of the Universal Declaration of Human Rights gives a completely unique opportunity for a renewed cognizance of cultural rights. UNESCO's Plan of Action for this commemoration mainly addresses the advertising of cultural rights, spotting them as crucial to the employer's venture.

CONCLUSION

The safety and consolidation of cultural rights in a globalized world is a complex undertaking that requires a multi-dimensional method, blending worldwide coverage frameworks, codification, education, and local projects. Despite the improvements made through the years via establishments like the United Nations and UNESCO, cultural rights still face numerous challenges related to their recognition, implementation, and enforcement. This chapter explored those problems, emphasizing the want for a stronger and greater cohesive method to shield the numerous cultural identities and expressions that form the middle of human history. A sizable part of the battle is rooted within the loss of clean definitions and an agreed-upon codification of cultural rights on the worldwide stage. As highlighted, the Fribourg Declaration's try and convey clarity to those rights is a promising step forward, however extra desires to be achieved to formalize these definitions into binding global

law. By defining tradition in phrases of values, ideals, traditions, languages, and creative expressions, the Fribourg Declaration has enriched the speech around cultural rights and has made a case for why these rights must be covered with the identical power as civil, political, and financial rights. Moreover, the want for better monitoring and enforcement mechanisms has come to be obvious at some point of the discourse. While the UNESCO criticism mechanism and States' reporting structures exist, they are confined in their effectiveness. Establishing an Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights (ICESCR) would be a tremendous step, offering a based communication and enforcement gadget for cultural rights violations. Such protocols can function as sensible tools to maintain violators responsible and to create a stronger, extra obvious device that individuals and groups can depend upon. Yet, the actual cognizance of cultural rights will depend upon extra than simply legal frameworks and protocols. Indicators and dimension gear, as discussed, are critical for understanding the quantity to which cultural rights are being loved in exercise. Quantifiable facts can highlight gaps and offer a roadmap for States to enhance their performance. However, these tools want to be complemented by means of a strong expertise and dissemination of cultural rights at all ranges of society. This approach incorporates cultural rights into academic curricula, selling them through media and public discourse, and tasty with non-governmental groups (NGOs) that work at once with groups. This brings us to the position of training and attention. Without significant knowledge and appreciation of what cultural rights entail, the first-rate-laid policies will continue to be ineffective. Education is the key to moving perceptions and permitting people to recognize their cultural rights, recommend for them, and challenge violations. As mentioned, UNESCO has made strides in selling those rights through diverse educational programs, however more collaboration with

⁶⁷⁹ Vienna Declaration and Programme of Action, U.N. Doc. A/CONF.157/23 (1993).

neighbourhood stakeholders is vital to make sure those efforts reach the grassroots. Furthermore, recognizing and strengthening cultural rights isn't always just about shielding man or woman identities and traditions. It is set up to maintain the diversity that underpins human improvement and social brotherly love. Cultural rights allow people to participate in cultural existence, get admission to their history, express their identity, and make a contribution meaningfully to the cultural panorama in their groups and nations. In a swiftly globalizing world, where homogenization threatens nearby traditions and customs, the safeguarding of cultural rights is more pressing than ever. The efforts to codify, monitor, and sell cultural rights should not be visible as isolated obligations however as a part of a broader human rights schedule. The Vienna Declaration of 1993 pressured the indivisibility and interdependence of all human rights, marking a shift in how we conceptualize rights. This method, which treats civil, political, social, monetary, and cultural rights as equally crucial, is fundamental to fostering an international society in which absolutely everyone can enjoy the total spectrum of their rights and freedoms. UNESCO's renewed cognizance on cultural rights at some point of this period has been timely and extensive, drawing attention to the significance of those rights in the broader human rights discourse.

In the end, the route to stronger safety and consolidation of cultural rights is long and requires continual efforts at both worldwide and local ranges. The ongoing projects via the UN and UNESCO, alongside national movements, are promising steps toward a destiny wherein cultural rights are universally reputable and guarded. This chapter underlines that by codifying cultural rights, developing powerful enforcement mechanisms, improving monitoring, and selling focus, the worldwide community can make sure that cultural diversity thrives even amidst the forces of globalization. By safeguarding cultural rights, we now not most effectively guard traditions and

identities however additionally enrich humanity's collective history for destiny generations.

BIBLIOGRAPHY

Books

- Gautam Bhatia, Freedom from Community: Individual Rights, Group Life, State Authority and Religious Freedom Under the Indian Constitution (Cambridge Univ. Press 2016), <https://doi.org/10.1017/S0008197316000869>.
- Will Kymlicka & Baogang He, eds., Multiculturalism in Asia (Oxford Univ. Press 2005) (Gurpreet Mahajan, Indian Exceptionalism or Indian Model: Negotiating Cultural Diversity and Minority Rights in a Democratic Nation-State), <https://doi.org/10.1093/0199277621.001.0001>.
- P. Meyer-Bisch, ed., Acres du Villerme Colloque Interdisciplinaire sur les Droits de l'Homme: Les Droits Culturels (Editions Universitaire Fribourg Suisse 1993).
- Eide, C. Krause & A. Rosas, eds., Economic, Social and Cultural Rights: A Textbook (Martinus Nijhoff Publishers 1995).

Journal Articles

- Janusz Symonides, Cultural Rights: A Neglected Category of Human Rights, 50 Int'l Soc. Sci. J. 559, 574 (1998), <https://doi.org/10.1111/1468-2451>.
- The Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights, 9 Hum. Rts. Q. 122-135 (1987).

Reports & Conference Documents

- H. Niec, Cultural Rights: At the End of the World Decade for Cultural Development, CLT-98/CONF.210/CLD.6, Intergovernmental Conference on

Cultural Policies for Development, Stockholm, Sweden, Mar. 30–Apr. 2, 1998.

- Comm. on Econ., Soc. & Cultural Rts., Eighteenth Session, Geneva, Apr. 27–May 15, 1998, U.N. Doc. E/C.12/1998/L.1 (Jan. 23, 1998).
- Council of Europe, The Draft List of Cultural Rights, CDDC Misc. 9413 (Aug. 24, 1994).
- U.N. Educ., Sci. & Cultural Org. (UNESCO), Conventions and Recommendations of UNESCO Concerning the Protection of the Cultural Heritage (UNESCO 1983).

Cases

- The Commissioner, Hindu Religious Endowments, Madras v. Lakshmindra Swamiar of Shirur Mutt, (1954) SCR 1005 (India).
- Ratilal Panachand Gandhi v. State of Bombay, (1954) SCR 1035 (India).
- Dayanand Anglo Vedic College v. State of Punjab, (1971) 1 SCC 284 (India).
- Wisconsin v. Yoder, 406 U.S. 205 (1972).
- Leyla Şahin v. Turkey, App. No. 44774/98, Eur. Ct. H.R. (2005).

International Treaties & Legal Instruments

- Vienna Declaration and Programme of Action, U.N. Doc. A/CONF.157/23 (1993).
- International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3.
- International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171.
- Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/810 (Dec. 10, 1948).

National Legal Instruments

- Constitution of India, art. 29 (1950).